



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

ORBIS PUBLIC LAW JOINT COMMITTEE

DATE: 15 APRIL 2019

LEAD OFFICERS: PHILIP BAKER (ASSISTANT CHIEF EXECUTIVE, ESCC), ABRAHAM GHEBRE-GHIORGHIS (EXECUTIVE LEAD OFFICER FOR STRATEGY, GOVERNANCE AND LAW, BHCC), AND TONY KERSHAW (DIRECTOR OF LAW AND ASSURANCE, WSCC), AND GEOFF WILD (INTERIM DIRECTOR OF LAW AND GOVERNANCE, SCC).

SUBJECT: INTEGRATION UPDATE

PURPOSE OF REPORT:

To update the Orbis Public Law Joint Committee on the progress on the integrated service.

INTRODUCTION

Orbis Public Law (OPL), the shared legal service between Brighton & Hove City Council (BHCC) and the County Councils of East Sussex, Surrey and West Sussex, continues with the development of the integrated shared service.

OPL is committed to delivering this single service in 2019/20 in the following key areas:

- 1) An integrated staffing structure
- 2) A single case management platform
- 3) A joint operational budget

The single case management platform (alongside other IT enabling projects) and the joint operational budget are reported separately at this Joint Committee.

RECOMMENDATION

It is recommended that the Orbis Public Law Joint Committee reviews the progress of the partnership and endorses the continued approach.

REASON FOR RECOMMENDATION

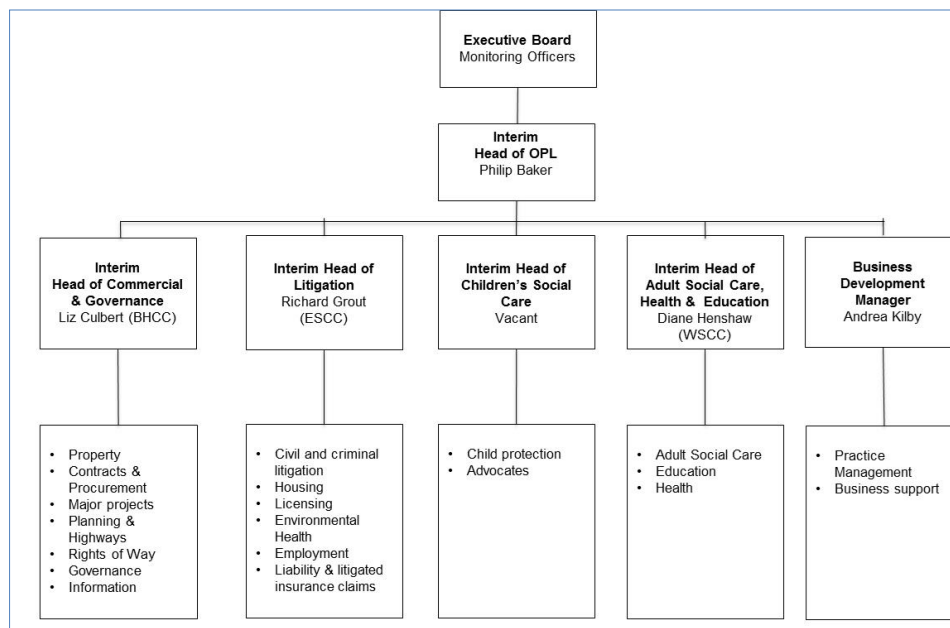
To ensure Members have oversight of the design and plans for the delivery of Orbis Public Law.

DETAILS:

Integrated teams

1. The OPL Interim Leadership Team (ILT) continues to work on designing a staffing model that will deliver an integrated service by areas of specialism across OPL. This is being delivered within existing resources.
2. The wider specialist groupings include:
 - a. Commercial and governance
 - b. Litigation
 - c. Children's social care and advocacy
 - d. Adults, health and education
 - e. Practice management

