



## ORBIS PUBLIC LAW JOINT COMMITTEE

MONDAY, 2 JULY 2018

2.00 PM COMMITTEE ROOM - COUNTY HALL, LEWES

MEMBERSHIP - Councillors David Elkin, Les Hamilton, Helyn Clack and Jeremy Hunt

### A G E N D A

- 1 Minutes of the previous meeting (*Pages 3 - 6*)  
To agree the minutes of the last meeting as a correct record of the meeting.
- 2 Apologies for absence  
To receive apologies for absence.
- 3 Declarations of Interest  
All Members present are required to declare, at this point in the meeting or as soon as possible thereafter
  - i. Any disclosable pecuniary interests and / or
  - ii. Other interests arising under the Code of Conduct in respect of any item(s) of business being considered at this meeting

#### NOTES:

- Members are reminded that they must not participate in any item where they have a disclosable pecuniary interest
- As well as an interest of the Member, this includes any interest, of which the Member is aware, that relates to the Member's spouse or civil partner (or any person with whom the Member is living as a spouse or civil partner)

Members with a significant personal interest may participate in the discussion and vote on that matter unless that interest could be reasonably regarded as prejudicial.

- 4 Urgent items  
Notification of any items which the Committee considers urgent and proposes to take at the appropriate part of the agenda.
- 5 Orbis Public Law - Integration update (*Pages 7 - 38*)  
To update the Orbis Public Law Joint Committee on the progress to an integrated service.
- 6 Child care Advocacy Strategy and business plan (*Pages 39 - 58*)  
Following the Joint Committee in January 2018, a Child Care Advocacy Strategy and Business Plan has been agreed by the OPL Interim Leadership Team.
- 7 Digital Court (*Pages 59 - 62*)  
To update the Orbis Public Law Joint Committee on the digital court project progress in the Surrey courts and to outline the plans for progression in the Sussex courts.
- 8 Finance update (*Pages 63 - 70*)  
The partners have agreed to establish a Joint Operating Budget from 1<sup>st</sup> April 2019. In

advance of this, the management team and committee are monitoring a shadow operating budget.

9 Any other items previously notified under agenda item 4

PHILIP BAKER  
Assistant Chief Executive  
County Hall, St Anne's Crescent  
LEWES BN7 1UE

22 June 2018

Contact Martin Jenks, Senior Democratic Services Advisor,  
01273 481327  
Email: [martin.jenks@eastsussex.gov.uk](mailto:martin.jenks@eastsussex.gov.uk)

# Agenda Item 1

**MINUTES** of the meeting of the **ORBIS** Public Law Joint Committee held at 10.00 am on 25 January 2018 at CC2 - County Hall, Lewes.

These minutes are subject to confirmation by the Committee at its meeting to be arranged in July 2018.

**Elected Members:**  
**(\*present)**

- \* Councillor David Elkin (Chair)
- \* Councillor Les Hamilton
- \* Councillor Jeremy Hunt
- \* Councillor Tim Oliver

**In attendance**

Philip Baker, Assistant Chief Executive (ESCC)  
Rachel Crossley, Assistant Director, Chief of Staff (SCC)  
Abraham Ghebre-Ghiorghis, Executive Lead Officer, Strategy Governance and Law (BHCC)  
Tony Kershaw, Director of Law and Assurance (WSCC)  
Andrea Kilby, Business Development Manager, Orbis Public Law  
Emma Nash, Project Manager, Orbis Public Law

**1/18. APOLOGIES FOR ABSENCE [Item 1]**

There were none.

**2/18. MINUTES OF THE PREVIOUS MEETING [Item 2]**

The minutes of the previous meeting held on 16 October 2017 were approved as a correct record.

**3/18. DECLARATIONS OF INTEREST [Item 3]**

There were none.

**4/18. ORBIS PUBLIC LAW BUSINESS PLAN [Item 4]**

The Committee considered a report on the updated Orbis Public Law Business Plan, introduced through a presentation by Philip Baker.

Witnesses:

Philip Baker, Assistant Chief Executive (ESCC)  
Rachel Crossley, Assistant Director, Chief of Staff (SCC)  
Abraham Ghebre-Ghiorghis, Executive Lead Officer, Strategy Governance and Law (BHCC)  
Tony Kershaw, Director of Law and Assurance (WSCC)  
Andrea Kilby, Business Development Manager, Orbis Public Law  
Emma Nash, Project Manager, Orbis Public Law

## Key points

1. The presentation set out the progress made since the October Joint Committee meeting, and set the baseline to measure future performance.
2. Philip Baker highlighted the “Leap of Faith” from Collaboration to Convergence for Orbis Public Law (OPL), and set out the factors underpinning convergence such as: a single Interim Head of Orbis Public Law; a joint operating budget; integrated case management systems; and a resource pool by legal discipline (rather than geographical area).
3. Officers confirmed the work being undertaken in aligning processes, such as time recording and accounting records, to allow meaningful comparisons across the partnership and establishment of a joint budget. Officers confirmed the development of an OPL Framework Agreement for both non-social care and social care cases.
4. In-house advocacy is monitored and more cost-effective, and measured against an agreed notional target for comparison against external advocate costs to support in demonstrating in-house value.
5. Members were informed that client departments favour the in-house advocates, given the ability of the advocate to become familiar with the case over time. Officers also highlighted that cases where in-house advocates attended Case Management Hearings, early in the process, usually resulted in fewer hearings overall. Officers acknowledged that recruitment and retention is an issue, and set out the efforts made to grow the authorities’ own staff, including supporting the qualification for higher courts rights of audience.
6. Officers explained the Digital Courts project. The OPL case management system can be used to produce court bundles, which are currently printed and circulated to participants. OPL are piloting new software with the Guilford Family Courts to use electronic versions of these bundles, using laptops, tablets and a large screen in court instead of paper bundles. The first electronic hearing will be in February 2018, and it is hoped to roll the pilot out to Brighton later in the year.
7. Officers highlighted the considerable savings to be made, in paper, printing, postage and petrol. Members considered this work should be more widely publicised, and referred to the EY Market Insight briefing at the Orbis Joint Committee.
8. Officers set out the work sharing element of the integration, whereby officers in each authority can work on the files of the others to provide the resilience needed.
9. Philip Baker set out the Performance Baseline that had been established in terms of a shadow budget, the volume and types of work, the cost per chargeable hour, staff make up, work sharing and the child care advocacy project.

10. Each authority had its own pattern of spending on external legal advice, some of which is based partly on how that spending is treated by the respective Finance departments. Members were supportive of all legal costs to be overseen by legal, regardless of whether legal holds the budget.
11. Members asked questions about the insurance claims handling service. It was set out that each partner currently had its own approach. Members suggested a focus on this area of work, as there is a range of potential public sector organisations to whom the service could be offered. This supports the OPL public sector ethos of minimising the cost of legal services to the public sector. Officers set out the work being done to standardise approaches to time-recording and chargeable hours, and to encourage staff to record accurately which will result in the development of fixed-cost offers for certain areas of work. Officers noted that West Sussex had only recently started time-recording.
12. Officers set out the staff make up of each authority, categorised by: qualified fee earner, non-qualified fee earner and support staff. 86% of OPL staff are classed as fee earners. Officers also set out the efforts being made to ensure that work is being allocated to the right level of staff. Officers highlighted that not all fee earning legal work needs to be undertaken by qualified solicitors, and the value of recruiting people who wanted to specialise in a discrete area of law, without the wider training needed to be a solicitor. Officers also highlighted the benefit to staff retention of being part of a larger organisation. Promotion opportunities are greater than in an individual authority.
13. Members asked questions about the difference in staffing cost per chargeable hour. It was explained that some of the data was new and that it would become more meaningful over time. The overall average showed a reduction in cost per chargeable hour. Members requested a further breakdown of cost per type of fee earner.
14. With regard to work sharing, officers acknowledged that the figures were currently low, with the exception of the commercial areas of property and contracts. However other benefits were highlighted, such as the support offered to junior staff by more senior colleagues based in another authority.
15. Officers highlighted the notional saving of £210,000 of the in-house advocates. Members discussed the optimum level of staffing and were informed that the advocates were home-based workers, so did not incur accommodation costs but asked that the total cost (including all overheads) should be set out in calculating the cost of an in-house advocate. It was re-iterated that there would always be situations where external counsel would need to be instructed, due to short notice or complexity.
16. Members asked questions regarding the potential for offering legal services to external clients. It was confirmed that OPL would not be established as an Alternative Business Structure at present, but there was scope to revisit this as the partnership develops. Members were

informed that OPL in its current form was able to offer services to certain specified public bodies, but that an ABS would be necessary should OPL wish to engage with 'the public'.

17. Members were interested in the plans to fully integrate the case management system. Currently all partners are operating the same system but on different servers. To be a true single service this needs to operate as one. There are different approaches to this and the OPL Business Development Manager will provide an update on the IT strategy at a future Joint Committee.
18. Summary - The Committee requested further revisions to the business plan in the following areas:
  - A business plan and strategy for child care and advocacy (including setting out the total cost including all overheads such as salary, accommodation, IT etc, of employed advocates)
  - Performance data on:
    - the average cost per fee earner type
    - data on in-house staff undertaking advocacy
    - a qualitative measure of success of the OPL service.

Further Information requested:

- The Committee requested sight of the Income and Marketing Strategy when it is available
- Promotion of the digital court project through EY Insight
- Further information on the IT Strategy and integration of the case management system.

The Committee requested that an additional meeting for July 2018 be set up, ideally in conjunction with the Orbis Joint Committee. The Committee also requested that the feasibility of changing the October 2018 date be explored.

#### RESOLUTIONS

The Committee resolved to approve the revised Business Plan, subject to the revisions highlighted at paragraph 18 above.

Meeting ended at: 11.25 am

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**Chair**



**BRIGHTON AND HOVE CITY COUNCIL, EAST SUSSEX  
COUNTY COUNCIL, SURREY COUNTY COUNCIL AND  
WEST SUSSEX COUNTY COUNCIL**

**ORBIS PUBLIC LAW JOINT COMMITTEE**

**DATE: 2 JULY 2018**

**LEAD OFFICERS: PHILIP BAKER (ASSISTANT CHIEF  
EXECUTIVE, ESCC),  
RACHEL CROSSLEY (ASSISTANT DIRECTOR,  
CHIEF OF STAFF, SCC),  
ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE  
LEAD OFFICER FOR STRATEGY,  
GOVERNANCE AND LAW, BHCC),  
AND  
TONY KERSHAW (DIRECTOR OF LAW AND  
ASSURANCE, WSCC).**

**SUBJECT: ORBIS PUBLIC LAW – INTEGRATION UPDATE**

**PURPOSE OF REPORT:**

To update the Orbis Public Law Joint Committee on the progress to an integrated service.

**INTRODUCTION**

The revised Orbis Public Law (OPL) business plan was approved by the JC in January 2018, subject to some actions which have been addressed through the reports for this July meeting.

In addition to this service integration update paper there are separate agenda items:

- Child care advocacy strategy and business plan;
- The digital court project and
- OPL finance and integrated budget

**RECOMMENDATION**

It is recommended that the Orbis Public Law Joint Committee reviews the progress of the partnership and endorses the continued approach.

**REASON FOR RECOMMENDATION**

To ensure Members have oversight of the design and plans for the delivery of Orbis Public Law.

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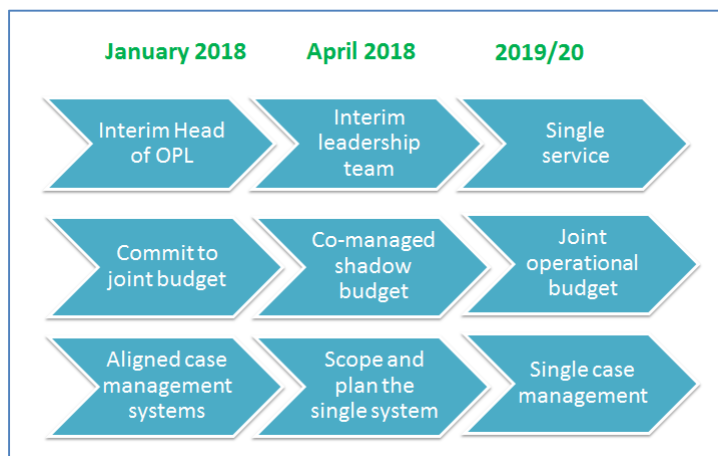
**DETAILS:**

**Background and context**

1. Orbis Public Law (OPL), the shared legal service between Brighton & Hove City Council and the County Councils of East Sussex, Surrey and West Sussex, has a vision to be a single, resilient, sustainable, cost effective legal service with a public service ethos with an ability and ambition to grow.
2. The partners have entered into an Inter Authority Agreement (IAA) which sets out the basis and terms of the partnership, and the arrangement for making officers available to the other partners.
3. A number of work streams and projects are being pursued to deliver the shared service. These include:
  - a) Service integration – establishing a single service structure
  - b) Advocacy – jointly trying to manage the costs associated with child protection proceedings
  - c) Systems – consistent case management and time recording
  - d) Practice management – aligning the processes
  - e) Finance – budget alignment and monitoring
  - f) People – culture, communications and training
  - g) Work sharing – work exchange across the partners

**Timescales to the single service**

4. OPL is committed to three essential areas to deliver a single service in 2019/20:
  - a) An integrated staffing structure; organised by disciplines
  - b) A joint operational budget
  - c) A single IT case management platform
5. The timescales are detailed in the following chart:





## Designing integrated teams

6. OPL is pleased to report that in January 2018, Philip Baker, Assistant Chief Executive of ESCC, took on the lead project role - Interim Head of OPL. During 2018/19 a number of key actions need to be delivered and a single point of leadership will greatly assist with this.
7. Philip is supported by the Interim Leadership Team (ILT), who were appointed in May 2018 and manage and deliver the Business Plan. A key action for the OPL ILT is to design a staffing structure that will align officers across OPL within disciplines (areas of specialism) and for those service areas to be planned and developed so that they can operate as a single service for their area of OPL business. OPL are supported by Orbis HR & OD.
8. ILT responsibilities are as follows:
  - Sarah Baker, Interim Head of Children's Social Care;
  - Liz Culbert, Interim Head of Commercial and Governance;
  - Richard Grout, Interim Head of Litigation;
  - Diane Henshaw, Interim Head of Adult Social Care, Health and Education;
  - Andrea Kilby, Business Development Manager and
  - Emma Nash, OPL Project Manager.
9. June – October 2018 is an analysis phase where the ILT members will each work closely within their specialist area and undertake the following tasks:
  - Identify the current staff resources and skill levels across OPL for their discipline.
  - Assess work volumes current and expected, including work type and complexity levels.
  - Undertake a review of current working arrangements and systems.
  - Undertake an assessment of practice and procedures being used.
  - Undertake a review of client/customer relations and expectations.
  - Identify gaps in resources, including workforce expertise and skills e.g. particularly where external legal work is bought-in.
10. Alongside this, an audit is underway to ensure robust and reliable data supports this important analysis phase.
11. Following this the ILT will work collectively to design the optimal service structure.

12. Alongside the integration of existing legal services teams, Orbis Finance and OPL have agreed the transfer of the handling of liability and litigated insurance claims for BHCC and SCC from Orbis to OPL (ESCC claims handling is already carried out by OPL) including the relevant staff and budget. The consultation with staff affected by these changes ended on 15 June and responses are being considered.

### **Single IT case management system**

- 12.1 Common and aligned IT case management systems have been adopted and since September 2017 all four councils have been running a common time recording system to monitor work volumes and activity levels. The system has taken time to bed in and staff have been supported to improve time recording compliance and practice.
13. A critical project in the development of the integrated service is implementing a single instance of the case management system. This will be achieved by the merger of the 4 Prescient Plus case management systems into one single database instance. Under the umbrella of the Database Rationalisation (DR) project our aim is to create a single case management system by the end of 2018. This will allow access to case belonging to any partner files (within reasoned measure by role case security). This will involve one partner (Surrey CC) hosting the database on their system and other partners will access this. Contracts will be aligned into one.
14. As well as accessing case files across the partner sites, the single system will realise administration and technical management efficiencies. These processes will no longer need to be replicated x 4.
15. Once in place, OPL will be able to launch a single access portal for instructing departments.
16. OPL, supported by Orbis IT&D and Orbis procurement are currently negotiating with Civica to amalgamate the contracts into one and expect this to be concluded in the next month. Following this, transition planning will commence.

