

Orbis Public Law Business Plan

V 2.0 January 2018

By OPL Joint Management Board

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1.0 Introduction

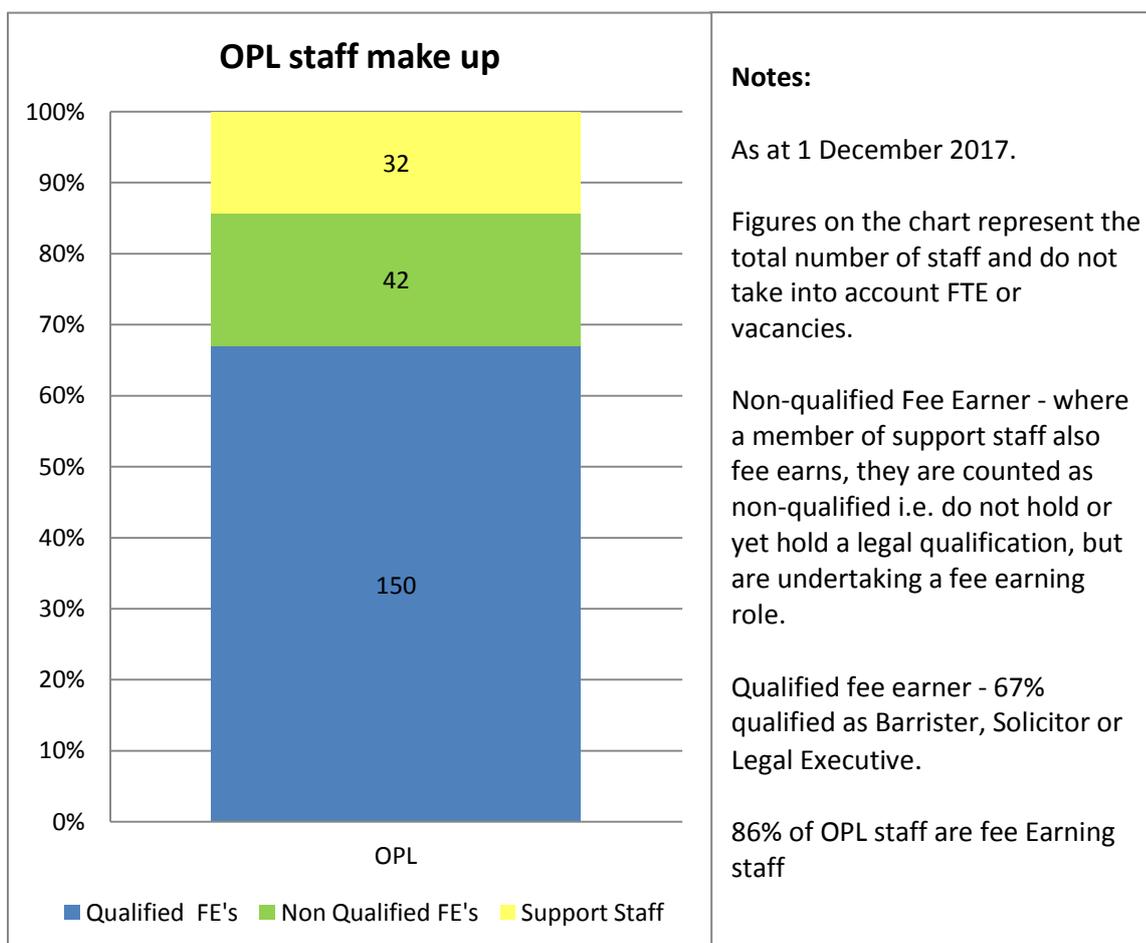
1.1 The business case for Orbis Public Law (OPL), the legal services partnership between Brighton & Hove City Council and the County Councils of East Sussex, Surrey and West Sussex, was approved early 2016. The business case recommended that:

- A Joint Committee is set up for Orbis Public Law; and
- A business case is developed for Orbis Public Law Ltd as an Alternative Business Structure to work alongside the Joint Committee model.

