

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



**ORBIS PUBLIC LAW JOINT COMMITTEE**

**DATE: 20 JANUARY 2017**

**LEAD OFFICERS: ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE LEAD OFFICER FOR STRATEGY, GOVERNANCE AND LAW, BHCC),  
ANN CHARLTON (DIRECTOR OF LEGAL, DEMOCRATIC AND CULTURAL SERVICES, SCC),  
PHILIP BAKER (ASSISTANT CHIEF EXECUTIVE, ESCC);  
AND  
TONY KERSHAW (DIRECTOR OF LAW, ASSURANCE AND STRATEGY, WSCC).**

**SUBJECT: SHARED LEGAL SERVICES AGREEMENT**

**PURPOSE OF REPORT:**

To update the Orbis Public Law (OPL) Joint Committee on the development of the Shared Legal Services Agreement between Brighton & Hove City Council , East Sussex County Council , Surrey County Council and West Sussex County Council.

**INTRODUCTION**

The Shared Legal Services Agreement (SLSA) will form the legal basis for the Orbis Public Law (OPL) shared service. The terms of the SLSA are substantially settled and are summarised below for discussion and noting by the Joint Committee.

Three outstanding areas remain. These are the OPL Budget and Staff Management Protocol and the refinement of the indemnity and liability paragraphs to reflect the ongoing discussions with the insurance market which will need to be finalised prior to sealing the SLSA. The timescale for this is by 31 March 2017.

**RECOMMENDATIONS:**

It is recommended that the Orbis Public Law Joint Committee consider and note the content of the SLSA between Brighton & Hove City Council (BHCC), East Sussex County Council (ESCC), Surrey County Council (SCC) and West Sussex County Council (WSCC).

**REASON FOR RECOMMENDATIONS:**

The SLSA provides the legal framework for the shared service and clarifies the responsibilities of each council to the others. The Committee's views and any recommendations will be taken into account in exercising the authority to

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finalise the SLSA, previously delegated by each Council to its Monitoring Officer, Chief Executive and/or Lead Member.

## **DETAILS:**

### **Shared Legal Services Agreement**

1. The SLSA sets out the context and forms the legal basis for the shared service through which each of the partner councils agreed, last year, to deliver their legal services functions. It is a legally binding agreement but does not create a legal entity separate from the partner Councils. A very similar agreement has been successful in establishing the initial governance to the Orbis business services partnership between Surrey County Council and East Sussex County Council and which is in the process of being updated to incorporate Brighton & Hove City Council. West Sussex County Council are not part of Orbis. Work to date in exploring the business case for delivering legal services through a limited company “ABS” has not established that there is currently a compelling business case to invest the resource required to develop and maintain a free standing legal practice, regulated by the Solicitor Regulation Authority. However the proposed agreement for the four councils entering into the SLSA will provide OPL with the certainty and governance it needs to deliver a single resilient, sustainable and cost effective legal service with an ability and ambition to grow.
2. Two key principles underpinning the SLSA are that the councils will both deliver and procure their legal services through the shared service known and branded as Orbis Public Law (OPL) and will work together in good faith and in an open and collaborative manner. Key objectives enshrined in the agreement include delivering long term efficiencies, savings and benefits to the Councils and developing increased internal resilience and capacity and thereby reducing dependence on external expertise.
3. The key provisions within the agreement include:
  - I. General principles
  - II. Governance
  - III. Financial contributions/benefits
  - IV. Objectives of the partnership
  - V. Disputes and complaints
  - VI. Termination of the agreement
  - VII. Indemnities and liabilities
  - VIII. Confidentiality and data protection
  - IX. Staff Management
4. A summary of the more detailed provisions is as follows:

#### **I. The Joint Committee**

Whilst day to day operational management of OPL is for legal services staff, under the leadership of an executive committee comprising each of the councils' Monitoring Officers, the SLSA sets out the Joint Committee's role in overseeing and monitoring service delivery, formulating an operational budget on an annual basis to recommend to the councils for approval, agreeing and monitoring the OPL Business Plan as well as agreeing and monitoring OPL's Operational Budget.