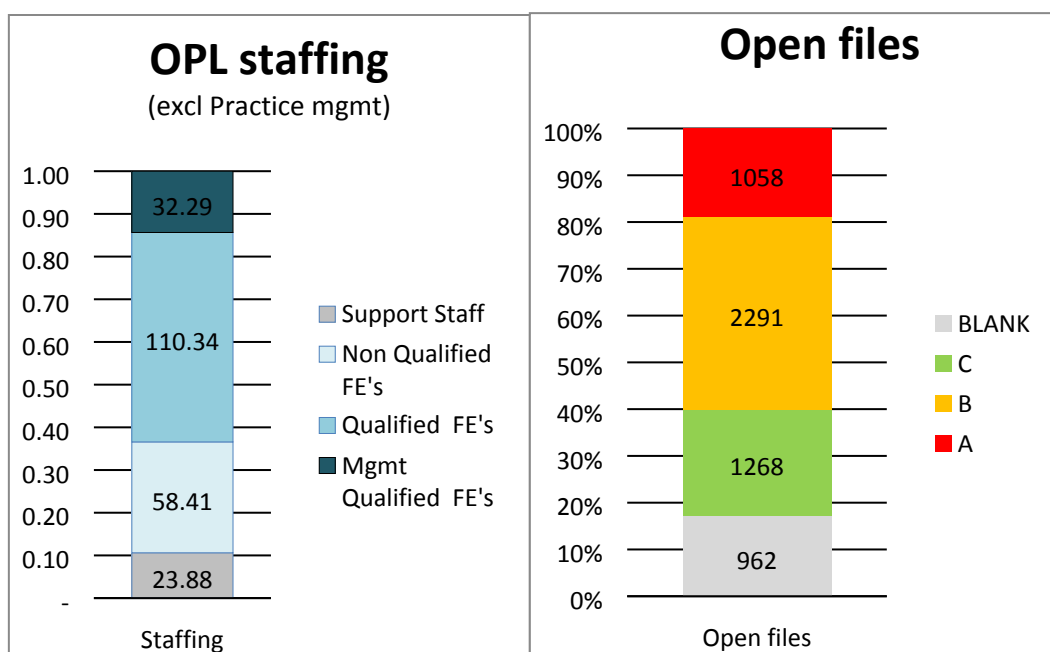
Figure 1 – OPL Interim Leadership Team:



3. ILT members were tasked with collating and analysing data to support the design of the single staffing structure and the benefits of integration. The objectives of the analysis phase were to:
 - review the staff and skills currently available across OPL as a whole and compare this with the work demands in each of the four discipline areas;
 - identify best practice and where improvements could be made;
 - use this evidence to move into the 'design' phase to draw up a structure that will support each of the disciplines and
 - model a 10% cost efficiency.

4. This was a big piece of work and involved significant data collection, workshops, meetings and input from Orbis Human Resources & Organisational Development.
5. Using this data, ILT started work on the design of the single service. A number of design principles have been agreed by ILT and the Executive Board (Sponsors and Monitoring Officers). These inform the approach to the design. The design principles are summarised as follows:
 - (1) OPL will deliver legal services which meet the needs of each of the four authorities.
 - (2) OPL will deliver cost-efficiencies.
 - (3) OPL will use a risk management approach to determine staffing levels and structure.
 - (4) Work will be undertaken at the 'lowest' appropriate level.
 - (5) OPL will make the most effective and efficient use of resources and identify, adopt and promote areas of best practice.
 - (6) OPL will reduce the call on external specialisms and build resilience by pooling skills in specialist areas.
 - (7) The structure will be evidence driven.
 - (8) OPL will recognise achievement and provide development opportunities where possible.
 - (9) OPL will ensure the coherence and effectiveness of the service in each locality.
6. Initial proposals for Commercial, Litigation, Adults & Education and Practice Management were presented to the OPL Executive Board in early February. Design principle number 4 states that work will be undertaken at the 'lowest' appropriate level. To analyse this, ILT have assessed the current staffing versus the complexity of work. Complexity of work was assessed using an ABC methodology:
 7. In broad terms:
 - A is specialist and complex legal work with a high financial or reputational risk.
 - B is 'business as usual' and legal analysis is required but it's not complex.
 - C which is more routine advice and process/template driven.
 8. While it's not an exact science, the current staffing can be broken down into type of role and compared to the complexity of open files as illustrated in figure 2.

Figure 2 – File complexity and staffing level



9. There is an ambition for OPL to re-profile teams and work to achieve efficiencies and best use of OPL's collective resource. Early modelling suggests that £500k capacity could be unlocked across Commercial, Litigation and Adults & Education, in relation to a staffing budget of £6.5m. It is important to recognise that at this stage the figure is indicative and further work will have to be undertaken to provide a greater degree of certainty. OPL does not intend to simply reduce these staffing levels but collectively and strategically look at all posts, vacancies and work demands to build resilience and efficiency across the partnership. It would be preferable and more economically advantageous to use identified capacity to bring work back in-house and this will need to be subject to rigorous performance management.

10. In February the Executive Board agreed that ILT had come as far as they could with designing the structures and to move to the next stage, a full time Interim Head of OPL would be appointed to develop more detailed proposals that could provide a basis on which staff could be consulted on. However the programme was effectively paused at this time while Surrey County Council (SCC) undertakes a review of its participation in OPL. Timescales and next steps, including moving forward with the appointment of the Head of OPL are dependent on the outcome of this.

11. Some notable benefits of work sharing and team integration have already been realised:
 - a. The development of an integrated insurance claims team (refer to para 12).
 - b. The recruitment of an OPL children's social care advocate to represent all OPL authorities at court (refer to para 15).