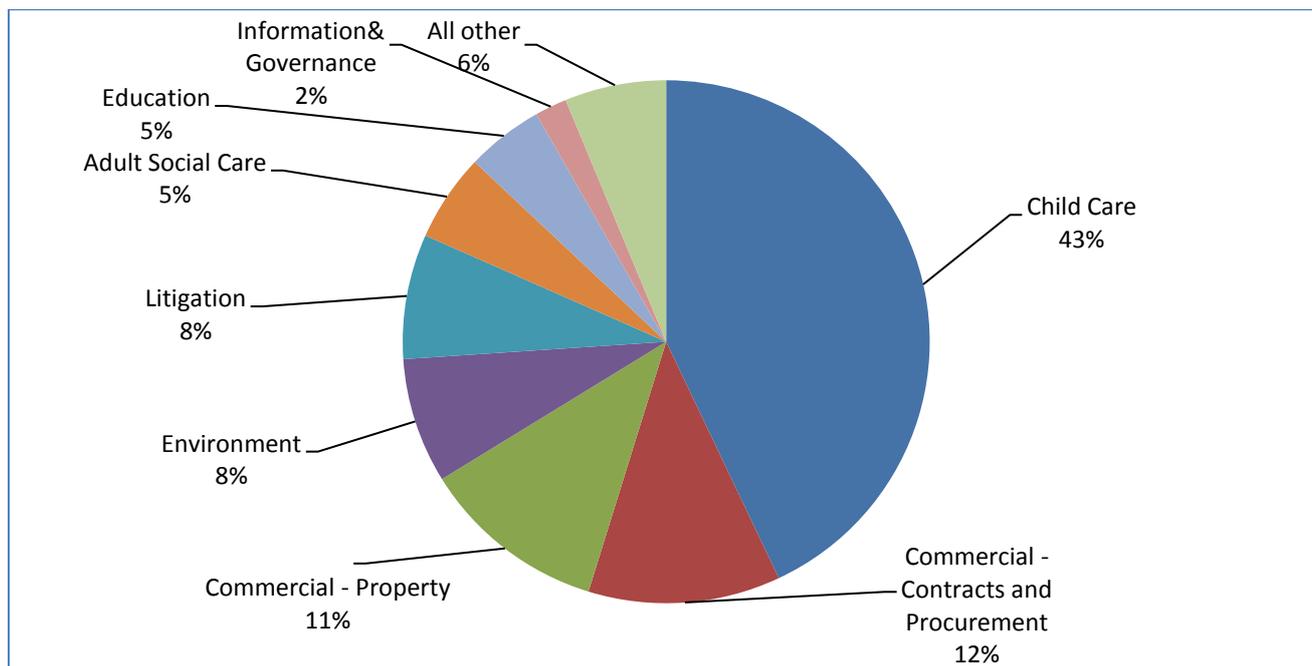
1.2 This business plan builds from the original business case and sets out the aims, ambitions and future plans for OPL. The plan provides the Executive Board and Members of the Joint Committee with a set of aims, objectives and actions for monitoring.

1.3 With a combined net operational budget of £10m and workforce of approx. 230 people; OPL aims to become a significant public sector shared service.

If a member of staff undertakes any legal case work, rather than purely a support service, they are termed to be a 'Fee Earner' (terminology that is commonly used in the legal industry). 86% of OPL staff are classed as Fee Earners as demonstrated in the following graph.



1.4 The range of legal work undertaken (referred to as ‘chargeable hours’) is summarised in the chart below.



Source: Q3 Oct-Dec 2017 chargeable hours

1.5 OPL has a vision to be a **single, resilient, sustainable cost effective legal service with a public service ethos and an ability and ambition to grow.**

1.6 A number of pathfinder projects have been established over the last year to help realise this vision and OPL is now in a position to build from these.

1.7 During 2019/20 OPL plans to have achieved a level of integration that is delivering the objectives of the partnership which have been agreed in order to meet the vision.

2.0 Objectives

2.1 Each of the four Council's legal teams face similar issues: increasing complexity in the demand for services, financial challenges and constrained resources mean that it is harder to manage growing demand and provide the increasingly specialised legal service that Councils rely upon. Individually, each Council currently struggles to recruit and retain legal staff in certain critical or specialist areas. The size and approach of OPL will provide an effective vehicle to attract and retain excellent staff who share OPL's aspirations and ethos.

2.2 The needs from the OPL partners are captured in the objectives; which when achieved will result in the creation of a sustainable model with the ability to grow.

2.3 OPL Objectives:

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

2.4 The vision and ambition for OPL is underpinned by the following design principles:

- Optimum integration to achieve best value whilst working to the parameters of a Joint Committee structure,
- Deliver against savings targets set by constituent authorities,
- Focus on enabling and adding value to the customer,
- Share knowledge and reduce duplication,
- Future proof the Partnership,
- Maximise organisational self-sufficiency and resilience,
- Delivering legal services in the most effective way; taking a risk based approach to managing demand,
- Develop and operate with a commercial mind-set and
- Exploit technology to improve performance and manage caseloads.