### **Workstream progress**

17. There has been significant progress across each of the other workstreams as listed in point 3. Appendix 1 provides a timeline of the key OPL milestones. Progress on the workstreams includes:

18. Year 1 of the co-monitored shadow joint budget has been achieved. OPL moves into year two which focuses on a co-managed approach to spend and decision making. OPL is supported by an Orbis Finance Lead to develop the joint operational budget for 2019/20. Progress on the development of a joint operational budget follows in a separate report.
19. A number of initiatives are underway to collectively control child care external expenditure and this is detailed in the advocacy business plan.
20. The other significant development in this area is our work with local courts to develop a digital court facility which removes the need to print, transport and store large volumes of paper for court proceedings. A separate report also expands on this.
21. Work sharing in discipline groups commenced in September 2017 aiming to embed arrangements for working for other partner authorities. We are aligning the way we work including precedents, templates and instruction arrangements.
22. The Practice Management resource across the partners is well established and supports the alignment of all processes.
23. Work is underway to establish a shared framework agreement for all areas of spend on external advice. This is expected to launch in July with new contracts commencing in March 2019.
24. Work is paused on the income and marketing strategy while OPL prioritises service integration and focuses on reducing external spend; both of which should increase capacity to then take forward the strategy.

### **Staff engagement and developing a single culture**

25. Establishing a single team across four councils at four sites is very challenging but essential to the success of the partnership. Effective working relationships are developing and the ILT and managers have helped to facilitate this. Cross border engagement has happened through the early change management sessions, work sharing, pathfinder groups and the training programme.
26. A staff survey carried out in April has gathered useful information on how our teams perceive the OPL project, how it is being delivered and how colleagues prefer to be kept updated and involved.
27. 129 colleagues (BHCC 26, ESCC 24, SCC 22 and WSCC 57) participated in the survey and the high level statistics include:
  - 91% understand the purpose
  - 77% understand the vision / picture
  - 61% understand the planned approach and timelines

- 58% understand their part during the transition
- 69% are positive about OPL.

The findings and resulting actions are included in Appendix 2.

### **Performance data**

28. Appendix 3 details the 2017/18 performance data for OPL. Data is captured on:
- a) Volumes and types of work
  - b) Cost per chargeable hour
  - c) Staff make up
  - d) Child care advocacy
  - e) Financial data is reported separately as noted above.
29. At the January Joint Committee, Members requested a quality measure which will be achieved through tracking customer satisfaction. On 1 July OPL launches a new digital way to capture and collate client feedback and the results of this will be included at the next Committee.
30. Overall, OPL's success will be measured through:
- Reducing the cost of legal services to each authority. This is for both operational and non-operational budgets.
  - Reducing the cost per chargeable hour.
  - Allocating work to the correct level of fee earner.
  - Staff continuing to be engaged and feel part of OPL.
  - Increasing income opportunities.
31. Collating and analysing data across four authorities is challenging and the process has highlighted some data integrity questions. A data audit is underway and a report will be presented to the ILT highlighting areas of strength, weakness or uncertainty. Recommendations will be made to secure a reliable data set to underpin the OPL Business Plan.

<b>CONCLUSION AND NEXT STEPS</b>
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32. Over the summer months the ILT will work closely with colleagues across the partnership to analyse and design the single service. Workshops with all staff will be taking place to involve them in this work to ensure continued engagement.
33. The delivery of a number of key milestones towards the end of the year will set OPL in good stead to deliver the single service in 2019/20.

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**Contact Officer:** Emma Nash, OPL Project Manager

**Appendices:**

- 1 – Key milestones**
- 2 – Staff survey results**
- 3 – Performance pack**

**Sources/background papers:** None

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# orbis

public law

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

## APPENDICES 1-3



## Appendix 1 – Key milestones



Milestones 18/19

Service integration

Finance

IT / Case management

Digital court

Advocacy

Frameworks

KEY:  
 Complete   
 Planned 

Jan – Mar 18





























Apr - Jun 18

Jul - Sept 18

Oct – Dec 18

Jan – Mar 19

Year 19/20

 Interim Head of OPL	 Interim OPL Interim L'ship team	 ILT commences analysis phase	 Orbis Insurance consultation closes	 Orbis Insurance go live*	 Complete ILT analysis phase	 Plan next stage		 Integrated teams
	 Start shadow year				 Draft joint budget to JC		 Joint budget approval	 Start joint budget
		 Agree approach	 Transition planning					 Integrated IT systems
 Start Surrey pilot	 Surrey courts live	 Start Sussex pilot	 Sussex courts live					
 Ongoing recruitment campaign			 Business plan to JC	 OPL advocate starts				
			 OJEU notice	 Tender submission deadline	 Eval	 SCC Cabinet approval	 Standstill and awards	 Contract commencement

\* Subject to the consultation

# Appendix 2 - OPL – staff survey results

April 2018

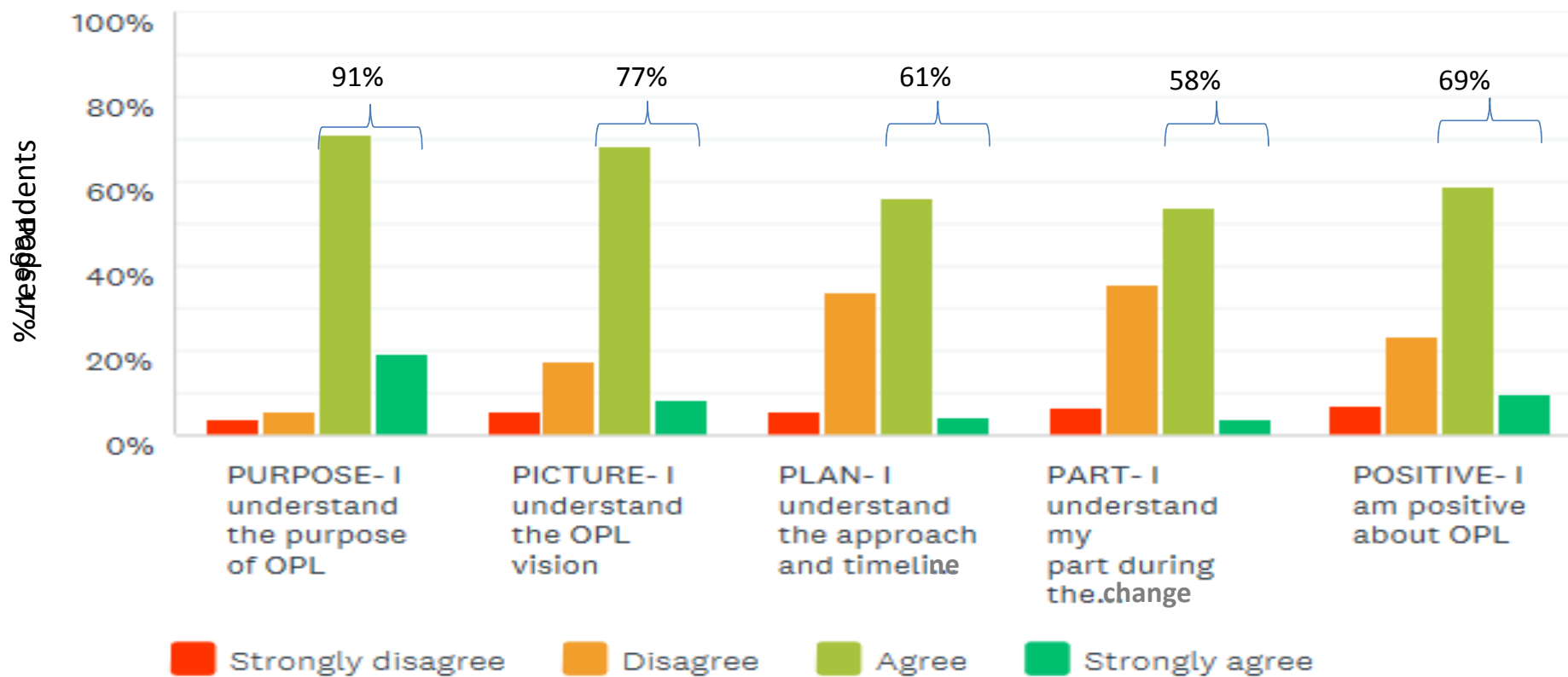
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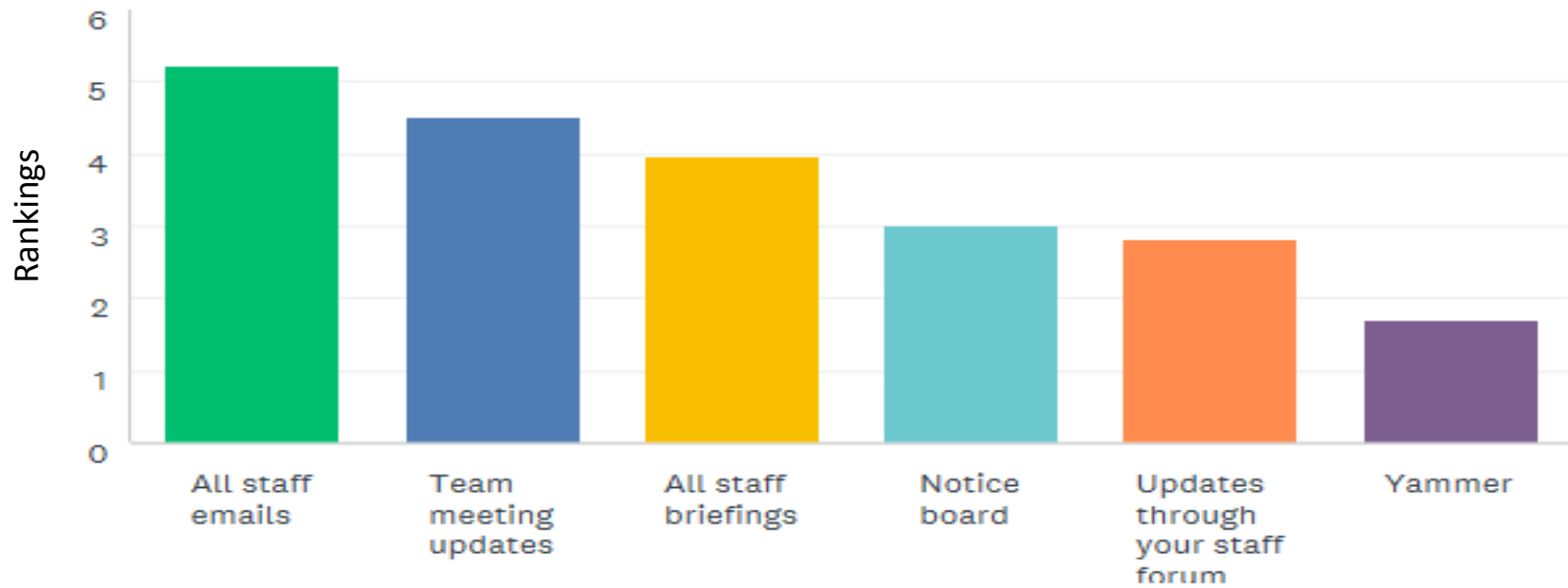


129 responses

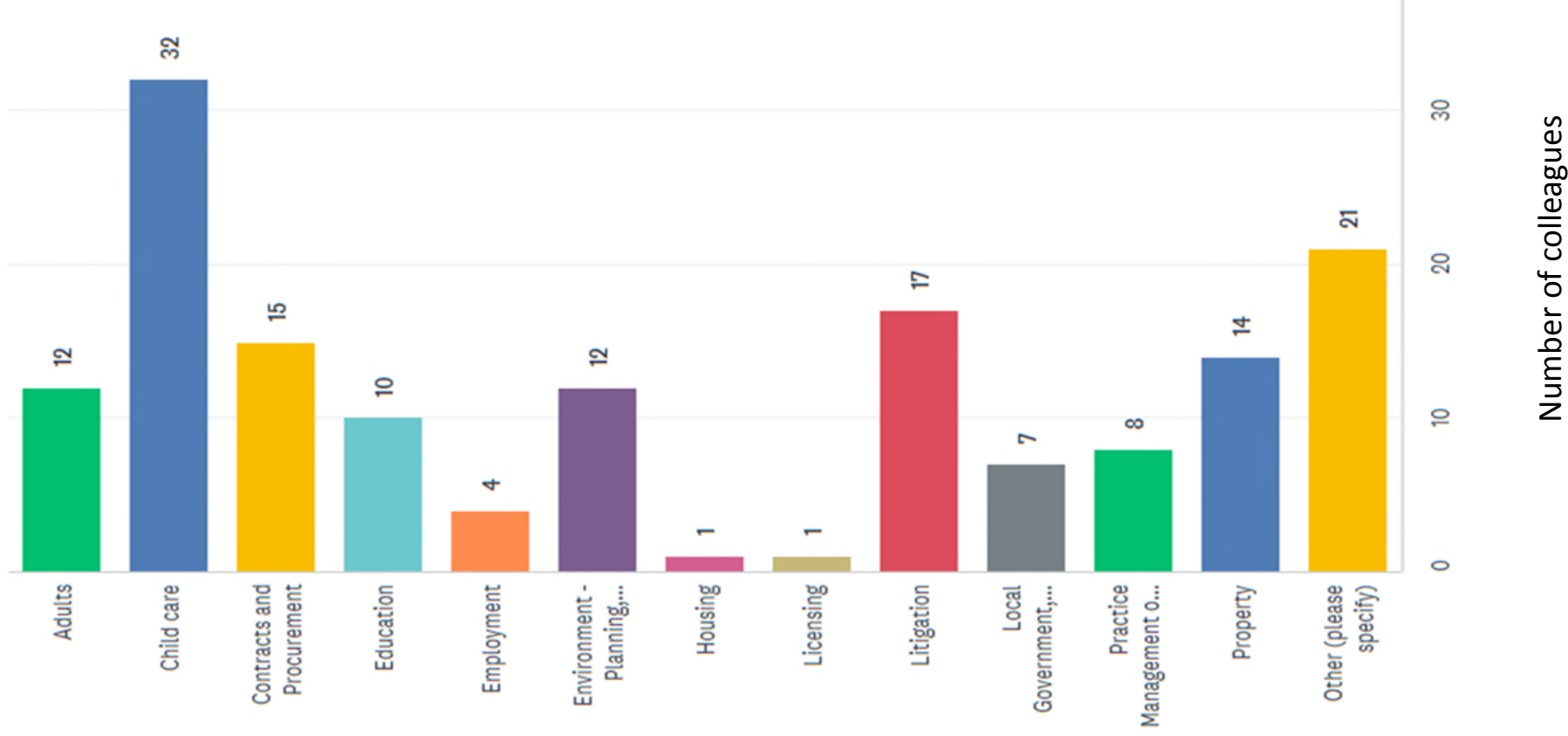
## 5 P's – rating the level of agreement



