

**BRIGHTON AND 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: COMMERCIAL PATHFINDER PROJECT

PURPOSE OF REPORT:

To update the Orbis Public Law Joint Committee on the Integration of the partner authorities' Commercial Law teams.

INTRODUCTION

The aim of the Commercial Pathfinder project is to create a single, resilient and cost effective commercial legal service drawing on and incorporating the existing commercial legal functions of the Orbis Public Law (OPL) partners. Employing approximately 50 full-time equivalent (FTE) staff members collectively, the partnership spends £2.6 million of its Operating Budget (16/17) on commercial areas.

OPL has an opportunity to mark itself apart from its competitors through the adoption of the proposed model for delivery of the shared service. Lessons learnt from this project will inform the integration of other disciplines.

RECOMMENDATIONS:

The Orbis Public Law Joint Committee is asked to consider and note the approach to integrating the commercial areas of law (property, contracts, procurement and major projects).

REASON FOR RECOMMENDATIONS:

To ensure the Joint Committee has oversight of the delivery of the single service.

DETAILS:

APPROACH

1. The OPL Commercial law teams provide specialist advice and services across the following key areas:
 - i. Property transactions
 - ii. Contracts
 - iii. Procurement
 - iv. Major and specialist projects which typically span a range of legal disciplines.

2. The decision to focus on this area of work was driven by a number of factors:
 - i. OPL possesses a significant pool of talent in a field where it has proven difficult for individual teams to recruit;
 - ii. in recent years legal teams at each authority have seen a significant increase in the volume of technical and complex projects requiring specialist knowledge. This work is expensive to buy-in;
 - iii. commercial work can be delivered from locations at a distance from clients and projects
 - iv. commercial work lends itself to inter-authority collaboration and opportunities to generate additional income; and
 - v. synergies with Orbis Procurement and Property (for BHCC, ESCC and SCC).

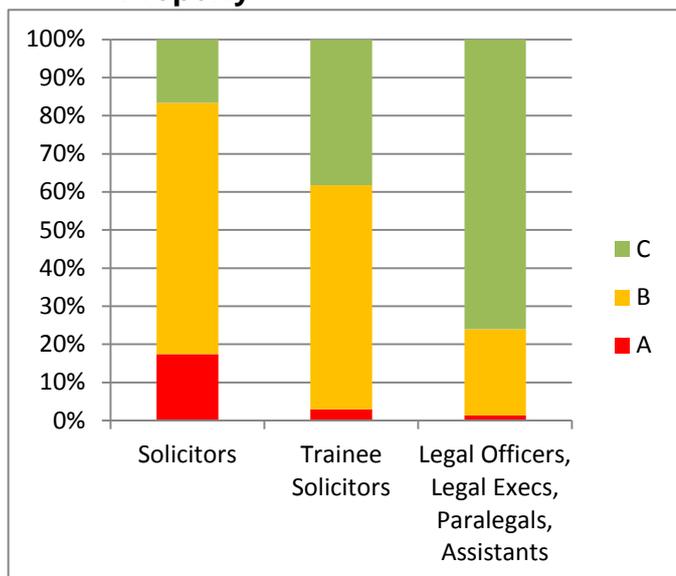
3. A steering group and three working groups have been established to lead and deliver the project. The teams approached the Pathfinder through the following activities:
 - i. desktop exercised to evaluate the current state;
 - ii. a series of workshops to capture opportunities for alignment;
 - iii. grading the complexity of work currently being undertaken within the teams;
 - iv. benchmarking activities with other legal shared services;
 - v. analysis of the financial spend;
 - vi. analysis of time recording data where it exists;

- vii. a series of meetings with stakeholders to understand what matters to them.