3.0 Achieving the vision

3.1 OPL is being co-designed by colleagues within Legal Services with Project and Practice Management support. This is being managed within existing service budgets.

3.2 The implementation is a staged approach, beginning with greater collaboration and working to an integrated service during 2019/20. This approach is well illustrated in the following 5Cs model; which at a high level describes the activities involved and timescales for delivery. As at January 2018; OPL are at collaboration through the alignment of processes and projects delivered in 2017.



3.3 To achieve the vision and full convergence, OPL will design and implement a single structure. This will be achieved through incremental appointments. Initially OPL will commence with the appointment of an Interim Head of OPL to provide clear direction and be the ultimate decision maker. Quickly following this, a design for an integrated service will be settled and an Interim Leadership structure will be appointed.

3.4 In designing OPL; the following key components set-out what OPL is expected to look like. This acts as the blue print for OPL’s design and development. The projects that will deliver this follow later in section 5.0.

OPL BLUEPRINT

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

COMPONENT	OUTPUT
Governance and leadership	<ul style="list-style-type: none"> – Governed by a Joint Committee. – Sponsored by the Monitoring Officers from each partner. – Single Head of OPL supported by a Joint Management Board. – Underpinned by a shared legal service agreement.
Services	<ul style="list-style-type: none"> – Operating as a single service with a single customer offer. – Centres of expertise established and teams organised and integrated in disciplines. Where evidenced, some services developed in-house to reduce external spend and grow the OPL offer. – Work allocated from any OPL customer to any OPL resource. – Work allocated to the most appropriate skill or experience level. – Sovereign authority local needs identified and continuing to be supported.
People and culture	<ul style="list-style-type: none"> – OPL values and behaviours embedded; one culture. – Arrangements for supervision and support across OPL in place. – Single recruitment strategy. – Continuing engagement with all staff to maintain the vision.
Practice Management and IT	<ul style="list-style-type: none"> – A single OPL Practice Management team. – Discipline based legal services, processes and documents aligned to aid efficiency, reduce duplication and deliver best practice. – Using common working methods and systems - all staff working from a single case management system and processes. – Aligned office manual and Lexcel assessment. – Monitoring to maintain effective work output and work planning.
Finance	<ul style="list-style-type: none"> – A joint operating budget model implemented.
External work	<ul style="list-style-type: none"> – A sustainable income and marketing strategy that maintains the public sector ethos of OPL and provides the ability to grow.
Location	<ul style="list-style-type: none"> – Four existing locations and staff able to work flexibly at any OPL office.

4.0 Financial Environment

- 4.1** A number of financial principles have been agreed to guide the development of the OPL detailed financial operations.
- 4.2** OPL will work to achieve a joint operational budget by April 2019 which will be used to make strategic decisions on staffing and resource requirements, costs, savings and income generating opportunities. The net cost to each partner will be based on a system of Agreed Contribution Ratios (ACR) which will reflect the planned resource commitment of each partner for the year ahead. OPL's operational arrangements will seek not to impose any additional resource or costs on other central or support services deployed by any of the Partners. OPL will seek to achieve best value and establish the most effective and efficient solutions by working with support services of the partners.
- 4.3** OPL will be classified as a separate 'taxable person' and therefore VAT incurred on related costs and external income will need to be identified and accounted for separately using the prescribed registration process.
- 4.4** Budgets will be regularly monitored and the ACR's will be periodically reviewed (at least annually) to reflect the actual resource position. At the end of each financial year, a reconciliation will be completed that will determine the financial transactions required between the Partners to align the net costs of the Partnership with the actual ACR of each Partner for that year. This will minimise the cost and resource implications of making inter authority transactions during the year.
- 4.5** Individual Partners will maintain their own insurance policies, which will each cover all the Partner's resources and activities. All claims relating to the work of the Partners will be settled in accordance with the formal agreement.
- 4.6** For 2017/18 and 2018/19 OPL has agreed to implement these principles to the extent needed to enable a shadow operational budget arrangement rather than a fully joint budget to be used, supported by a shared service inter-authority agreement. Processes have been established to monitor the shadow budgets and lessons captured.
- 4.7** The starting point for the development of the OPL joint budget is the 2017/18 budgets and ACRs set for the shadow year in the table that follows:

OPL Operational budget – 2017/18 shadow year:

2017/18 shadow year £'000s					
	BHCC	ESCC	SCC	WSCC	Total OPL OB
Staffing	2,334	1,744	3,423	3,520	11,021
Non-staffing	79	82	136	103	400
Gross Expenditure	2,413	1,826	3,559	3,623	11,421
Total Income target	-558	-281	-403	-303	-1,545
Net Expenditure	1,855	1,545	3,156	3,320	9,876
Agreed Contribution Ratio (ACR)	18.8%	15.6%	32.0%	33.6%	100.0%

4.8 To build the full picture of how much legal services costs an Authority, there are a number of additional costs to those set out in the table above, some of which are more directly manageable by the OPL leadership than others. These mainly comprise external fees and costs and include for example:

- Barrister fees*
- Charges paid to external legal firms*
- Specialist advice*
- Court fees
- Expert witness fees
- Other litigation costs
- Costs awarded by a court.

4.9 Many of these external costs mentioned in 4.8 may be met by other service department budgets rather than legal; some of this spend is also unavoidable. Some marked as * can be influenced by the effort of OPL Partners. At this stage it is difficult to fully identify and analyse these costs due to the different approaches and the inconsistency and availability of data across the partnership. The following tables show the actual external spend for 2016/17 and for the Year-to-date for 2017/18. Regardless of which service holds the budgets, OPL aspires to reduce the overall cost of legal services to its partners' and will be analysing this further and determining the strategy to reduce and manage these collectively.

External legal fees and costs – 2016/17 and Year-to-date for 2017/18:

2016/17 External legal fees and costs £000s	BHCC	ESCC	SCC	WSCC	Total OPL
Managed / reported by Legal services	0	24	998	1,703	2,725
Managed / reported by other services	768	657	1,186	0	2,611
Total External Legal Fees and costs	768	681	2,184	1,703	5,336

2017/18 to Nov '17 External legal fees and costs £000s	BHCC	ESCC	SCC	WSCC	Total OPL
Managed / reported by Legal services	0	43	685	827	1,555
Managed / reported by other services	435	391	670	9	1,504
Total External Legal Fees and costs	435	434	1,355	835	3,059

4.10 Tracked closely by legal services is the large expenditure on external Counsel for child care proceedings. A project is underway to develop in-house advocacy capacity. Again, there are different approaches to funding external Counsel across the partners. As a result, this is not included in the OPL operational budget. Instead, the benefits, which would still be shared, can be achieved by co-managing and monitoring the spend. Pooling the budgets would not deliver additional efficiencies but would share the risk, which may need to be looked at again in the context of plans for a joint budget. Benefits will still be achievable for each Council as demonstrated with the advocacy project. Employing more internal resource in this area will mean that the cost of OPL will increase however this will be more than offset by the reduced cost of using external advocacy in the budgets of each Council. The increase relates to the growth in work rather than in cost.

OPL Child Protection Counsel spend:

OPL Child protection Counsel spend £'000s	2014/15	2015/16	2016/17
Total OPL	1,262	1,708	1,800

4.11 Income and Income Strategy - OPL already has the power to trade and charge for services and relies on this to deliver net budgets. Trading with other public bodies permissible under the various acts can be undertaken to generate a profit as it is not just limited to cost recovery. For 2017/18, target income is £1.5m; this is around 14% of OPL gross operating expenditure.

	BHCC	ESCC	SCC	WSCC	Total
Target external income 2017/18 £000	558	281	403	303	1,545

This income is generated in the following ways:

- **Contracts** - work awarded following a tender process e.g. East Sussex Fire and Rescue (BHCC), South Downs National Park (WSCC).
- **Fixed Fee Retainer** e.g. Buy back schemes for schools and academies, SCC Company Secretary Services to its wholly owned companies.
- **Adhoc sales** - e.g. Districts and Boroughs, LATC's or fixed fee e.g. Debt recovery to Lewes DC
- **Adhoc cost recovery** - e.g. from developers as part of preparing a S106 and S38 planning agreements.
- **Costs awarded** – e.g. in court when the other party pays the Authority's legal costs.

An OPL approach to income generation requires a more co-ordinated, proactive stance; one that is less reliant on chance opportunities, ensures that rates are consistent and regularly reviewed and which makes best use of OPL's significant position in the south east public sector market. Early in 2018 OPL will develop an income and marketing strategy; with the objective to reduce the cost of legal services for the public sector. A detailed plan will be drawn up which sets out OPL's approach, potential customers, range of activities, timescales, resource implications and benefits.