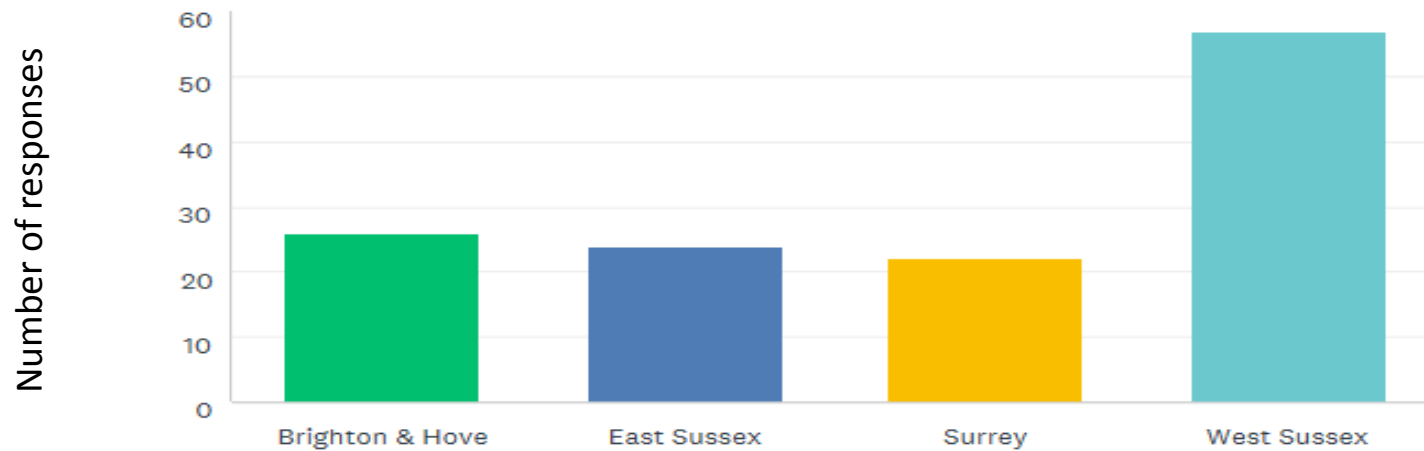
# Preferred methods of communication



# Area(s) of work



## Employing authority

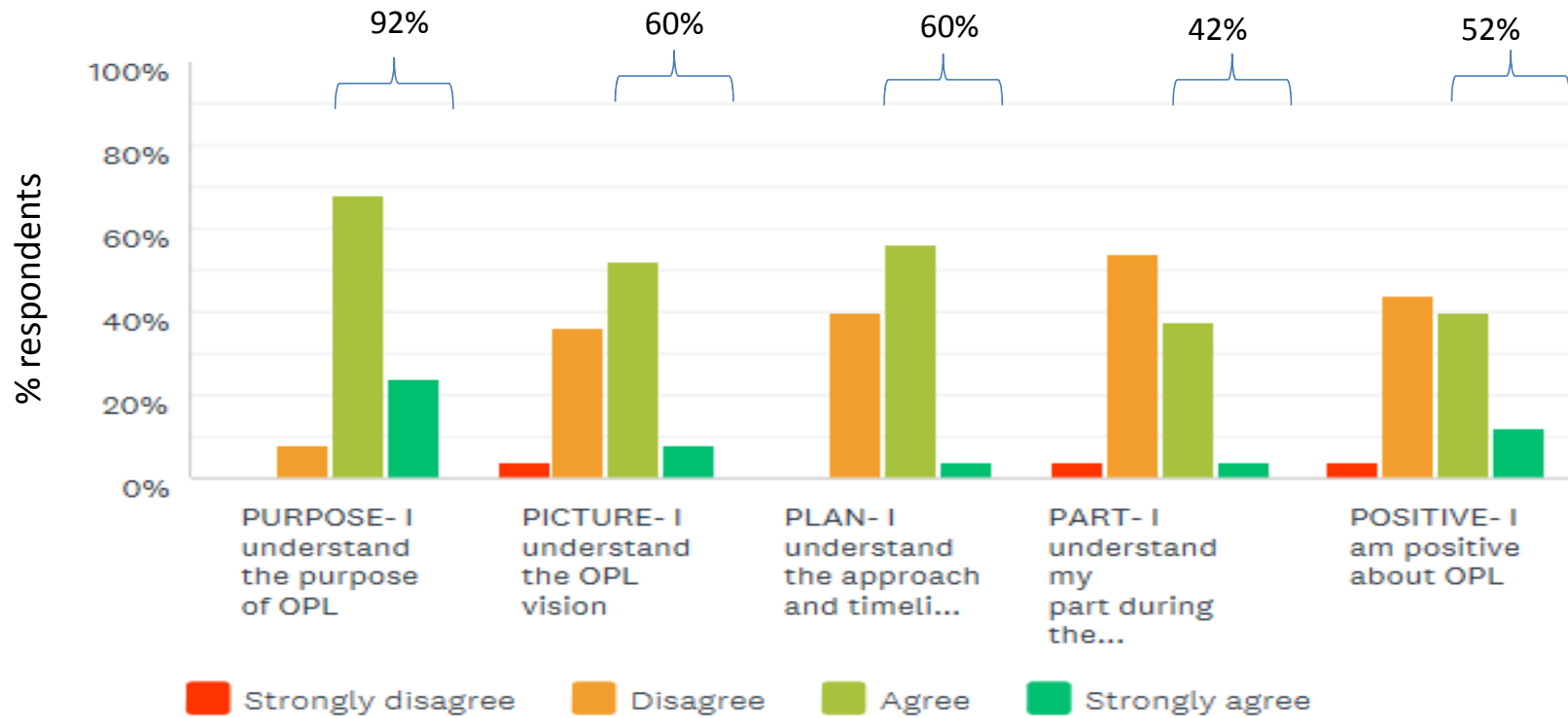


Partner	Number of responses	% of total responses	% of employing authority staff
BHCC	26	20%	54%
ESCC	24	19%	57%
SCC	22	17%	34%
WSCC	57	44%	90%
<b>Total</b>	<b>129</b>	<b>100%</b>	<b>59%</b>

# Graphs by authority

# BHCC

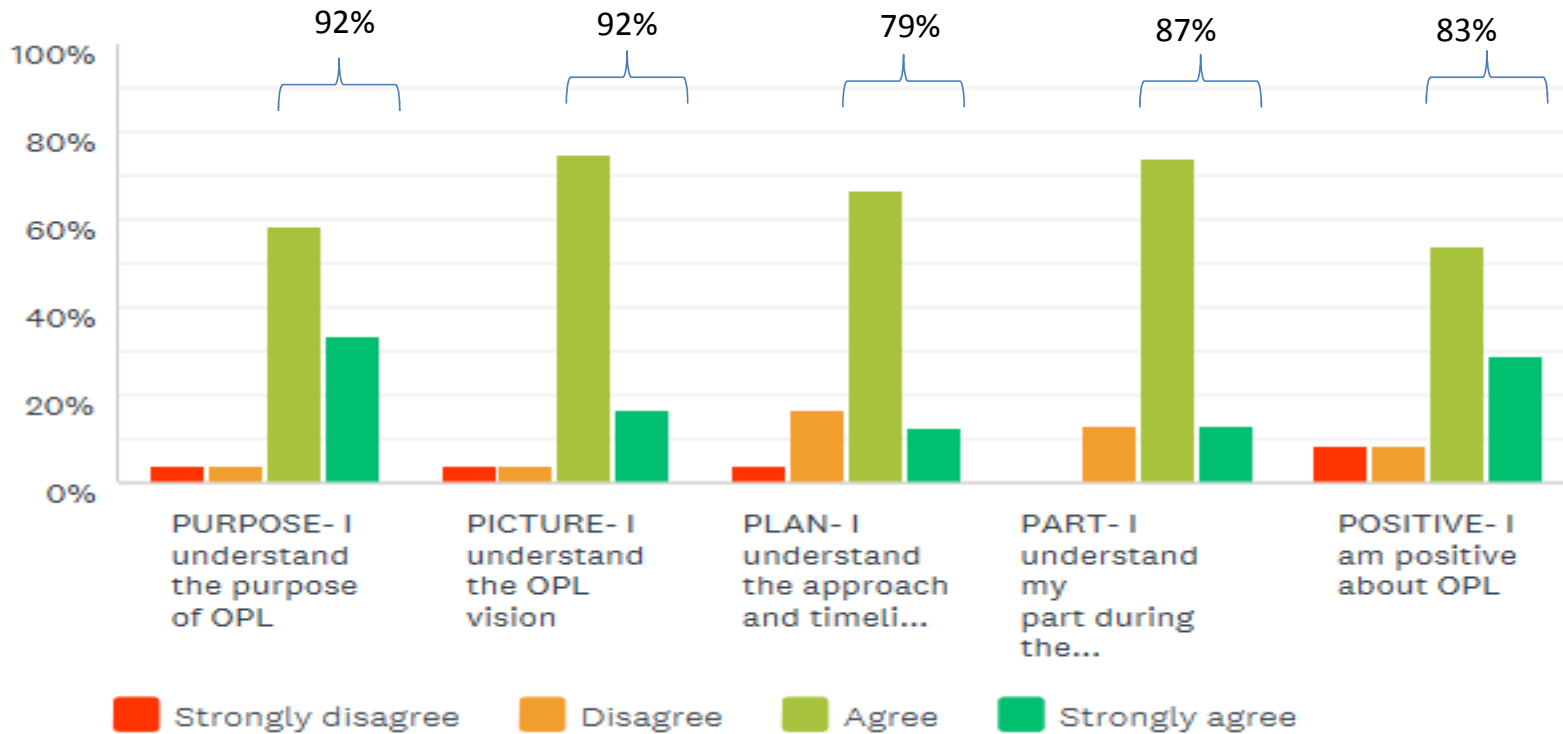
26 responses



# ESCC

24 responses

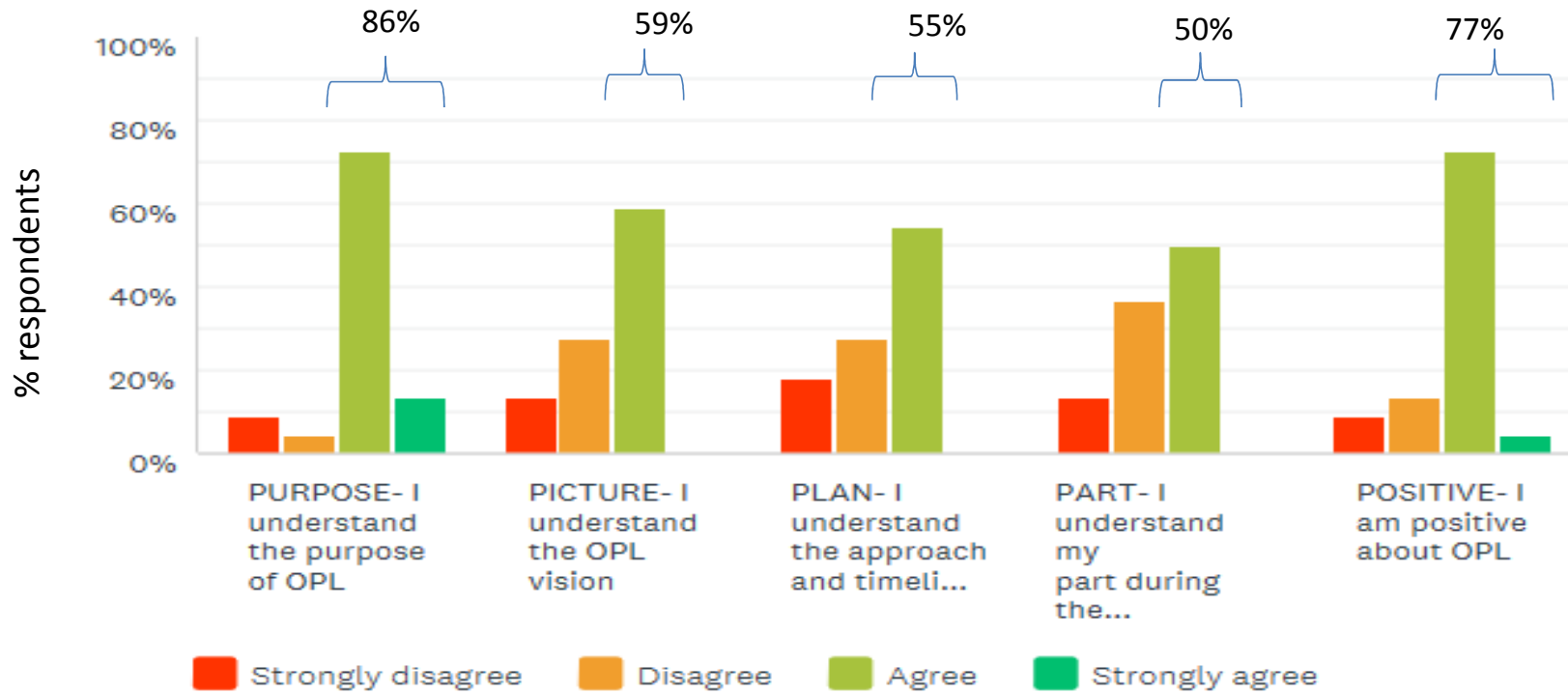
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# SCC

22 responses

Page 24

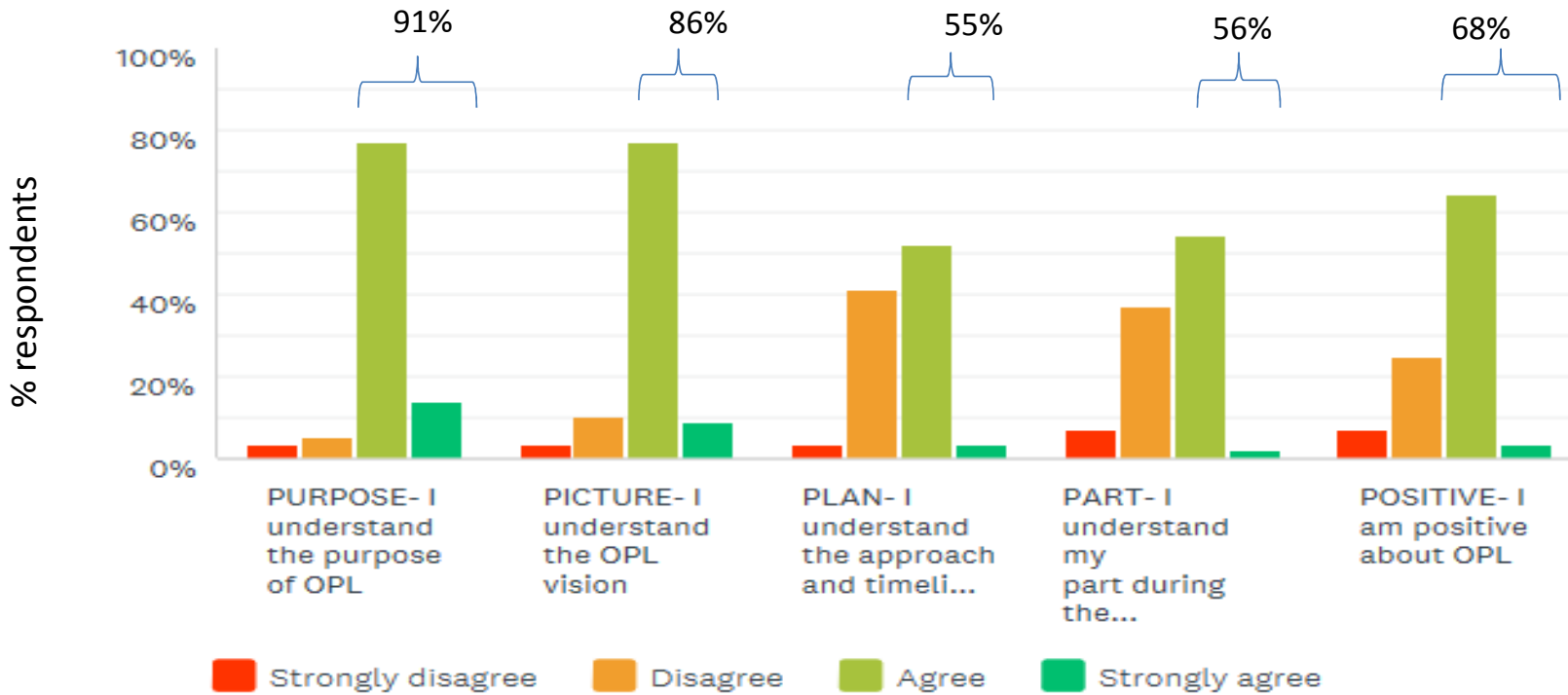




# WSCC

57 responses

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## Initial actions

1. Share the feedback by groups in up and coming workshops.
2. Introduce a monthly email communication, following an ILT meeting.
3. Set up meetings and workshops to involve staff in the analysis work.
4. Regularly update the noticeboard.
5. Develop a timeline to share with staff.
6. Showcase the benefits of OPL.
7. Make the legal agreements available.
8. Continue to promote the training programme.