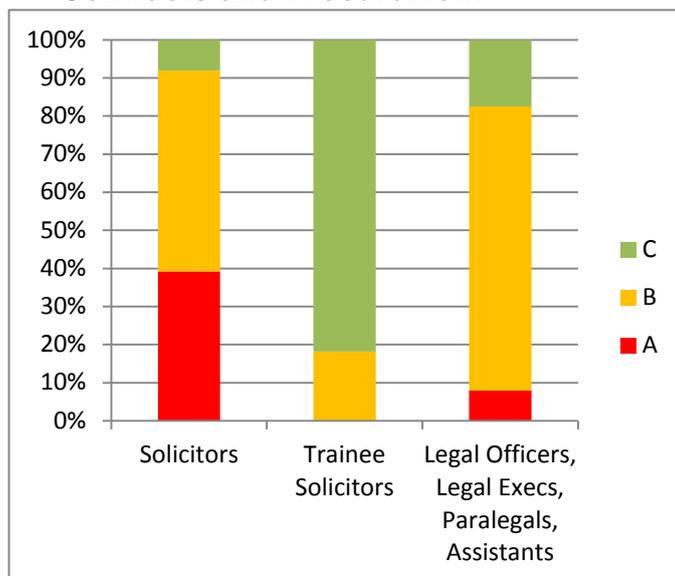
ANALYSIS

4. The differences of how each partner works can be summarised into three categories:
 - i. Stakeholders– Different expectations and service level agreements.
 - ii. Governance – Different constitutions, priorities, values and risk appetite. Some alignment in terms of Contract Standing Orders may be possible but there will continue to be differences here which will need to be managed through clear inductions and strong relationship management.
 - iii. Operational set-up – How legal processes work; OPL can choose to align the way partners work and eliminate these differences. This will increase efficiencies, resilience and provide the necessary capacity to grow.
5. Time recording data, where available showed that:
 - i. colleagues are exceeding their chargeable target hours. This is common across all disciplines;
 - ii. different practices and local variations exist; and
 - iii. a large amount is recorded onto general advice, rather than a specific matter which makes it difficult to analyse what time spent on different matters
6. Open case lists were graded A, B and C depending on the level of complexity and how they are currently dealt with. In general terms:
 - i. Level A – Complex, significant experience required
 - ii. Level B – Business as usual, qualified solicitor
 - iii. Level C – Standard routine work.
7. The following graphs provide a snapshot at how the work is split. There is scope to push some of the work to a lower level within risk profiles and with supervision if required.

Property



Contracts and Procurement



8. OPL stakeholders highly value the in-house legal practices and their shared understanding of corporate objectives and local knowledge. Feeling part of one team, stakeholders highly value legal services to 'keep them safe,' while the public sector transitions to a commercial model for service delivery.
9. OPL are engaged with Orbis colleagues to ensure integration plans reflect the needs of both teams.
10. All partners endeavour to keep as much work as possible in-house. However, increasing volumes and commercial complexity has necessitated the externalisation of some work, particularly property matters. For 16/17 approximately £400k was spent externally. In most cases the costs incurred are funded by instructing departments but Legal Services maintains oversight of the matters.

INTEGRATING THE SERVICE

11. A model to deliver the single service has been proposed and approved by the OPL Executive Board. The steering group and working groups are actively designing and delivering the model through December to April 2017.

Vision - a single, resilient and cost effective commercial legal service	
Theme	Deliverables
Structure (For April 2017)	<ul style="list-style-type: none"> ■ A single commercial team; led by a Head of Commercial Law. ■ An aligned practice management offer. ■ A cultural change, training and personal development

	programme.
<p>Process alignment (To be complete by April 2017)</p>	<ul style="list-style-type: none"> ■ Work undertaken at the lowest level (within risk profiles and with supervision if required). ■ Aligned allocation processes – shared instruction forms and group email inboxes. ■ Consistent case management and time recording / reporting. ■ Shared approach and learning from general advice. ■ Consistent Lexcel confirmation of instruction, reallocation and closure memos. ■ Consistent file review process. ■ Shared inactive file procedure. ■ Aligned risk profiles. ■ Shared templates, terms and conditions. ■ Self-serve offer with Orbis and WSCC procurement. ■ Finance - consistent use and monitoring of level and reason for external support.

LESSONS LEARNT

12. This Pathfinder project was a big challenge for colleagues to come together. As well as having learnt lessons about the Commercial area officers have also taken many ideas in relation to how they work together which will be taken forward when integrating the other disciplines:

- i. have a clear objective and brief;
- ii. create a positive and pro-active working approach to the transition on the part of the teams on the ground. The Steering Group has witnessed first-hand the energy and passion which the teams bring to this process;
- iii. project management support is required to drive progress in a busy and demand led service; and
- iv. there's no right or wrong way; it's about finding the OPL way.

CONCLUSION

13. Once the in house offer is established OPL seeks to expand the remit of the work undertaken in the commercial areas to reduce external legal spend on counsel and solicitors. With an established single service and increased knowledge of OPL's capacity, specialisms and volumes the partnership's services can be marketed to other public sector bodies.

Contact Officers

Steering group:

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Appendices: None

Sources/background papers: None