4.12 The shared service and the action plan that follows in section 5.0 supports the delivery of the Medium Term Financial Plan (MTFP) savings targets for each authority. These are the responsibility of each individual partner prior to the establishment of a joint operating budget in 2019/20. In 2016/17 collective targets of £215k were achieved and a further £251k is required for 2017/18. Where known future targets set by each authority are stated in the table that follows.

MTFP Savings:

MTFP savings £000s		Pre-joint budget		Joint Operating Budget [tbc]	
		2017/18	2018/19	2019/20	2020/21
BHCC	Staffing savings	59	40		
ESCC	Increase in income	50			
SCC	Staffing savings	142	39	22	
WSCC	Staffing savings			150	100
Total savings		251	79	172	100

5.0 Action plan and timeline

5.1 Moving into 2018, OPL is working to achieve the following action plan:

OPL ACTION PLAN					
REF	ACTION / PROJECT	DESCRIPTION & STATUS	BENEFIT	ACTION OWNER	DUE DATE
1.	Organising OPL	By April '18, appoint an Interim Head of OPL and interim leadership structure with a design for an integrated service to drive forward the integration. By April '19 – implement the permanent single OPL structure and design.	Single decision maker. Pace and direction. Centres of expertise. Efficient use of resources.	Joint Management Board	April '18 April '19.
2.	Finance project	To create the mechanisms and timeline for a joint operational budget. 2017/18 shadow year has commenced and will continue into 2018/19 where the development of the future operating model will be determined for 2019/20.	Robust financial controls for the partnership. Efficient use of resources. Ability to manage recruitment strategically.	Susan Smyth – OPL Finance Lead.	Oct '18.
3.	Income strategy	A phased approach to developing an income and marketing strategy; with the objective to reduce the cost of legal services for the public sector. Working group is due to commence early '18.	Reduced reliance on budgets from the constituent Councils, ultimately reducing the cost of legal services. OPL has a target to achieve £1.5m for 2017/18. The working group will research and recommend future targets.	Philip Baker – Assistant Chief Executive, ESCC	Apr/May 18 – for phase 1 – marketing plan.

4.	Advocacy project	To establish a shared resource to increase internal advocacy capacity. Recruiting in-house advocates is extremely challenging and therefore other solutions to build in-house capacity are being implemented.	Existing in-house advocates are £210k p.a. cheaper than instructing Counsel. Analysis has shown that if OPL could recruit 4 new in-house advocates and a clerk this would increase the financial efficiency by a further £100k.	Sarah Baker, Legal Services Manager, SCC	Mar '18– and then scope / strategy reviewed.
5.	Digital court project	To work with courts on the digital reform programme.	Analysis underway, with current estimates i.r.o. £100-150k reduced cost through paper, printing, courier and staff time savings. Trial commences January 2018.	Andrea Kilby, OPL Business Development Manager.	Apr '18 (dependent on Courts)
6.	Legal services framework – Child care	To set-up a framework contract for instructing external Child care Counsel/legal firms to control costs. Currently soft market testing. OPL spent £1.8m in 2016/17.	The framework will deliver an integrated offer for OPL and ensure a consistent service is received. Through the framework and negotiation with Chambers, OPL will at least secure guaranteed rates for future years and using the collective buying position work to achieve some saving.	Andrea Kilby, OPL Business Development Manager and Orbis Procurement.	Aug' 18
7.	Reduce non-child care external spend	To interrogate the external spend data and determine the strategy to reduce and control these collectively where possible. This may lead to a future framework and/or develop these skills internally and create centres of expertise. Examples already emerging are regarding property, contacts and procurement and health/social care integration governance.	Saving in external legal spend as resilience and specialist services are developed in house. Guaranteed and competitive rates when external spend is required.	Susan Smyth, OPL Finance Lead and Andrea Kilby, OPL Business Development Manager.	Strategy by Apr'18.