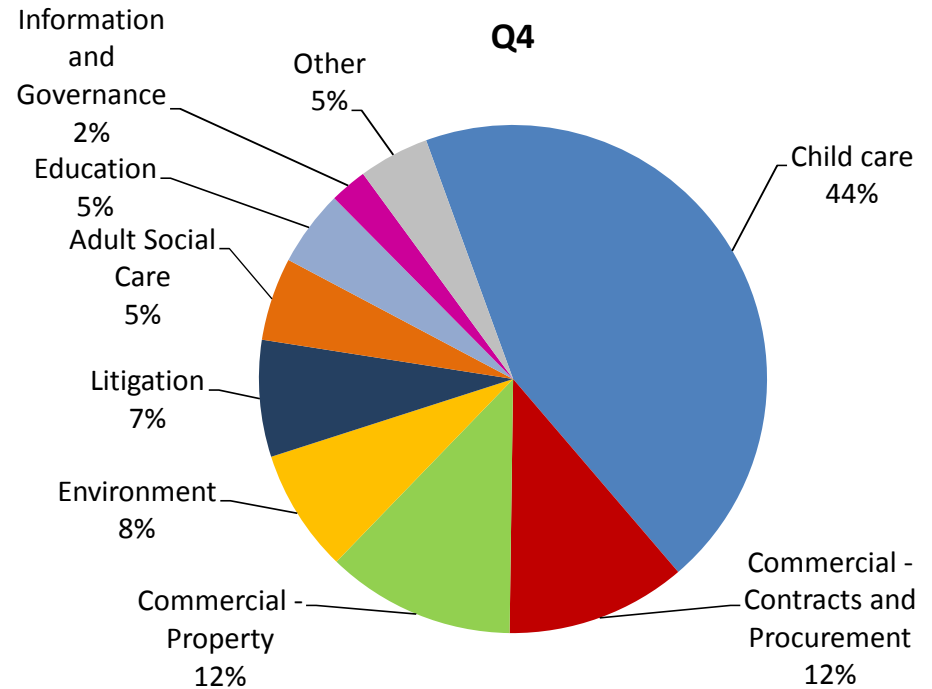
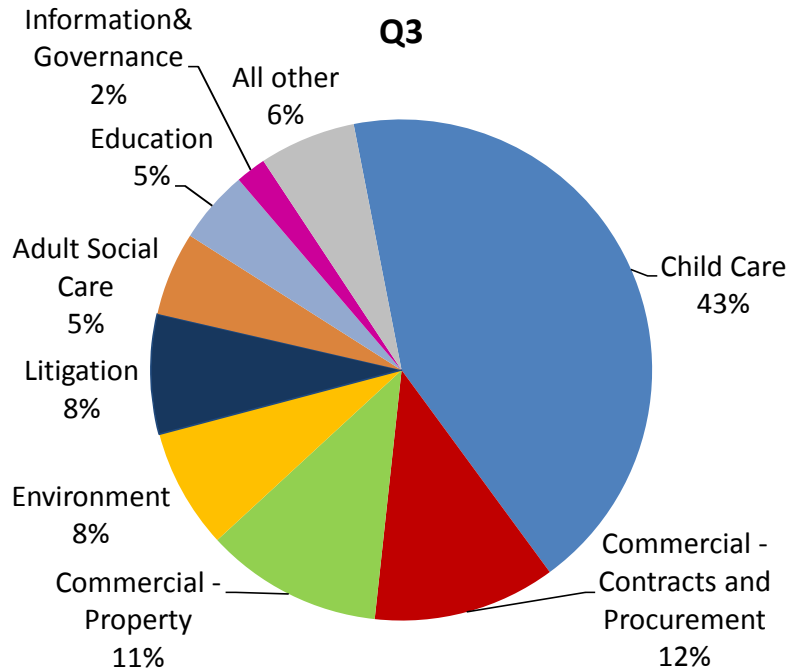
## Appendix 3 – 2017/18 Performance data



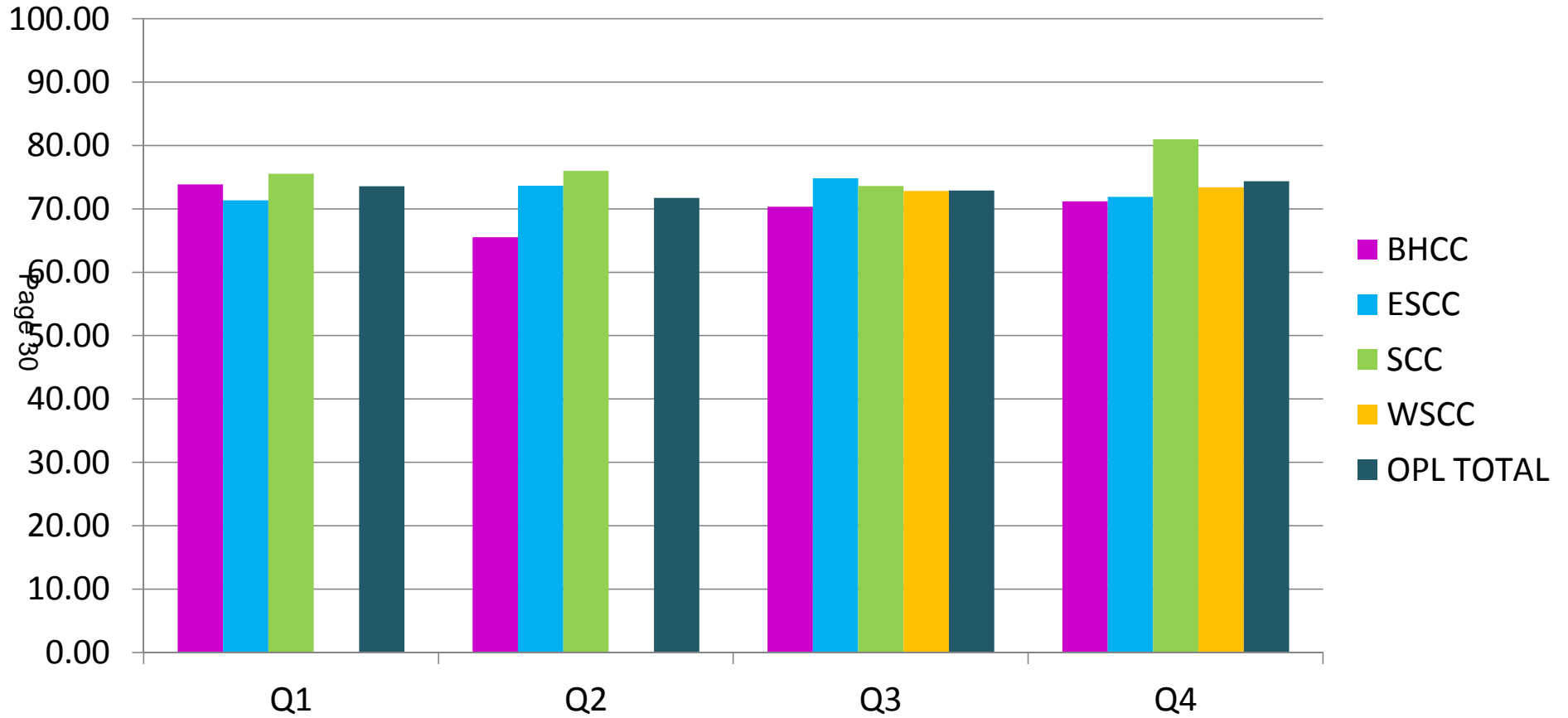
## PERFORMANCE BASELINE – 2017-18

1. Volume and type of work
2. Cost per chargeable hour
3. Staff make up
4. Work sharing
5. Child care advocacy

# VOLUME & TYPES OF WORK



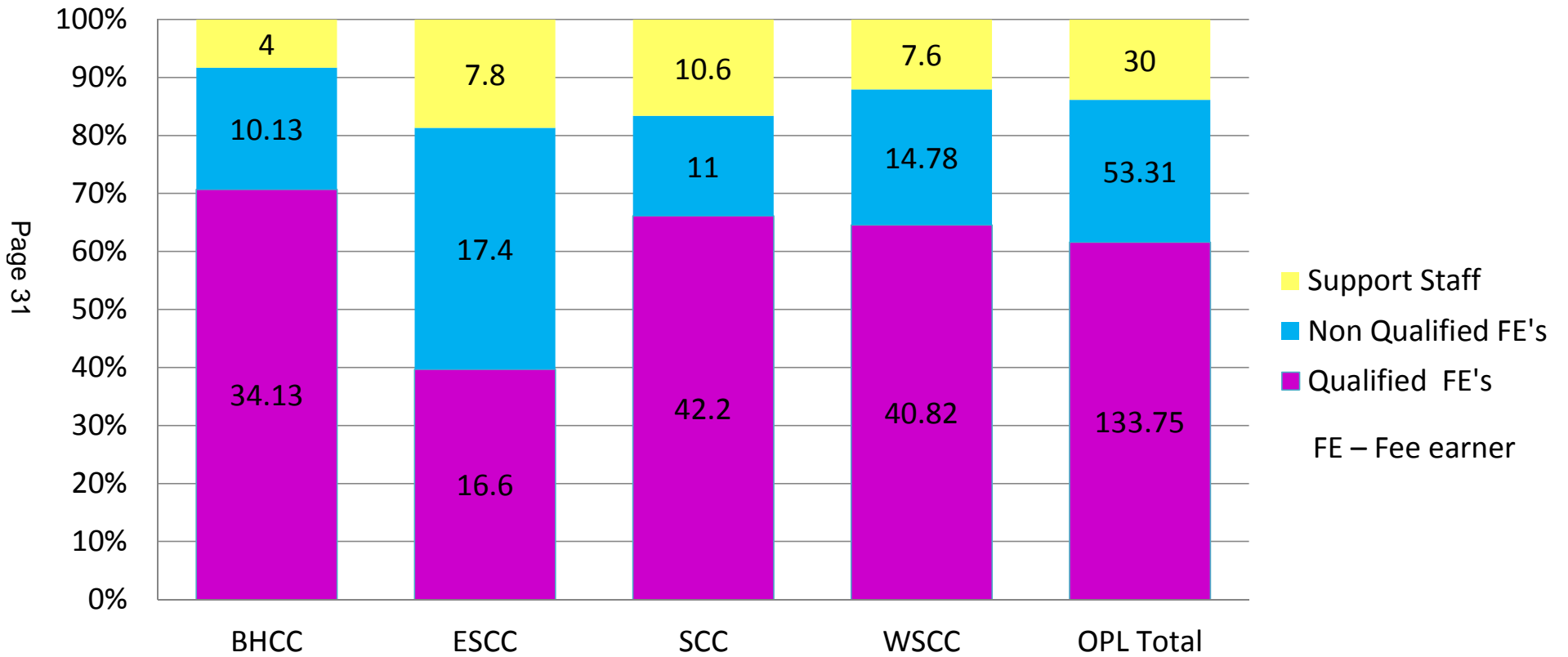
## 2017/18 - % CHARGEABLE HOURS - BY QUARTER



Chargeable hours by quarter

# STAFF MAKE UP

**OPL staff make up – Full Time Equivalent - Mar '18**



FE – Fee earner

## STAFFING COST PER CHARGEABLE HOUR

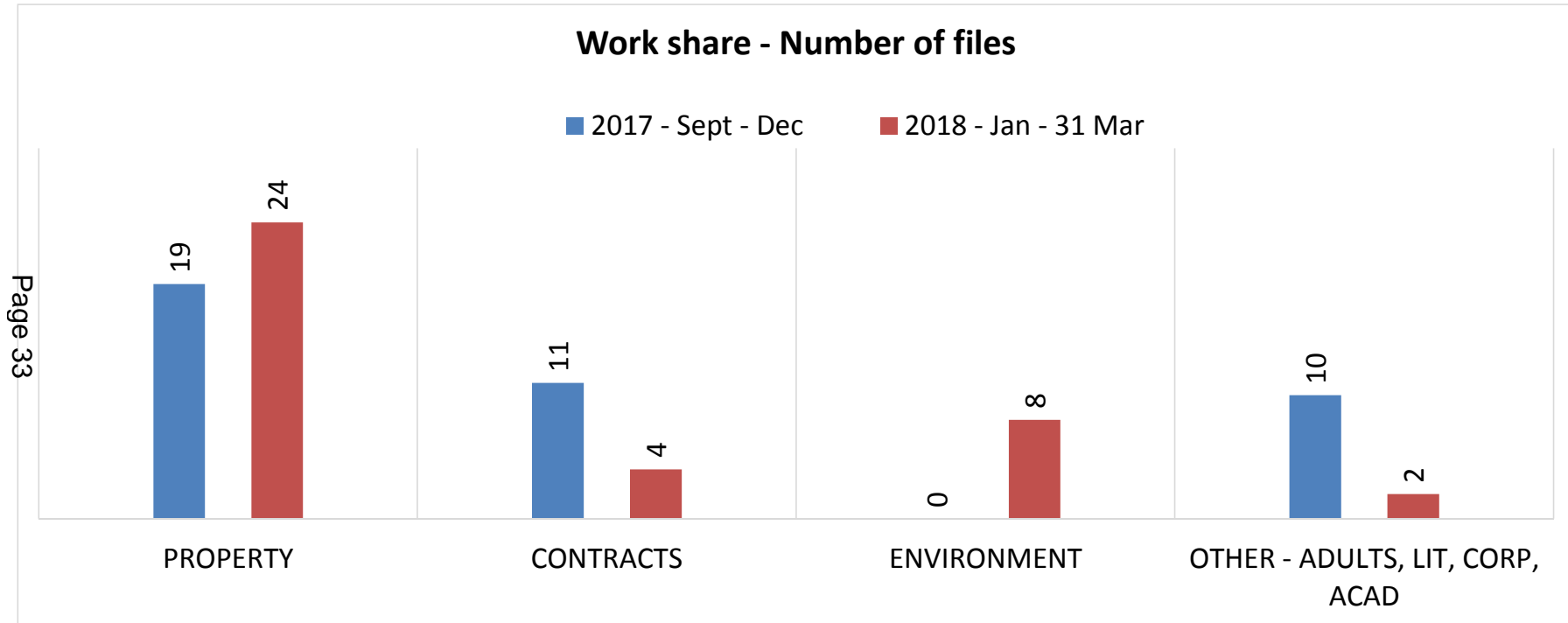
Partner	Q3	Q4
BHCC	39	36
ESCC	29	29
SCC	40	35
WSCC	44	42
Average	38	36

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Note time recording data available for all partners from Q3 Sept '17

