

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

The Leader is recommended to agree:

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

1. Background

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

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

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

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

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

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

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

2. Vision

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

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

3. Business Case proposal

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

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

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

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

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

4. Financial Implications

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

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

5. Risk management

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

6. Conclusion and Recommendations

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

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

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Local Members: All
Background documents: None