

Section 151 Finance cleared on:	xx/xx/15
Legal cleared on	xx/xx/15
Strategic Director cleared on:	xx/xx/15
Cabinet Member cleared on:	xx/xx/15

SURREY COUNTY COUNCIL

CABINET

DATE: 2 FEBRUARY 2016

REPORT OF: MS DENISE LE GAL, CABINET MEMBER FOR BUSINESS SERVICES AND RESIDENT EXPERIENCE

LEAD OFFICER: ANN CHARLTON DIRECTOR OF LEGAL DEMOCRATIC AND CULTURAL SERVICE

SUBJECT: ORBIS PUBLIC LAW: ESTABLISHMENT OF SHARED LEGAL SERVICE



SUMMARY OF ISSUE:

To seek approval for the creation of a shared legal service between Brighton & Hove City Council, East Sussex County Council, Surrey County Council and West Sussex County Council.

RECOMMENDATIONS:

1. It is recommended that Cabinet:
 - 1) Approves the creation of a Legal Services partnership arrangement with Brighton & Hove City Council and East and West Sussex County Councils to be known as Orbis Public Law, with effect from 1 April 2016.
 - 2) Agrees 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) Approves the attached Terms of Reference for the Joint Committee and the appointment of the Cabinet Member for Business Services and Resident Experience to that Committee.
 - 4) Agrees that officers develop a Business Case for a Limited Company (which would be jointly owned by the four authorities) as the vehicle for an Alternative Business Structure (ABS), in a form approved by the Solicitors' Regulation Authority and if appropriate present this to Cabinet for approval in due course
 - 5) Delegates authority to the Director of Legal, Democratic and Cultural Services, in consultation with the Leader and the Cabinet Member for Business Services and Resident Experience to take any action necessary or incidental to the implementation of the above including an Inter Authority Agreement between the partner authorities.

REASON FOR RECOMMENDATIONS:

2. Developing a single shared service will benefit residents and contribute to corporate priorities by enabling a reduction in the overall cost of legal services through economies of scale and reducing duplication. At the same time it will increase resilience and flexibility, allowing the partners to reduce reliance on external suppliers and to develop areas of excellence and expertise.
3. The creation of an ABS would widen opportunities to generate more external income to further reduce the costs of services to partner councils.

DETAILS:

4. SCC has a long-standing strategy which recognises that developing partnerships is key to delivering benefits to residents, ensuring resilience and achieving efficiencies. In March 2015 Cabinet agreed to the creation of a business services partnership with East Sussex County Council (ESCC), bringing together a number of business functions under the governance of a Joint Committee. Pursuant to that decision a proposal for a legal services partnership under the umbrella of the wider Orbis partnership was developed between the two councils.
5. In the autumn of 2015 Brighton & Hove City Council (BHCC), and West Sussex County Council (WSCC) joined the discussions and the respective legal teams have worked together to develop a proposal for a single legal service shared by this wider group of authorities and available to the wider public sector. The business case which sets out the an options analysis and further detail of the proposal is attached as Appendix 1 to this report
6. SCC's Legal Services has an annual budget of £3.5 million and generates income of about £0.3million. The net budget for the four constituent authorities is £9.4m; with an additional spend of £2 million on advocacy and specialist advice. Together the legal services bring in around £1.5million of external income each year. The combined workforce across the prospective partnership is an estimated 230 staff including 130 solicitors.
7. All four authorities are facing increasing demand and financial challenges which frequently require specialist legal support to address. Fewer resources mean that it is harder to recruit and retain lawyers and specialist staff. Individually each authority has limited resilience. Each of the legal teams carries 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.
8. By working in partnership as part of Orbis Public Law and delivering its vision of "a single, resilient, sustainable cost effective legal service with a public service ethos with an ability and ambition to grow", the Council would have access to a sustainable service, providing support to public facing services and to the wider Orbis business services partnership, together contributing to the Council's strategic goals of wellbeing, economic prosperity and resident experience.

9. By working in partnership the four Councils will be able to realise savings in excess of those achievable in isolation, whilst still delivering a good service to each authority. Savings would 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 for the shared service will be met from existing budgets.
10. Orbis Public Law aims to achieve a saving of 10% of net operating costs of each of the constituent councils by 2019/20. The business case details how this might be achieved through increased income and streamlining senior management across the four councils. Detailed figures will be examined as part of a due diligence exercise and the financial arrangements agreed before entering into the partnership. Decisions required in relation to investment, cost apportionment and savings, will build on the principles established by the wider Orbis partnership and will be set out in an Inter Authority Agreement which will underpin the arrangement between the Councils.
11. Orbis Public Law would mirror the governance arrangements of the wider Orbis partnership and operate a shared service under a Joint Committee. Members would still have control over arrangements and staff would remain employed by their existing Council. Some changes would be necessary to accommodate those additional partners which are not part of the business service partnership. Proposed terms of reference are attached as Appendix 2
12. A key part of the proposal is the ability to trade and generate external income. All the councils in the partnership currently generate some income from legal work, but there are limitations on this because, unlike other services within the wider Orbis partnership, the provision of legal services is restricted and regulated by law. Some legal services may only be provided by solicitors, and solicitors employed outside of a legal practice are subject to restrictions relating to the people and organisations to which they may offer those services. 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 develop a business case for 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.