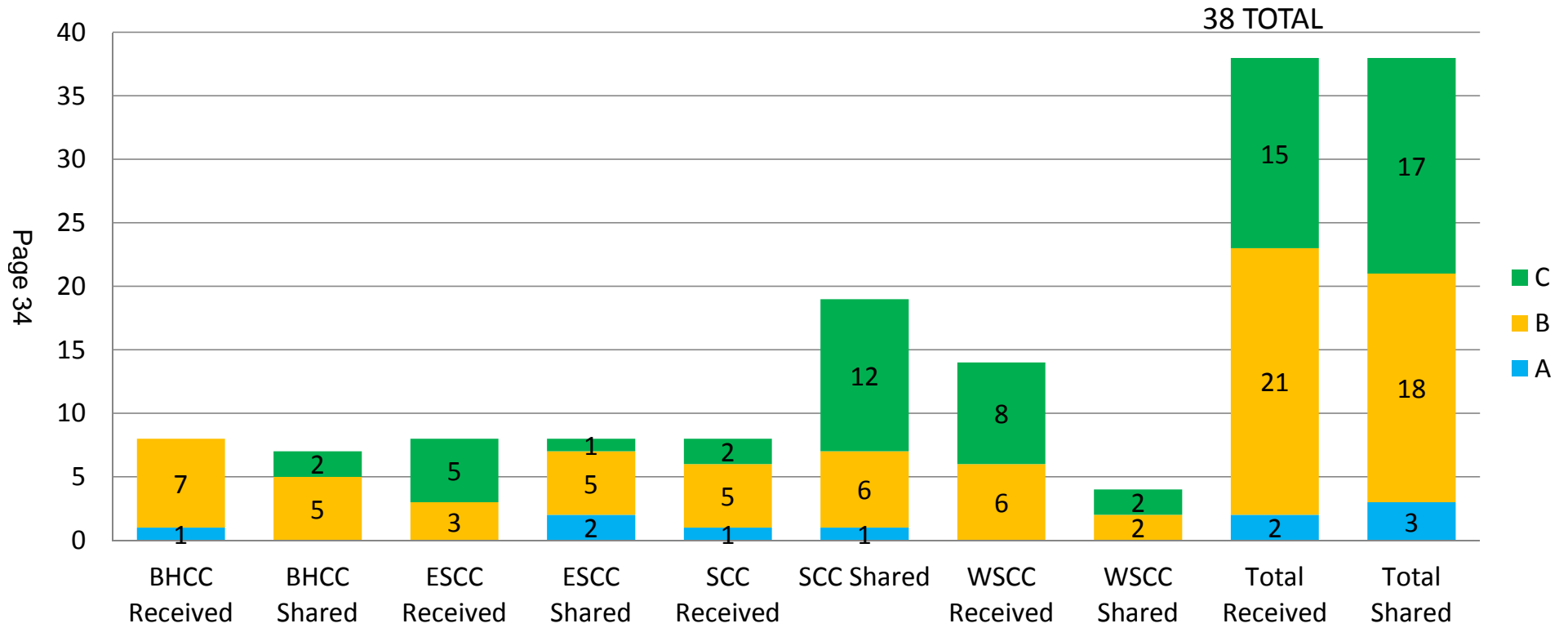


# WORK SHARE



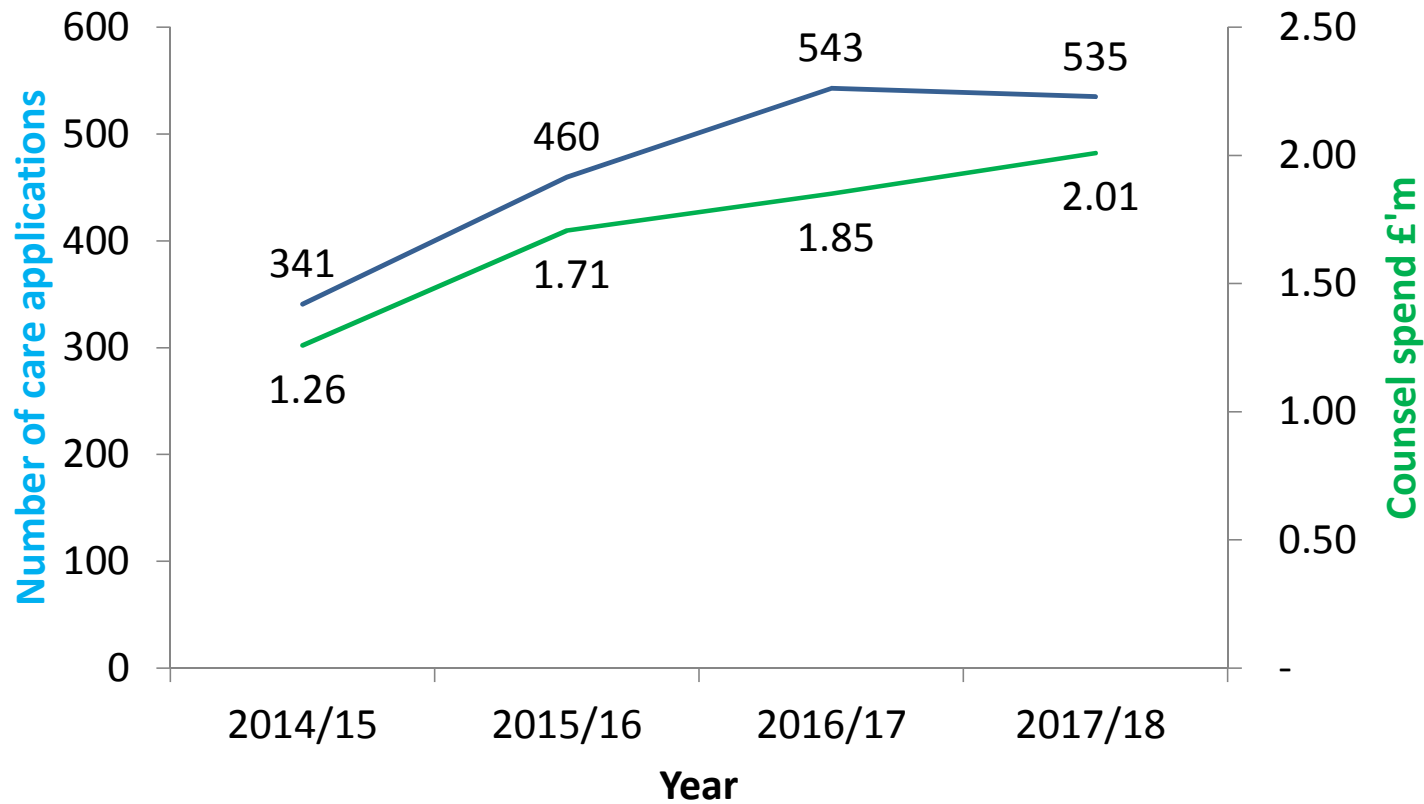
# WORK SHARE

WORK SHARE - 1 Jan - 31 Mar '18



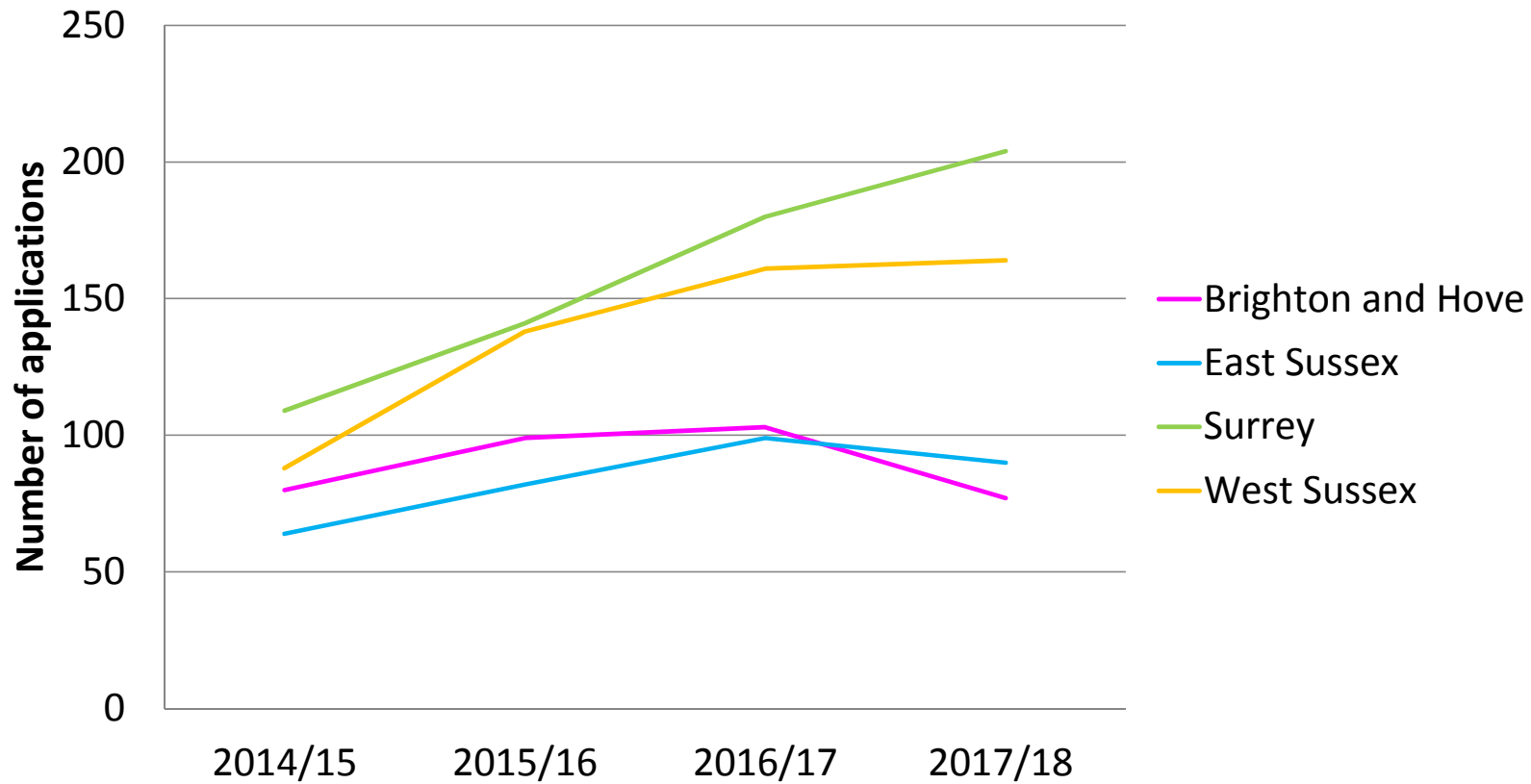
# CHILD CARE – TOTAL APPLICATIONS AND COUNSEL SPEND

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## CHILD CARE – APPLICATIONS BY AUTHORITY

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## IN-HOUSE ADVOCATE PRODUCTIVITY

Total value of work carried out by OPL advocates 2017/18 £000	Cost of employing OPL advocates 2017/18 £000	Notional saving over instructing counsel £000	Notional saving as a percentage of instructing counsel %
591	446	145	25

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**BRIGHTON & HOVE CITY COUNCIL, EAST SUSSEX  
COUNTY COUNCIL, SURREY COUNTY COUNCIL AND  
WEST SUSSEX COUNTY COUNCIL**

**ORBIS PUBLIC LAW JOINT COMMITTEE**

**DATE: 2 JULY 2018**

**LEAD OFFICERS: PHILIP BAKER (ASSISTANT CHIEF  
EXECUTIVE, ESCC),  
RACHEL CROSSLEY (ASSISTANT DIRECTOR,  
CHIEF OF STAFF, SCC),  
ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE  
LEAD OFFICER FOR STRATEGY,  
GOVERNANCE AND LAW, BHCC),  
AND  
TONY KERSHAW (DIRECTOR OF LAW AND  
ASSURANCE, WSCC).**

**SUBJECT: CHILD CARE ADVOCACY STRATEGY AND  
BUSINESS PLAN**

**PURPOSE OF REPORT:**

Following the Joint Committee in January 2018, a Child Care Advocacy Strategy and Business Plan has been agreed by the OPL Interim Leadership Team.

**INTRODUCTION**

1. The key objective of the Child care advocacy strategy and business plan is to reduce spending on external counsel to represent OPL authorities in child care proceedings. Refer to appendix 4 for the full report.

**RECOMMENDATION:**

It is recommended that the Joint Committee reviews and approves the Child Care Advocacy Strategy and Business Plan and endorses the approach to reducing expenditure on external counsel to represent OPL authorities in child care proceedings.

**REASON FOR RECOMMENDATION:**

To ensure the Joint Committee is fully briefed on progress with the Advocacy project.

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## DETAILS:

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2. Over the last three years the number of care proceedings in the OPL area has increased by 57%, more than double the national trend. This significant rise has placed increasing pressure on legal services teams to provide child care lawyers and advocates to manage proceedings. In 2017/18, over 40% of care proceedings were delivered in-house but to meet demand, OPL authorities spent £2m on instructing counsel to represent our local authorities in child care proceedings.
3. In June 2018, OPL was working with six FTE advocates employed by the four partner authorities.
4. An OPL advocacy project group is working to reduce the amount we spend on counsel by:
  - recruiting up to four additional OPL advocates. On average each OPL advocate saves around £23,000 p.a over the cost of instructing external Counsel. An OPL advocate is due to start in August 2018;
  - prioritising OPL advocate activity on longer hearings and final hearings which are expensive to buy in;
  - supporting case lawyers to do more of their own advocacy;
  - co-ordinating advocate activity and monitoring the cost of child care hearings; and
  - agreeing an OPL child care framework which should stabilise and possibly reduce the prices we pay for external counsel.

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## CONCLUSION AND NEXT STEPS

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5. The Child Care Advocacy project will reduce the amount we spend on external counsel and make the best use of our own staff which in turn will help to make OPL more sustainable and resilient. The reduction in the cost of advocacy for Children's Services departments will benefit front-line children's services.

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**Contact Officer:** Shân Allan (ESCC Governance Services)

**Appendices:** Appendix 4 Advocacy Strategy and Business Plan

**Sources/background papers:** None

**Consulted:** Advocacy working group:

Shan Allan

Sarah Baker, Head of Legal Services SCC and OPL Interim Head of Child Care

Sara Boothroyd, Senior Solicitor WSCC

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# Child Care Advocacy: Strategy and Business Plan

Final

June 2018

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1. Background
2. Objectives
3. What does an advocate do?
4. Where are we now?
5. Meeting our objectives
6. Developing information
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## 1. Background

1.1 Orbis Public Law (OPL) has a vision to be a single, resilient, sustainable cost effective legal service with a public service ethos with an ability and ambition to grow.

1.2 In January 2018 the OPL Joint Committee agreed the OPL Business Plan which sets out aims, ambitions and future plans. OPL objectives are to:

- Enhance the value of service to our authorities,
- Improve resilience,
- Reduce the net cost of legal services and
- Increase opportunities for staff and their development.

1.3 An important part of delivering the OPL Business Plan is the Child Care Advocacy Project. Reducing the amount we spend on external Counsel and making the best use of our own staff will help to make OPL more sustainable and resilient. Ultimately, any reduction in the cost of advocacy will benefit front-line child care services.

## 2. Objectives

2.1 The key objective of the Child Care Advocacy Strategy and Business Plan is to:

- Reduce spending on external counsel to represent OPL authorities in child care proceedings.

2.2 In achieving this objective, the strategy is underpinned by three guiding principles:

- Optimum integration to achieve best value,
- Maximum organisational self-sufficiency and resilience; and
- Exploiting technology to improve performance and manage caseloads.

## 3. What does an advocate do?

3.1 Each partner uses solicitors and barristers as advocates to act on behalf of the local authority in child care proceedings. Acting on instructions from child care lawyers, they take on responsibility for all matters related to the conduct of court hearings and of reporting actions and outcomes to the Children's Services department client and the relevant team lawyer. This includes the drafting of court documents such as case summaries, court orders and, where required, skeleton arguments and legal position statements. The nature of the work means they regularly attend court and at times may be required to prepare for urgent cases outside of normal office hours.

3.2 This work requires a particular skill set. Advocates need expertise in public law relating to child protection and to be confident and articulate in court on a range of hearings at different levels and with different levels of complexity. The work is sensitive as children may be removed from their

parents or carers. Advocates need to be good communicators in court and also able to quickly build and maintain good relations with legal colleagues and social workers.

3.3 Advocates work on many different types of hearings within care proceedings. An example is a Case Management Hearing. This is an initial short hearing before a judge to sort out procedural and practical matters, including what evidence is necessary, and get the case ready for a hearing where a full decision will be made about the welfare of the child.

### Case Management Hearing

An advocate representing the local authority has to:

1. Read the brief provided by the local authority case solicitor.
2. Review relevant papers for the hearing. This is likely to include the following: previous directions and position statements; any expert evidence; social worker’s initial assessment; any existing assessments; review of any threshold evidence.
3. Raise any queries with the instructing solicitor.
4. Draft a case summary – typically a 4 page document.
5. Attend an advocates meeting (meeting of the advocates for all parties). Feed back to the instructing solicitor and take further instructions if necessary.
6. Draft a case management order (6 page document) and any additional orders e.g. disclosure of documents from police or hospital.
7. If there is a contested issue for the hearing, the advocate will review relevant law and prepare argument/submissions or examination of witnesses. The advocate may be required to draft a skeleton argument or position statement.
8. Attend the hearing (including travel to and from court). Attendance required 1 hour before the hearing in most cases.
9. Write an attendance note for the instructing solicitor.
10. Finalise case management order(s) and circulate to other parties’ advocates. Amend and recirculate if appropriate.
11. Send case management order(s) to court for approval by the judge.