8.	Work sharing and process alignment.	<p>To embed processes for ensuring that work is carried out at the appropriate level and location so as to improve the integration of the service and develop centres of expertise.</p> <p>Sept-Dec 17 4% of work shared.</p> <p>From Jan-Apr '18 – embedding the process with discipline team managers.</p>	<p>A strengthened offer and capability.</p> <p>To provide the model for integration.</p> <p>Identifying areas of expertise / specialism.</p> <p>Avoid duplication (Single fee earner acting on the same matter for the 4 authorities).</p> <p>Absorbing increased demand without increasing service cost.</p>	Operational Heads of Legal Services from all partners	Apr '18 – for phase 2
9.	Systems and Practice alignment	To achieve shared resources and the infrastructure that supports work sharing.	<p>Some cashable but mainly non – to provide the quality process and procedures to support integration.</p> <p>All partners Lexcel accredited.</p> <p>Enhances marketing of service.</p>	Andrea Kilby, OPL Business Development Manager	Dec '18
10.	Exploiting technology to drive capacity savings – Case mgmt. system development.	Flow files – use the Prescient plus case management system to implement a work flow process called flow files to align processes and improve efficiency. Social care debt recovery will be the first OPL project.	A pilot in BHCC on the Right to buy process has delivered 30% efficiency time savings.	Andrea Kilby, OPL Business Development Manager	Mar '18.
11.	Monitoring activity pilot	Commence in January '18 a pilot to identify optimum time limits on a set number of work types.	<p>Reduce time spent on matters to create capacity and increase throughput.</p> <p>More efficient use of resources.</p>	Philip Baker – Assistant Chief Executive, & Richard Grout, Legal Services Manager ESCC.	Mar'18 for the pilot.

12.	OPL Recruitment strategy	<p>To develop a recruitment strategy and approach to retaining and attracting staff; particularly in difficult to recruit areas.</p> <p>To develop an approach to work being done at the right level and supported with a coordinated approach to 'growing our own' staff in key areas.</p> <p>To continue investing in staff in professional training.</p>	<p>The required in-house services and skills available.</p> <p>Focus on areas of increased demand. Reduces reliance on external services.</p> <p>Supports income strategy if maintain capacity and levels of expertise.</p>	Operational Heads of Legal Services from all partners	Sept '18
13.	Culture and behaviour	To embed the values and behaviours of staff and managers for the most effective achievement of the shared aims.	To ensure staff are engaged and feel part of OPL and committed to the vision.	Operational Heads of Legal Services from all partners alongside OPL Project Manager.	Ongoing

5.2 The delivery of the action plan is summarised in the following timeline. This is a working plan and will be developed as the actions and project pilots are completed, reviewed and planned. This is monitored monthly by the Joint Management Board and a progress update provided to the Joint Committee.

	Jan – Mar '18	Apr – Jun '18	Jul – Sept '18	Oct – Dec '18	Jan – Mar '19	2019/20
Business planning & Finance	Business plan endorsed	Y2 Shadow budgets, review and develop future operating model	Develop single structure and recruitment strategy	Business plan review and refresh Budgets agreed	Consult Appoint	 Joint budget  Single structure
Practice management & IT	Interim OPL Head Interim Leadership	Legal services framework		Digital court Debt recovery flow files	Office manual alignment to achieve Lexcel accreditation across all partners	 Shared case mgmt
Process alignment	Advocacy – building in-house capacity	Monitoring activity pilot	Embed work sharing into teams	Process and precedent alignment		 Processes aligned
Income & marketing	Income targets	Marketing plan developed	Approve and mobilise			 New clients

6.0 Monitoring OPL

6.1 The success of OPL will be achieved through the delivery of the action plan and achievement of the original objectives:

- Enhanced value of service to our authorities,
- Improved resilience,
- Reduced net cost of legal services,
- Increased opportunities for staff and their development and
- Create the capacity and means to grow.

6.2 Value for money will be evidenced through tracking the cost per chargeable hour. This demonstrates the cost of legal services using the amount of time recorded and the total cost of staffing.

6.3 The projects outlined in the action plan provide the opportunity to reduce the cost per chargeable hour. The only exception is where a strategy of invest-to-save may be applied e.g. childcare advocacy. This may increase the rate due to the expertise required but overall the net cost will be less than instructing externally.

6.4 Overall, the success of OPL will be measured through:

1. Reducing the cost of legal services to each authority. This is for both the operational and non-operational budgets.
2. Reducing the cost per chargeable hour.
3. Allocating work to the correct level of fee earner.
4. Staff continuing to be engaged and feel part of OPL.
5. Increasing income opportunities.

6.5 The Joint Committee will receive data to demonstrate the performance.

7.0 Conclusion

The business plan focuses on a phased set of actions to develop progress towards the longer term goals of the partnership. As specific achievements are delivered an assessment will be made of the whole plan to see whether the longer term aims and the actions for attaining them require adjustment. A refresh of the business plan is expected towards the end of 2018. The oversight of progress will be undertaken with a regular assessment of the financial principles and challenges as well as any partnership risks.

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