CONSULTATION:

13. Consultation has taken place with the relevant members, chief executives and leadership teams of each council. An SCC staff forum has met on a regular basis throughout the process and has been able to question senior legal services managers about the proposal. A number of joint sessions with ESCC and BCCC staff have been held and specialist joint change management sessions have been attended by a range of staff. UNISON representatives have been informed and consulted.

RISK MANAGEMENT AND IMPLICATIONS:

14. Creating a partnership by simultaneously bringing together four Legal Services of this size is unprecedented. Establishing the partnership and implementing the organisational, process and technology changes required to deliver the Vision and achieve target savings may impact on the provision of services to each Council – both in terms of supporting ‘Business as Usual’ activities and providing strategic advisory support for wider transformational change within each Council. The partnership will work with each Council to develop a high-level timetable of change to minimise any adverse impact. The partners have appointed a project manager to ensure that initial changes are made in a coordinated and timely way.
15. To fully deliver the benefits (including financial benefits) of a single integrated service, each partner legal services must be on the same IT operating platform. Any delay in integrating IT will result in consequent delay to the integration of the operational management of the shared service and may put the achievement of saving targets at risk. In preparation for the partnership ESCC legal services have already adopted the Norwel case management and time recording system used by SCC legal. During 2016 SCC legal services needs to migrate to a Microsoft product for email and calendar so that the case management system (which relies on email) can be used in the same way by all partners. BHCC and WSCC will need to migrate to the same systems. The project has an IT work stream to manage this transition
16. The organisational, process and technology changes required, together with concerns about job security as changes to management are made, may have an adverse impact on staff morale and increase turnover. The partners will ensure that communication, consultation and engagement remain a priority for the programme. Staff will be involved in developing the organisational design which will help to emphasise that the single service will lead to enhanced opportunities for staff and a strengthening of internal skills
17. There is a risk that demand will increase as other service transform and other unforeseen significant changes may impacts upon the services that are required to be delivered by the single legal service. Governance and funding arrangements will need to recognise that this may the case.

Financial and Value for Money Implications

18. The Business Case appended to this report is built upon the proposed partnership arrangement delivering cost savings to the councils in excess of the savings achievable in isolation. It anticipated that these will deliver nearly £1m million per annum by the end of the first three years of partnership working. The details of the financial and practical arrangements will be addressed as part of the due diligence exercise before entering into an the inter-authority agreement
19. It is anticipated that any set up costs for the initial partnership can be met within existing budgets. A further costed business case will be developed in connection with the ABS proposal.

Section 151 Officer Commentary

20. The Section 151 Officer confirms that the proposed partnership will be based upon the financial and governance principles established by the Orbis partnership for business services. The Business Case demonstrates that the proposed partnership relationship will deliver cost savings to the partners by reducing reliance on external providers, reducing management and developing sources of income. These savings will rely upon investment in technology in order for the partners to work together in a seamless manner. For SCC this will mean reliance upon planned changes to the underlying email system, and as such this is already provided in existing budgets.
21. The activities of the partnership will be responsive to each council's strategies and priorities, and to structural changes including those driven by legislative requirements. The financial arrangements will ensure that the methodology adopted to determine the appropriate apportionment of costs will need to be fair and transparent; take into account changes in demand and will require the development of management information to support the mechanism

Legal Implications – Monitoring Officer

22. The proposals in the report are within the legal powers of the Council and the joint committee model builds upon the existing governance arrangements of the wider Orbis partnership. The Council is also empowered to set up and jointly own a company and an ABS may be necessary in order to comply with legal requirements and to enable Orbis Public Law to continue to provide legal advice and representation to public bodies across the larger geographical area.

Equalities and Diversity

23. There are no identified equalities implications from the creation of the proposed partnership and extended Joint Committee. There may however, be equality implications of decisions that the Joint Committee as more detailed organisational changes are proposed and implemented.
24. The potential implications for the following council priorities and policy areas have been considered:

Area assessed:	Direct Implications:
Corporate Parenting/Looked After Children	A strengthened legal services will be able to provide sustainable support to Children Schools and Families and Corporate Parenting Board.
Safeguarding responsibilities for vulnerable children and adults	A strengthened legal services will be able to provide sustainable support both to Children Schools and Families and to Adult Social Care and to Safeguarding Boards.
Public Health	No significant implications arising from this report
Climate change	No significant implications arising from this report)
Carbon emissions	No significant implications arising from this report

WHAT HAPPENS NEXT:

25. Subject to approval from the Cabinet detailed governance arrangements will be agreed. The partnership will start to operate with effect from 1 April 2016 and a joint management structure will be developed

Contact Officer:

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Consulted:

The Leader and Cabinet portfolio holder, the leadership teams, senior managers and staff at the partner authorities

Annexes:

Appendix 1 – Orbis Public Law Business Case
Appendix 2 – Joint Committee terms of reference

Sources/background papers:

24 February 2015 report to Cabinet: Surrey County Council and East Sussex County Council partnership