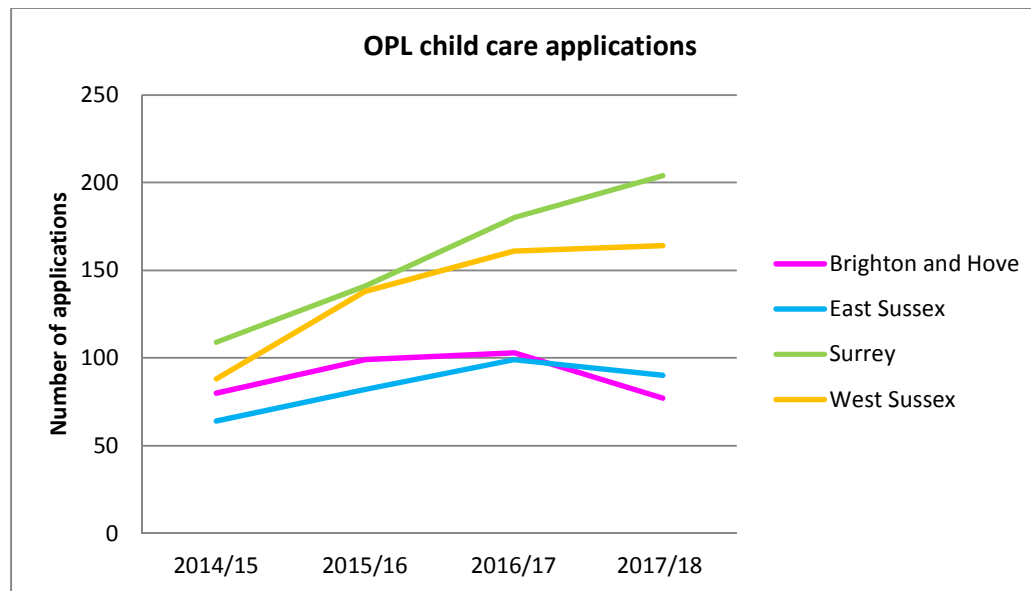
## 4. Where are we now?

4.1 When a local authority decides it needs to get involved with a family to keep a child safe they may start a court case – known as care proceedings. Nationally, over the last three years, there has been a steep increase in the number of care applications with Cafcass recording a 27% rise between 2014/15 and 2017/18. In the OPL area of Surrey, East and West Sussex and Brighton & Hove, the increase over the same period was 57%, more than double the national trend.

	2014/15	2015/16	2016/17	2017/18
OPL number of care applications	341	460	543	535

Source: Cafcass

4.2 The significant rise in care applications in the OPL area has placed increasing pressure on legal services teams both to provide child care lawyers and advocates to manage proceedings. Data for 2017/18 suggests that the overall number of child care applications may have peaked, however there are different patterns across the four partners. Demand has eased at Brighton & Hove and East Sussex, is plateauing in West Sussex but remains on an increasing trajectory in Surrey. Some of the increase in Surrey may be attributable to both pre Ofsted monitoring visits and the full Ofsted inspection of Children’s Services in February 2018.



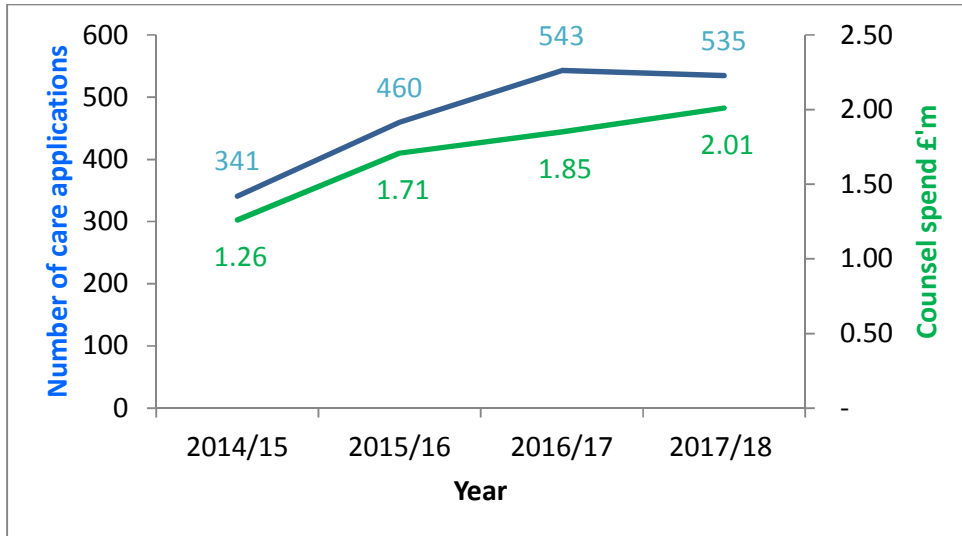
Source: Cafcass

4.3 OPL partners provide child care advocacy in three ways, by:

- employing their own advocates;
- using case lawyers to carry out their own advocacy on straight forward hearings; and by
- instructing barristers from counsel chambers to carry out advocacy on more complex cases and where there is insufficient in-house capacity.

4.4 For most of 2017/18, OPL was operating with five to six advocates. The resource varied over the year influenced by movement of staff, sickness absence, other work pressures and one advocate in training who was carrying a lighter workload. In June 2018, OPL was working with six FTE advocates employed by the four partner authorities.

4.5 Operating with a fixed number of advocates has meant that Councils have been more reliant on instructing counsel to meet the advocacy gap. Over the three years since 2014/15, partners have increased spending on counsel by 59% from £1.26m in 2014/15 to £2.01m in 2017/18.



Source: Cafcass and OPL Authority financial reports

## 5. Meeting our objectives

5.1 Our key objective of reducing the amount we spend on external advocacy is being met in four ways.

- Increasing in-house advocate capacity;
- Ensuring the most effective use of our in-house advocates;
- Increasing the number of care proceedings hearings covered by OPL lawyers; and
- Securing the best prices for counsel when they are used.

### Increasing the number of in-house advocates

5.2 Our six FTE advocates are employed by partner authorities on broadly similar salary scales and all carry out advocacy for their Children’s Services departments.

	FTE advocates	Salary scale 2017/18
BHCC	1	£46,552 – £51,043
ESCC	1	£47,072 – £51,540
SCC	2	£50,903 - £56,261
WCC	2	£48,423 - £51,284

5.3 Since 2017, we have been tracking advocate performance and comparing the cost of the hearings they do with the cost of instructing counsel to carry out equivalent work. Working with Orbis Finance colleagues, we have established that the full cost of employing an advocate is around £71,000.<sup>1</sup> Based on this cost, data for 2017/18 shows that using our own advocates was £145,000 less expensive

<sup>1</sup> Based on a notional average salary of £50,000 and including all employment oncosts, marginal overheads, travel expenses, supervision etc. (Appendix A)

than instructing counsel to do the same work; this is less than previously reported because we have included all overheads.

Total value of work carried out by OPL advocates 2017/18	Cost of employing OPL advocates 2017/18	Notional saving over instructing counsel	Notional saving as a percentage of instructing counsel
£000	£000	£000	%
591	446	145	25

Source: OPL advocacy tracking

Note: Value of work based on counsel rates

5.4 The data shows there are clear financial benefits to employing our own advocates. There are also other advantages from using our own staff more extensively:

- We know from work carried out at SCC that where case lawyers or in-house advocates attend case management conferences, the subsequent number of hearings per case is likely to be lower than when counsel attends the initial conference;
- In-house advocates build up relationships with clients and possess specialist knowledge of local authority procedures that enables more efficient progression of the case; and
- Our advocates support and train colleagues in advocacy skills.

5.5 We also recognise that there are benefits from using counsel:

- Instructing counsel provides flexibility - if the number of child care proceedings fall then spending on counsel will reduce; and
- there will always be a need to instruct Counsel for complex cases.

5.6 It is not straightforward to identify the optimum number of advocates OPL should employ. The £2m spent on counsel for childcare proceedings in 2017/18 would buy 28 additional advocates, indicating the scale of the resource currently involved. However, even if this was desirable, the recruitment market for advocates is difficult with competition from other sectors and restrictions on the salary we can offer and there are risks associated with employing new staff:

- The work is demand led; we cannot be certain what level of advocacy will be required in the future;
- If we have too many advocates, and work falls, then we may be facing redundancies and the costs associated with that;
- High levels of sickness absence may be incurred which would impact on overall productivity and the financial benefits of using our own staff; and
- The budgets for counsel are held by Children’s Services at BHCC and ESCC. Although Legal Services makes spending decisions about counsel, if additional advocates are recruited, the funding has to come from the client department. Any change would need to be explained and agreed in advance; this may pose an unacceptable risk to departments.

5.7 In March 2017 the OPL Joint Management Board recognised these dilemmas and agreed a pragmatic approach to recruit up to four additional advocates to work across OPL. This would increase in-house capacity to 10 advocates; a situation which will be kept under review. Employing more staff



means that the cost of OPL will increase, however this will be more than offset by the reduced cost of external advice in the budgets of each partner.

5.8 During 2017 two recruitment campaigns were run to attract suitable candidates; a position was offered to one candidate who declined the position. A recruitment campaign continues including more targeted approaches to potential candidates. This has been successful with a candidate accepting an OPL position and due to start in August 2018.

5.9 Until April 2019, when a permanent OPL management structure and combined budget are in place, the new advocate appointment will be funded and hosted by one of the OPL partners; in this case BHCC. The advocate will work across all four OPL partners according to need; the cost of employment will be apportioned between each OPL partner based on the time the advocate spends working for each sovereign authority. In the event that not all costs will be recovered, or during a training and induction period, the residual cost will be shared between partners based on the ACR.

5.10 Based on current average activity levels, each new advocate could save OPL around £23,000. However, there are opportunities to increase this through effective management and by prioritising advocates’ work on hearings which are expensive to buy in (paragraphs 5.11 -5.16).

**Most effective use of in-house advocates**

5.11 Our tracking has highlighted the type of hearings that OPL advocates cover and how we can make best use of our staff. During 2017/18, the value of the work each advocate delivered varied considerably, influenced by a number of factors such as other work pressures and sickness absence. On average, each advocate saved OPL £23,000 (the value of work carried out in excess of their salary plus oncosts). Our most productive advocates were saving OPL over £40,000 p.a.

5.12 Working together, partners have learnt from this and challenged existing custom and practice with positive results. For example, refocusing the work of one advocate has seen the value of work increase from £24,000 to £65,000 over two consecutive six month periods. This is largely because of a move to longer hearings (1-6 days) which are particularly expensive to buy in - a 2 day hearing typically costs around £1,800 if counsel is instructed.

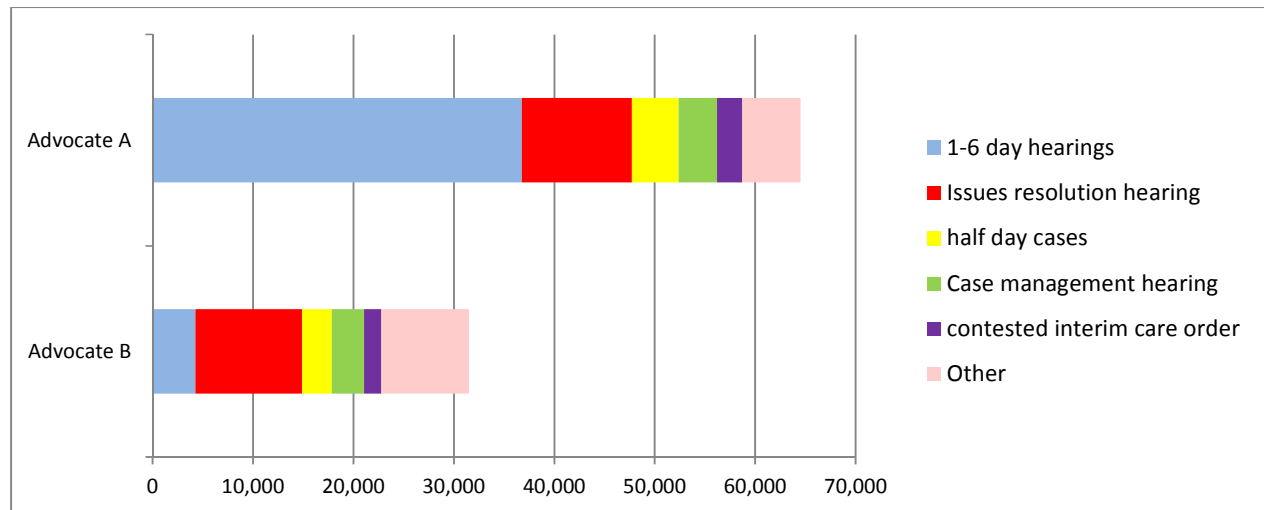
	Value of work carried out by Advocate A £
Oct 2016 – March 2017	24,502
April 2017 – Sept 2017	65,582

Source: OPL advocacy tracking

5.13 The immediate pressures of day to day work means it is not always possible or desirable to shift advocate work to longer hearings. However, the chart below illustrates the financial benefits this can bring about. Both Advocate A and B worked full time for the six month period illustrated but the

spread of work was different. Advocate A carried out work with a financial value of £65,000 compared to the £31,000 carried out by Advocate B.

**Example of Advocate activity April – September 2017**



Source: OPL advocacy tracking

5.14 Realising the benefits of working on longer hearings requires clear and consistent management and effective allocation of work. A protocol prioritising the type of work that advocates will be used on is shown at Appendix B. The three priority areas are:

1. Final Hearings listed for more than 1 day
2. Final Hearings listed for 1 day or less
3. Issues Resolution Hearings (IRH) where it is likely the case will conclude, or the advocate is instructed to cover the final hearing. The aim should be that the advocate attends the IRH if they are covering the final hearing.

5.15 Managers will also look at how hearings are allocated. For example, half day cases at court may often run into the afternoon because starts are delayed or the hearings overrun. In such circumstances the counsel fee typically increases from £425 to £625. We cannot accurately predict overruns but, where possible, it makes better financial sense for OPL advocates to carry out these hearings.

5.16 Advocates attend the same five or six family courts for hearings and we have looked at the potential for them to cover hearings for more than one authority. A review of hearings from January – March 2018 highlighted three occasions when advocates were working at the same court on the same day and in theory could have covered more than one hearing. However, in practice this is not possible:

- Hearings are scheduled by the courts in morning and afternoon sessions and require attendance by the advocate one hour before the listing. Multiple hearings may be scheduled for 10am.

- Hearings often run late or overrun.
- Hearings may be in front of a different judge at the same court who may be running on a different time schedule.
- Advocates may be instructed by the judge to finalise draft orders before leaving the court which impacts on their availability.
- Advocates may require pre-meetings.
- Hearings can sometimes be rescheduled at the last minute – e.g from Guildford to Staines court.
- Advocates need to build in preparation time in advance of hearings

### Increasing the number of care proceedings hearings covered by OPL lawyers

5.17 Many of our child care lawyers have experience of acting as advocates and attending court. Through an OPL programme of training and support we require case lawyers to cover more of their own hearings where appropriate. There are particular benefits from lawyers being involved at the start of the matter attending case management conferences, short hearings and advocate meetings:

- Case management is better.
- Lawyers understand the background well and are often in a position to shorten the case duration.
- There is increased throughput of cases.
- It provides variety for the lawyer, increases their skills and morale because they get to see all aspects of the case.
- It reflects how private practice operates – sending a lawyer is usually more cost effective than paying counsel.

5.18 Available data from each of the OPL partners shows that during 2017/18 around 43% of childcare proceedings hearings were delivered in-house, either by advocates (25%) or in-house lawyers (18%). This was mostly at WSCC and SCC but also at BHCC, during the last quarter of 2017/18, when a strategic decision was made for in house lawyers to cover more of their own hearings. Where there is capacity and the appropriate skill set this will be developed further. Training sessions for our own childcare lawyers have been arranged.

	Counsel		Advocates		In-house lawyers	
	No. hearings 2017/18	Value 2017/18 £000	No. hearings 2017/18	Value 2017/18 £000	No. hearings 2017/18	Value 2017/18 £000
BHCC	412	380	136	73	92	36
ESCC	419	306	214	141	42	17
SCC	534	648	216	176*	228	140*
WSCC	729	675*	320	198	310*	98**
<b>Total</b>	<b>2,094</b>	<b>2,034</b>	<b>886</b>	<b>588</b>	<b>672</b>	<b>291</b>

\* SCC in-house advocacy costed at a Sussex rate for consistency but this is not what SCC pay as they don't use those chambers

\*\* estimate

Source: Financial records and data systems maintained by each OPL partner.