## **II. Term**

The period of partnership is not limited to a fixed term, but there are mechanisms to allow one of more partners to exit – see below:

## **III. Finances**

The principle for a shared budget is that each of the partner Councils provides a financial sum calculated through an agreed contribution ratio, which in the first year will be agreed by reference to the budget set for each of the partner legal services by its authority. The agreed contribution ratio is the means by which both operating costs, savings and income will be shared in future years. More detail of this is provided in the budget report included in this agenda. It would also be used, once fully integrated, to apportion any overspend that arose during operation of the shared services.

## **IV. Staffing**

Staff will not see changes to their employer or to terms and conditions of employment. Each council agrees to place its legal services' staff at the disposal of the other – effectively agreeing to share staff across the partnership. The Legal Services delivered by OPL will be carried out by those staff. Employees will be managed and recruited in accordance with a Staff Management Protocol which is currently under development. This will include arrangements for all staff to be consulted. The proposed text of the protocol is being developed by members of staff from each authority and drawing from the work on team integration that various working groups are developing.

## **V. Accommodation**

Staff will continue to operate out of premises owned by each of the partner councils. This will include provision for staff of any partner to use the facilities of any of the others.

## **VI. Disputes**

Any dispute between the partners would in the first instance go to the Executive Board which comprises of the Monitoring Officers. If they

cannot resolve the dispute it is escalated to the Chief Executives of the partner authorities. Mediation or arbitration (depending on the nature of the disagreement) would be the forum used to settle any dispute that the partners could not resolve without an external agent.

## VII. Termination of the SLSA

The agreement cannot be terminated in its first three years of operation, this has been agreed to ensure that there is a period of certainty to build the partnership. Thereafter a council can choose to withdraw by giving no less than one year's notice expiring at the end of a financial year. The partners will agree an exit plan, with the primary objective of delivering uninterrupted legal services to those relying on OPL for those services. Members should be aware that in most circumstances the exiting council would be expected to bear the costs incurred by their exit from the partnership.

### **CONSULTATION:**

The SLSA has been developed through close collaboration of key colleagues within Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council

- Graham Friday – Interim OPL Finance Lead
- Finance workstream - Sue Chapman and Peter Francis (BHCC), Andy Fowler (ESCC), Andy Tink and Claire Walker (SCC) and Stuart Elsdon (WSCC).
- HR– Sarah Mainwaring (ESCC), Sue Moorman (BHCC), Julie Smythe (SCC) and Tim Ratledge (WSCC - to be consulted).
- OPL Project Board
  - Sarah Baker – SCC Legal Services Manager
  - Adrian Conley – BHCC Practice Manager
  - Elizabeth Culbert – BHCC, Head of Law
  - Diane Henshaw – WSCC Principal Solicitor
  - Diane Owens – SCC, Principal Solicitor
  - Richard Grout – ESCC, Legal Services Manager
  - Joanna Hauge – ESCC, Senior Solicitor
  - Michael Jordan – WSCC, Principal Solicitor
  - Natasha Watson – BHCC Principal Lawyer Safeguarding and Litigation
  - Richard Pearce – WSCC, Principal Solicitor
  - Andrea Kilby – OPL Business Development Manager
  - Emma Nash – OPL Project Manager

## **Legal Implications**

The SLSA is a legally binding contract between BHCC, ESCC, SCC and WSCC. The terms of the Agreement formalise the arrangements between the councils for the OPL shared service and provides the legal framework for its operation. The terms of the SLSA have been drafted and agreed by Officers from all four councils.

## **Equalities and Diversity**

Each council has in place equality and diversity policies and in particular the staff management protocol acknowledges the need to uphold the principles of equality and diversity in managing the large and diverse OPL workforce.

## **WHAT HAPPENS NEXT:**

The Budget Schedule and Staff Management Protocol will be finalised for inclusion in the SLSA and the SLSA will be sealed by all four councils to make the terms legally binding upon them.

The OPL Roadmap for 2017, detailing the key milestones is attached as Appendix 1.

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### **Contact Officer:**

Diane Owens, SCC Principal Solicitor  
Emma Nash, OPL Project Manager

### **Appendices:**

Appendix 1 – OPL Roadmap

### **Background Papers:**

None

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