## 6. Developing information

6.1 Our tracking of the hearings covered by OPL advocates provides valuable information however, comprehensive data on the activity of all our child care lawyers, and how we use counsel, is not fully or consistently in place. Four authorities have four different ways of managing team diaries and recording information which, with other work pressures, have not been integrated. Monitoring has improved since time recording was introduced across all four OPL partners in 2017/18 but complete information is not available for the year. In particular, a decision on in-house lawyers using specific codes for advocacy was only made in April 2018 so information is inevitably incomplete. As with the introduction of many new systems, early time recording is inconsistent and patchy. We are not complacent about this and know there is more work to do.

6.2 The interim management structure will drive changes to management information systems. However, capturing information consistently in a way which is not overly burdensome will be a challenge and is reliant on adequate resources being available to design simple systems and capture information. We aim to refine the way we capture and monitor:

- the type of hearings and value of advocacy carried out by advocates and case lawyers;
- savings from in-house advocacy; and
- the type of hearings allocated to counsel.

6.3 Where applicable and appropriate, this information will inform the setting of targets for advocates and child care lawyers.

## 7. Managing workload

7.1 Under Interim leadership arrangements, advocates will continue to be line managed within their authority structures. The volumes of work are significant and, in these circumstances, it is envisaged that advocates will continue to work predominantly to support their own Children's Services departments. However, there are benefits from working more closely together:

- Recruiting new advocates to the team will necessitate careful co-ordination to ensure that work is appropriately and fairly allocated;
- There needs to be oversight of each advocate's workload so that longer hearings are prioritised;
- Co-ordination across child care teams will help to support case lawyers in handling some of their own hearings.
- Advocates' knowledge, skills and interests need to be used most appropriately; and
- Advance planning could help to reduce travel time and costs. For example, in February 2018 a WSCC hearing was held at Hastings court. This could possibly have been picked up by an ESCC advocate reducing the travelling time.

7.2 Co-ordinating advocate work requires a clear understanding from line managers of how work will be allocated and a commitment to the guidelines for prioritising work. This can be supported by the

Practice Management team to help track advocate work in a consistent manner. This will be kept under review. If more advocates are recruited there may be merit in managing all advocates as a pool supported by a part-time Advocate clerk responsible for diary co-ordination and tracking advocate activity. As OPL develops into a single effective partnership, it is vital that consistent information is produced to help manage and drive the business. This has a cost implication and the salary of the clerk, which is estimated at £17,000 p.a, will be offset from any future savings.

## 8. Securing the best price for counsel

8.1 Expenditure on external counsel for child care proceedings is tracked closely by OPL partners. As there are different approaches to funding counsel across the partners, the budget for counsel is not included in the OPL operational budget. However, any benefits from reducing the amount we spend on counsel will be shared and ultimately will reduce the amount that either OPL or Children's services departments spend.

8.2 Each OPL partner has its own arrangements and pricing structures with counsel chambers they use regularly. These are broadly comparable. Work is in hand to procure a Child Care framework agreement for OPL with the aim of reducing the prices we pay for advocacy and handling matters. It is possible that prices may not reduce but a framework provides certainty about what we will pay for a given period.

## 9. Enabling a digital court

9.1 Working with colleagues in the Surrey and Sussex family courts, we are changing the way bundles of evidence are made available from hard copy lever arch files of paper to electronic bundles (E-bundles). Instead of printing off hundreds of sheets of evidence from Prescient Plus (the OPL case management system) and sending them to court, the bundles are 'transported' electronically via a product called CaseLines. A cloud based digital court room is set up for each matter; this holds the E-bundle which parties and the judge have secure access to.

9.2 Following a successful pilot at Guildford family court in Spring 2018, we are now implementing E-bundles across all Surrey and Sussex family courts with the full roll-out scheduled for June 2018. Annual savings for OPL for the Guildford court alone are estimated to be £45,000 p.a. (saving on paper, print, postage, courier, admin time etc). In addition, there are further savings e.g. OPL solicitor and advocacy efficiency savings, reduction in DX bills, storage, destruction costs etc. The indicated net savings from a full roll- out across OPL are likely to be significant – in excess of £200,000 p.a.

9.3 The transition of Guildford family court to the digital solution is extremely prestigious and reflects well on OPL. The Judges involved are very impressed with the CaseLines product and the impact the new system has had on their working lives.

## 10. Conclusion

10.1 The Child Care Advocacy project will reduce the amount we spend on external counsel and make the best use of our own staff which in turn will help to make OPL more sustainable and resilient. The reduction in the cost of advocacy for Children's Services departments will benefit front-line children's services.

## 11. Action Plan

	Action	Description and status	Benefit	Action owner	Due date
	1 Recruit up to four OPL advocates	Continue with the external recruitment campaign for up to four new advocates.  One new advocate has been recruited and is due to start in August 2018.	Each OPL advocate saves around £23,000 p.a over the cost of instructing external Counsel	Interim Head of Children's Social Care	Ongoing. Review Sept 2018
Page 55	2 Comply with the protocol prioritising advocates' work.	The three priority areas are: <ul style="list-style-type: none"> <li>Final Hearings listed for more than 1 day</li> <li>Final Hearings listed for 1 day or less</li> <li>Issues Resolution hearings (IRH) for the above (there should be the aim that the advocate attends the IRH if they are covering the final hearing).</li> </ul>	Longer hearings are expensive to buy in from counsel.  Increasing the number of long hearings improves the financial productivity of OPL advocates.	Interim Head of Children's Social Care	Ongoing. Review Sept 2018
	3 Support child care lawyers to do more of their own advocacy	A training session, delivered by OPL advocates, for child care lawyers is programmed for July 2018.	Child care lawyers will be supported and empowered to carry out some of their own advocacy reducing the reliance on OPL advocates and counsel.	Interim Head of Children's Social Care	Ongoing. Review Sept 2018
	4 Further develop performance and monitoring information	Time recording information is being refined and the tracking of child care hearings enhanced so that: <ul style="list-style-type: none"> <li>The type of hearings and value of advocacy carried out by advocates and case lawyers can be monitored;</li> <li>Savings from in-house advocacy can be monitored and, where appropriate, used to set targets.</li> <li>the types of hearings allocated to counsel can</li> </ul>	Monitoring activity and setting targets will help to track performance and ultimately reduce external costs.	Interim Head of Children's Social Care  Business Development Manager	Ongoing. Review Sept 2018

		be tracked.			
5	Manage advocate workload	Under interim leadership arrangements, advocates will continue to be line managed within their authority structures. Co-ordination of advocate work is necessary and will be tracked by the Practice Management team. If more advocates are recruited a part-time advocate clerk will be considered to help co-ordinate diaries.	Advocates will work predominantly within their own authorities but activity will be co-ordinated so that best use is made of skills and work is prioritised.	Interim Head of Children's Social Care	Ongoing. Review Sept 2018
6	Secure the best prices for counsel	Work is underway to agree a Child Care framework for OPL.	The framework will standardise prices for Counsel.  OPL's combined spending power should help to stabilise and possibly reduce prices.	Interim Head of Children's Social Care	March 2019



Average cost of employing a FTE advocate based on a notional average salary of £50,000

	BHCC £	ESCC £	SCC £	WSCC £
Salary	50,000	50,000	50,000	50,000
National Insurance	5,773	5,773	5,773	5,773
Pension	8,550	10,150	7,400	12,350
<b>Cost of employment</b>	<b>64,323</b>	<b>65,923</b>	<b>63,173</b>	<b>68,123</b>
Other legal team costs – general office expenses, fees, subs.	378	436	496	334
IT	2,921	2,921	4,205	2,921
Training	244	250	715	133
<b>Total marginal overheads</b>	<b>3,543</b>	<b>3,607</b>	<b>5,416</b>	<b>3,388</b>
Travel, Parking etc	500	570	1,000	1,000
Supervision – estimate based on £47 per hour	564	564	564	564
<b>Total travel, supervision etc</b>	<b>1,064</b>	<b>1,134</b>	<b>2,034</b>	<b>1,564</b>
<b>TOTAL COST</b>	<b>68,930</b>	<b>70,664</b>	<b>70,623</b>	<b>73,075</b>

Source: Orbis Finance

Average full cost of an advocate = **£70,823**

**Notes:**

Costs are based on Orbis Finance analysis of ESCC and SCC overheads. BHCC review of overheads is incomplete and WSCC falls outside of the Orbis remit. Where information is not available, ESCC has been used as a proxy for BHCC and WSCC.

**Overheads** – Most central overheads (e.g office accommodation, Finance, Payroll, HR, Insurance etc.) will not increase with small changes in the number of employees in each organisation and have therefore been excluded.

**Other legal expenses** exclude budgets where the sum will not materially alter if there are advocates employed – eg. Law library, lelex.

**Pension costs** - Each authority has its own pension fund. (In the case of BHCC it is a separate admitted body / separate pot which is managed by the ESCC pension team). The employer contribution rate is set for each admitted body (each pot) periodically following an actuarial assessment of the assets and liabilities of each admitted body. There will be different rates as each fund will have a different historical performance, will have a different history of over/under funding, they have different investment policies (e.g. % of funds invested in each type of assets – e.g. gilts versus equity, UK versus global etc) and each will have different liabilities – e.g. different cohort of employees, different mix etc.

**Supervision** – based on 1 hour per month direct supervision (excludes discussion of weekly work planning)

Using advocates employed by OPL is both less expensive than employing external counsel and ensures that a high quality service is provided to our Children's Services Departments. OPL research shows that the savings are maximised when our advocates carry out multi day hearings rather than short appointments.

Ideally, the case lawyer will attend the initial case management conference as their detailed knowledge of the case will enable this hearing to be dealt with efficiently. Data from SCC shows a reduction in the number of hearings per case when the case lawyer attends the CMC as opposed to counsel with consequent saving both in time and cost.

OPL advocates should usually be considered for cases in the following priority, so that allocation is made to reflect the commercial value of the hearing:

1. Final Hearings listed for more than 1 day;
2. Final Hearings listed for 1 day or less;
3. IRHs where it is likely the case will conclude, or the advocate is instructed to cover the final hearing. The aim should be that the advocate attends the IRH if they are covering the final hearing;
4. Contested initial/Interim Care Order hearings or substantive applications where the local authority is the respondent, such as leave to oppose adoption or discharge care order;
5. Contested applications and stand alone hearings on issues of substance such as contact, s.38(6) applications, change of interim care plan ;
6. Case Management hearings;
7. Directions/ review hearings.



**BRIGHTON & HOVE CITY COUNCIL, EAST SUSSEX  
COUNTY COUNCIL, SURREY COUNTY COUNCIL AND  
WEST SUSSEX COUNTY COUNCIL**

**ORBIS PUBLIC LAW JOINT COMMITTEE**

**DATE: 2 JULY 2018**

**LEAD OFFICERS: PHILIP BAKER (ASSISTANT CHIEF  
EXECUTIVE, ESCC),  
RACHEL CROSSLEY (ASSISTANT DIRECTOR,  
CHIEF OF STAFF, SCC),  
ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE  
LEAD OFFICER FOR STRATEGY,  
GOVERNANCE AND LAW, BHCC),  
AND  
TONY KERSHAW (DIRECTOR OF LAW AND  
ASSURANCE, WSCC).**

**SUBJECT: DIGITAL COURT**

**PURPOSE OF REPORT:**

To update the Orbis Public Law Joint Committee on the digital court project progress in the Surrey courts and to outline the plans for progression in the Sussex courts.

**INTRODUCTION**

1. Digital court is the term used to describe the change of provision of bundles to the family court in hard copy lever arch files to electronic bundles (E-bundles).
2. The Joint Committee Members were first introduced to the project in October 2017 when it was at an early exploratory stage. Since January 2018, the project has rapidly picked up pace and achieved great success which OPL is pleased to be reporting on.
3. OPL made a strategic decision to lead the transition to digital working in the Surrey and Sussex family courts in order to utilise technologies to gain efficiencies. Following a successful pilot in the Guildford family court this has now been fully rolled out to all the judiciary in the Surrey courts and we are now moving forward with implementing the system for all family cases across in Sussex.

## RECOMMENDATIONS

The Orbis Public Law Joint Committee is recommended to note the update and plans.

## REASON FOR RECOMMENDATIONS

To ensure Members have oversight of the work underway in the partnership and to be aware of the benefits this project will bring to each authority.

## DETAILS

### How it works

4. Working with colleagues in the Surrey and Sussex family courts, OPL is changing the way bundles of evidence are made available from hard copy lever arch files of paper to electronic bundles (E-bundles). Instead of printing off hundreds of sheets of evidence from Prescient Plus (the OPL case management system) and sending them to court, the bundles are 'transported' electronically via a product called CaseLines. A cloud based digital court room is set up for each matter; this holds the E-bundle which parties and the judges have secure access to.
5. The bundle in the digital court room can be prepared and annotated electronically in a way that mimics current manual processes and is then used in the physical court room in a shared space to view the documentation. There are additional features such as a video conference facility that enables parties invited to the case to connect remotely by video link in a fashion similar to Skype, particularly useful for expert and witness appearances given that no special facility (save for internet access) or attendance at another court is required.

### The pilot scheme at Guildford court

6. Surrey was chosen for the pilot scheme as there is only one OPL partner providing bundles to the Guildford and Staines courts, hence allowing for concentration of OPL resource to focus on just Surrey matters.
7. The digital court pilot scheme ran in Guildford during February and March for matters heard by HHJ Raeside, extending to HHJ Nathan at the beginning of April. Both judges were impressed by the software and found it easy to navigate. They have both reported significant efficiencies in hearing preparation and during hearings now that paper bundles are not required to refer to pages and that the software automatically directs parties and witnesses to a particular page. After their first digital hearing neither judge

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required any further paper bundles in their hearings. Their court rooms have been entirely electronic since their first hearings and they expect now that advocates in their matters also work in the digital fashion.

8. From mid-April the Surrey project moved from pilot stage to implementation phase for all the Surrey judiciary sitting at both Guildford and Staines Courts. The implementation was on a judge by judge basis and by the beginning of June all Surrey family cases had migrated to the digital court.

### **Plans for Sussex courts**

9. As the bundles are provided by three OPL partners this adds complexity to the implementation given that the system will be new to 3 sets of OPL colleagues. Using the learnings from the Surrey pilot and noting that it is an additional strain to the local authority colleagues to run both the new and manual system of bundling as well as not being able to truly realise the savings until the system is fully implemented a different approach has been taken for the Sussex courts. Instead of rolling out on a judge by judge basis a pilot will run initially for 2 Judges followed by a 'big bang' implementation to all judges.
10. An OPL transition to digital court launch event was held on 7 June 2018 at Hove Town Hall for Sussex solicitors firms and chambers as well as judges. With over 70 attendees it is clear of the level of interest and enthusiasm for the new ways of working.
11. A comprehensive OPL training plan to ensure that all legal and support colleagues are fully versed in the system is in place during June and July.
12. The two pilot judges will go live from w/c 18 June. We will then operate for a month with just these judges using the electronic system. This will allow for the judges to give feedback and for the OPL and court admin staff to learn the systems. On the condition that the pilot proves successful the remaining judges will go live from 23 July 2018. The judges' training will take place in the week prior.

### **Benefits**

13. By implementing digital court OPL and key stakeholders will realise efficiency savings by significantly reducing and eliminating the following;
  - resource / people saving;
  - mileage expenses for staff and Judiciary;
  - paper costs;

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- printing costs;
  - photocopying costs;
  - postage costs;
  - archiving / storage costs;
  - transporting costs;
  - Less email traffic between staff;
  - A more efficient and effective joint working and sharing of best practices between OPL, HMCTS and other stakeholders;
  - A secure method of electronically exchanging bundles thereby reducing the risk of data loss;
  - A secure method of electronically extracting information thereby reducing the risk of data loss;
  - The potential to improve the timeliness Family work and a reduction in time delay as a result of instantaneous exchange of data;
  - Improved communication between all relevant Stakeholders; and
  - The ability to send/ receive bundles in excess of the set MB acceptance allowances.

14. Through the pilot, a conservative saving of £68 per hearing has been calculated. This includes the paper, printing, stationery, postage, transport and admin staff savings. Assuming 168 issued cases for the full year with 4 hearings for each, this equates to an annual saving of £46k for SCC alone. There are substantial further savings not accounted for in this such as any OPL solicitor and advocacy efficiency savings or the potential larger savings made possible by the use of the CaseLines video link facility, the reduction of DX bills, and the storage and destruction of hard copy bundles.

15. The indicated net savings from a full roll-out across OPL are likely to be significant – in excess of £200,000 p.a.

<b>CONCLUSION &amp; NEXT STEPS</b>
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16. The implementation in Surrey has been a huge success with only a few minor teething issues. The transition of the Surrey family courts to the digital solution is extremely prestigious and reflects well on OPL. OPL were contacted by The Law Gazette and will soon be promoting OPL's success.

17. July will be a busy month training OPL staff, court staff, judges, other solicitors and advocates and supporting a month long pilot period before all the judges go live on w/c 23 July.

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**Contact Officer:** Andrea Kilby, OPL Business Development Manager, 07970 458955

**Appendices:** None

**Sources/background papers:** None

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**BRIGHTON & HOVE CITY COUNCIL, EAST SUSSEX  
COUNTY COUNCIL, SURREY COUNTY COUNCIL AND  
WEST SUSSEX COUNTY COUNCIL**

**ORBIS PUBLIC LAW JOINT COMMITTEE**

**DATE: 2 JULY 2018**

**LEAD OFFICERS: PHILIP BAKER (ASSISTANT CHIEF EXECUTIVE,  
ESCC),  
RACHEL CROSSLEY (ASSISTANT DIRECTOR,  
CHIEF OF STAFF, SCC),  
ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE  
LEAD OFFICER FOR STRATEGY, GOVERNANCE  
AND LAW, BHCC),  
AND  
TONY KERSHAW (DIRECTOR OF LAW AND  
ASSURANCE, WSCC)**

**SUBJECT: FINANCE UPDATE**

**PURPOSE OF REPORT:**

The partners have agreed to establish a Joint Operating Budget from 1<sup>st</sup> April 2019. In advance of this, the management team and committee are monitoring a shadow operating budget.

This report provides a note of the outturn position for the shadow budget for the year ending 31<sup>st</sup> March 2018, confirmation of the shadow budget for the current financial year 2018/19 and upcoming finance project activities to support the establishment of the joint budget.

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**DETAILS**

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The Joint Operating Budget for Orbis Public Law to be delegated to the Joint Committee by each partner is primarily the cost of staffing and associated team costs. Some costs, which are the responsibility of each Legal department, are excluded since there is inconsistency of treatment across organisations and thus this would prevent the sharing of costs which is agreed to be based upon the casework delivered to each partner. The report (annex 1) provides a note of the year end position for the shadow operating budget for 2017/18 and confirmation of the budgets for the current financial year.

The partners have agreed that external legal fees will not be delegated to the Joint Committee. The report however provides a summary of the actual spend on all external legal costs by each partner to provide an indication of the opportunities available to bring some of this spend in-house. The Committee will note that not all these costs are addressable in this way since external costs include court fees, expert

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witnesses, counsel and external advice.

There are a number of Finance activities underway or about to commence in preparation for the delegation of the Joint Operating Budget. The report provides a brief outline of these projects.

## RECOMMENDATIONS

The Joint Committee is asked to note:

1. A shadow operating budget variance of £1.0m for 2017/18 due to staffing underspends.
2. A total spend on external legal costs of £5.9m. This includes spend on court fees, counsel, expert witnesses as well as external legal advice – and therefore not all this spend is addressable by OPL.
3. Changes to the notional contributions to the shadow operating budget as a result of differences between partners in expectations for savings and changes in headcount.

## REASON FOR RECOMMENDATIONS

The Joint Committee will be responsible for ensuring the sound financial management of the partnership, monitoring the shadow operating budget provides the opportunity to prepare for the joint budget arrangements effective from 1<sup>st</sup> April 2019.

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**Contact Officer:** Susan Smyth (Head of Strategic Finance)

**Appendices:** Finance Report

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## FINANCE REPORT: June 2018

### SECTION 1: FINANCIAL MONITORING REPORT: FULL YEAR ACTUALS 2017/8

#### a] Joint Operational Budget

The table below provides an overview of the shadow joint operational budget as at year end 31<sup>st</sup> March 2018.

Shadow Operating Budget	Year end Actual		
	Actual £000s	Budget £000s	Variance £000s
<b>BHCC</b>			
Staff	2,338	2,384	-46
Temporary Staff	55		55
Non-Staff	142	74	68
Income	-694	-558	-136
Net Expenditure	<u>1,841</u>	<u>1,900</u>	<u>-59</u>
<b>ESCC</b>			
Staff	1,575	1,734	-159
Temporary Staff	178	10	168
Non-Staff	56	82	-26
Income	-142	-281	139
Net Expenditure	<u>1,667</u>	<u>1,545</u>	<u>122</u>
<b>SCC</b>			
Staff	2,982	3,423	-441
Temporary Staff	134	0	134
Non-Staff	149	155	-6
Income	-677	-403	-274
Net Expenditure	<u>2,588</u>	<u>3,175</u>	<u>-587</u>
<b>WSCC</b>			
Staff	2,975	3,345	-370
Temporary Staff	263	175	88
Non-Staff	156	103	53
Income	-584	-303	-281
Net Expenditure	<u>2,810</u>	<u>3,320</u>	<u>-510</u>
<b>TOTAL</b>			
Staff	9,870	10,886	-1,016
Temporary Staff	630	185	445
Non-Staff	503	414	89
Income	-2,097	-1,545	-552
Net Expenditure	<u>8,906</u>	<u>9,940</u>	<u>-1,034</u>

During 2017/18 there were underspends on staffing expenditure in all locations primarily due to vacancies and difficulties in recruitment. This has two consequences – an increased reliance and spend on temporary staff and more significantly an increase in external fees. Childcare casework volumes remain high and there continues to be a reliance on external advocacy.

The overspend in ESCC is offset by underspends of £82,000 on other cost headings that do not form part of the Joint Operating Budget leaving a small over-spend of £40,000 for the department when looking at these different budget headings together and from an individual partner (ESCC) perspective. This is because the Joint Operating Budget includes only cost types that are consistent across the partners in order to enable the sharing of costs based upon casework delivered to each partner in the future. The shadow year helps to identify whether budget adjustments are required to individual budget headings and some corrections will be made as required.

### b]: External legal costs

External legal costs incurred by both Legal Services and other services within each partner authority is noted below. These costs are not part of the Joint Operating Budget since there is inconsistency in budget responsibilities between the partners however there is a relationship between internal and external spend as noted above.

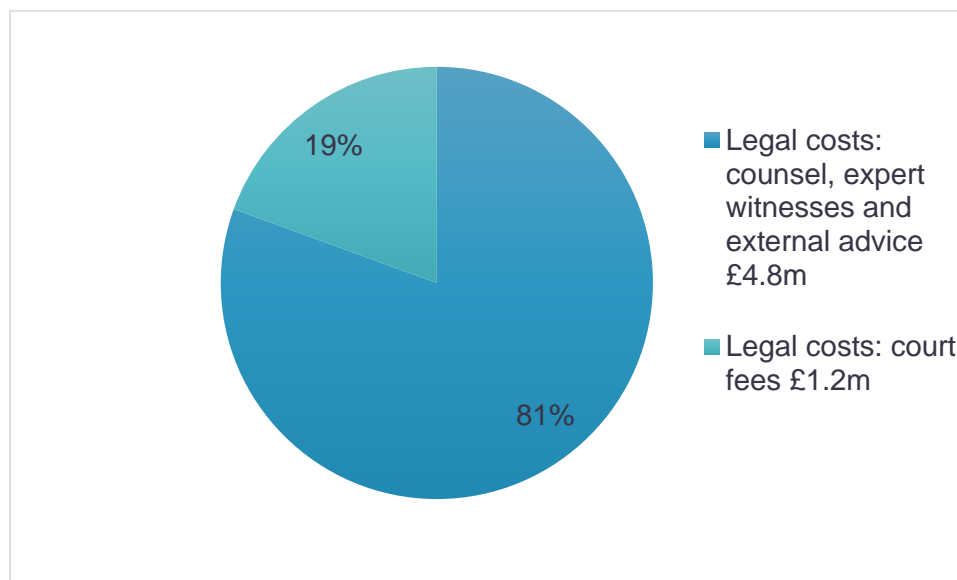
<b>As at end March 2018</b>	<b>Full Year Actual</b>				
External Legal Costs by department	BHCC	ESCC	SCC	WSCC	Total
	£000s	£000s	£000s	£000s	£000s
Legal Services: Full Year Actual	0	17	1,086	1,445	2,548
Legal Services: Full Year Budget	0	64	619	732	1,415
Variance	0	-47	467	713	1,133
Other departments: Full Year Actual					
Childrens Services	722	436	435	0	1,593
Education Services	7	0	48	0	55
Adult Services	38	50	5	0	93
Trading Standards	0	12	34	0	46
Highways	81	93	2	38	214
Environment, Waste & Planning	28	30	50	0	108
Housing	88	0	0	0	88
Coroner	0	60	735	0	795
Property	6	10	215	0	231
Other back office	10	30	13	0	53
All other services	53	48	12	0	113
<b>Total External Legal Costs</b>	<b>1,033</b>	<b>769</b>	<b>1,549</b>	<b>38</b>	<b>3,389</b>
Other departments: Full Year Budget	771	629	613	0	2,013
Variance	262	140	936	38	1,376

<b>As at end March 2018 Summary</b>	<b>Full Year Actual Summary</b>				
External Legal Costs by department	BHCC	ESCC	SCC	WSCC	Total
	£000s	£000s	£000s	£000s	£000s
Total: Full Year Actual	1,033	786	2,635	1,483	5,937
Total: Full Year Budget	771	693	1,232	732	3,428
Total: Variance	262	93	1,403	751	2,509

The information for the tables is taken from the general ledger systems of each partner and is noted against the service where the costs are recorded. All legal costs are included within the analysis including costs that are not necessarily controllable by Legal Services and includes court costs, expert witnesses, counsel and external advice. The analysis does not include legal expenses that are incurred as part of a capital project (e.g. property purchases). This table is the result of a review recently undertaken to identify all legal spend in order to focus on addressable spend going forward.

This analysis shows a full year spend on all external legal costs of £5.9m.

As noted not all external spend is addressable by actions that are being or could in the future be taken by OPL – for example an increase in in-house resource will not impact upon the cost of court fees which are significant at £1.2m and 19% of spend as illustrated by the breakdown below-



## SECTION 2: BUDGET 2018/19

The detailed budgets for 2018/19 for Legal Services have been received from all partners. The table below shows the opening position for the shadow year joint operating budget based upon the information received and consistent with the agreed principles.

Orbis Public Law: Joint Operating Budget	BHCC	ESCC	SCC	WSCC	Total Operating Budget
2018/19 Budget	£000s	£000s	£000s	£000s	£000s
Staff	2,395	1,716	3,334	3,820	11,264
Non-Staff	75	66	158	121	419
Income	-618	-120	-414	-314	-1,465
Net Expenditure	1,852	1,661	3,079	3,627	10,219
2018/19 Budget Contribution Ratio	18.1%	16.3%	30.1%	35.5%	100.0%
2017/18 Budget Contribution Ratio	19.1%	15.5%	31.9%	33.4%	100.0%
	-1.0%	0.7%	-1.8%	2.1%	0.0%

Note) Comparison to 2017/18 estimated contribution is based upon the year-end budgets

The estimate of Agreed Contribution Rates (ACR) provides an indication of the planned resource requirement for each partner based upon the budget position. Changes in the ACR are primarily being driven by the requirement for savings by each partner with the exception of WSCC which includes an increased staffing budget for additional posts and as a result of a change in costing methodology for salaries.

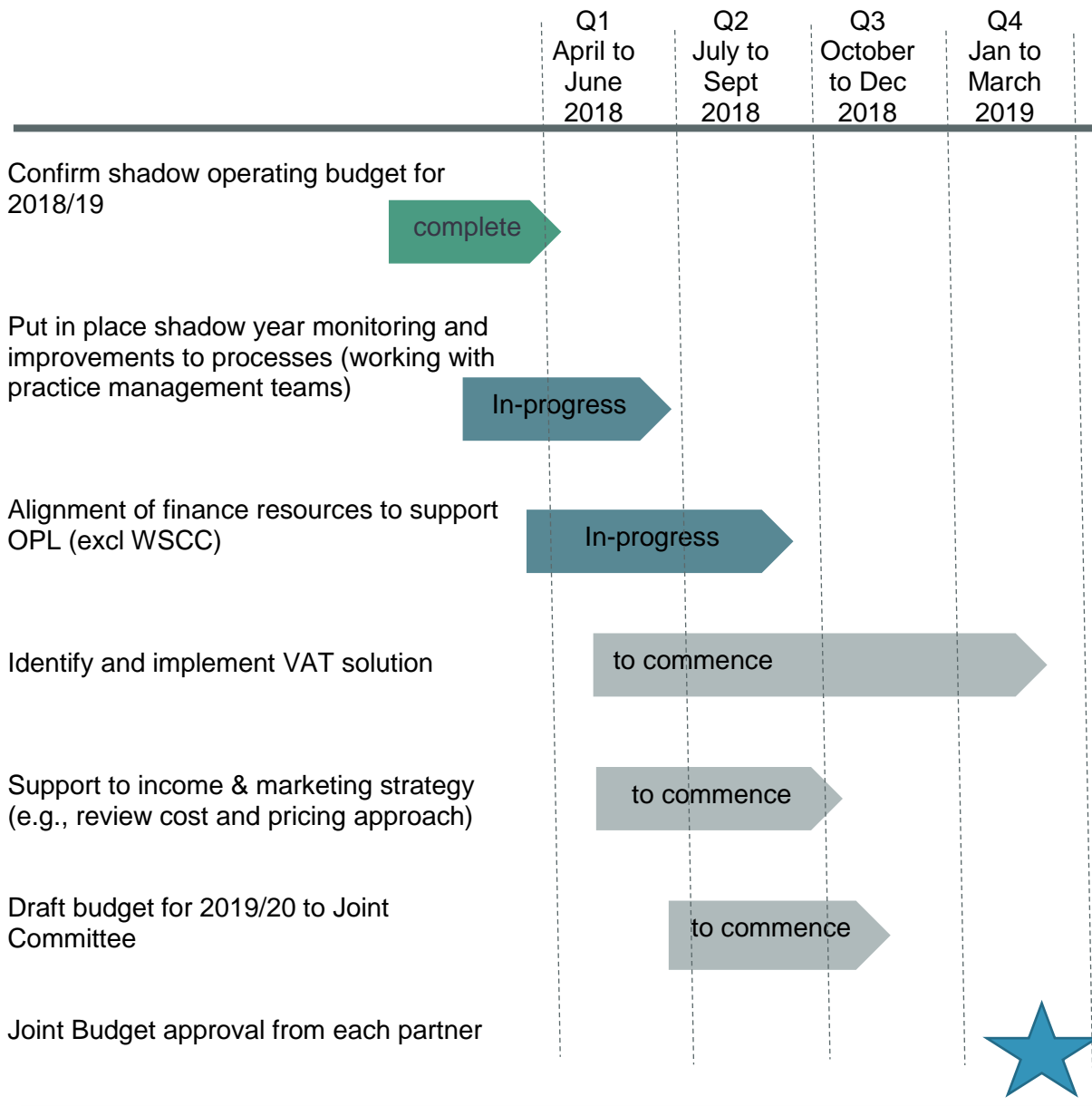
The confirmed position for savings per each partner's financial plan (MTFP) is noted in the table below. These savings requirements are expected to alter with future iterations of each partner's financial planning process.

MTFP Savings	Shadow Year	Joint Operating Budget	
	2018/19	2019/20	2020/21
	£000s	£000s	£000s
BHCC	59	40	0
ESCC	0	0	0
SCC	142	39	22
WSCC	0	150	100
Total Savings	201	229	122

The actual contribution to the joint budget will be periodically reviewed (at least annually) to reflect the actual resource utilised by each partner. This will be determined by reviewing case hours as recorded on the legal time recording system and will therefore be reliant upon time recording compliance.

### SECTION 3: FINANCE PROJECT ACTIVITIES 2018/19

The graphic below provides an outline of the key project activities that will be delivered by the Finance workstream in support of a joint budget for OPL from April 2019.



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