- c. An Environment Lawyer maternity leave is being covered by OPL, removing the need to backfill. Work sharing with Adult Social Care has helped alleviate a staffing pressure experienced by one partner.
- d. Standard templates and precedents have been agreed between OPL and Orbis Procurement. There is a database of procurement projects which will enable OPL and Orbis to plan their workload.
- e. OPL 'shared hours', where one lawyer acts for all partners is recorded (Annex 1 – OPL Performance data). To February 2019 OPL has reached nearly 1300 shared chargeable hours, equivalent to 1 Full Time Equivalent (FTE). This is therefore between 2-4 FTE worth of work because work is done once, not 2, 3 or 4 times over. Work sharing is quite a forced process and requires high input by senior management. The focus has moved to designing the joint teams to enable the full benefits to be realised.
- f. OPL has facilitated networking across the partners through workshops, pathfinder projects, staff forums and joint training. To date 708 places of free training have been provided by Chambers which if notionally costed at £100 per head is in the region of £70k worth of free training.

Insurance claims

- 12. OPL and Orbis Finance have been developing an area of expertise for insurance claims. Following detailed analysis and consultation with staff, in September 2018, Orbis Finance transferred the handling of liability and litigated insurance claims for BHCC and SCC from Orbis to OPL. East Sussex County Council (ESCC) and West Sussex County Council (WSSCC) claims handling is already carried out by OPL where there is extensive expertise in this area.
- 13. Line management has been transferred to the OPL Interim Head of Litigation who is responsible for forming the combined team as part of the wider OPL single service design. Insurance Fund and Policy management remains with Orbis Finance.
- 14. A transition plan is underway and progress and plans include:
 - a. A joint Orbis and OPL Insurance Claims Board formed to oversee the transition.
 - b. The number of claims that OPL can handle for BHCC and SCC has been determined.
 - c. A contingency plan for handling excess highways claims (mainly pothole claims). Recent support was provided from the ESCC team to handle a high level of highways claims received at SCC.
 - d. Support to SCC from ESCC and WSSCC teams for litigated claims handling.

- e. A plan for all partners to move to a single Local Authority Claims Handling System (LACHS).
- f. The majority of liability and litigated claims for BHCC are handled by the insurance company. OPL plan to in-source as many of these claims as possible and plans are in place to train staff to carry out this work.
- g. Business improvement workshops to design a common workflow process for liability claims.

Since the transfer in September, the experience of managing staff located in other partners' offices has provided a useful test run prior to the wider introduction of cross partner teams. It has also demonstrated how team members at different partner offices can work together to deliver the service in an efficient manner. In the period 1 September 2018 to 31 March 2019 a saving of approximately £40k was generated for OPL by the joint working in liability and litigated claims.

Child care advocacy

- 15. Progress on the child care advocacy project has been reported regularly to Members and continues to be a key priority for OPL. The desired outcome is reduced spending on external counsel to represent OPL authorities in child care proceedings.
- 16. Members agreed the business plan in July 2018 and the latest position against this plan includes:
 - a. The first 'OPL advocate' started in August and has successfully completed an induction period. She is now carrying out advocacy for all partners. Further recruitment is planned for two posts in 2019. The clerking arrangements will also be considered.
 - b. Data for Q1-3 (April – Dec 2018 - Annex 1) shows that our in-house advocates notionally saved OPL £98k, a projected full year saving of £123k. This is a reduction on the saving reported at Q1 because resignations and a temporary change in work pattern mean that our complement of advocates has reduced by 1.5 FTE. Where possible, advocate work is being prioritised on 'longer hearings' which are expensive to buy in and therefore a good use of our internal resource.
 - c. Following training and support, childcare lawyers are now doing more of their own advocacy. Our data shows that advocacy with a notional value of £278k was carried out by the teams between Q1-3. Lawyers are being encouraged to attend court where practicable.
 - d. Recruitment and retention remains an ongoing challenge. The recruitment market for advocates is difficult with competition from other sectors locally and restrictions on the salary we can offer. However OPL continues to explore talent through local contacts and external advertising.

Legal services framework

- 17. OPL has jointly procured a new Legal Services Framework, with Surrey County Council as lead partner with whom providers shall

enter into framework agreements. This framework covers the provision of external legal services advice, representation and casework where this is used to supplement in-house capacity or specialist expertise. The framework is a joint tender process across the OPL authorities and is also accessible to Districts & Borough Councils within those counties.

18. Implementation of the framework commenced on 1 March 2019 and will run for 3 years plus 3 year optional extension.
19. External legal services support and complement the OPL in-house offer; enabling better demand management; specialist advice and advocacy services to be sourced quickly and in a cost effective way.
20. Following from point 16.b, a reduction in some of the rates for external spend on child care proceedings has meant that OPL are reviewing the in-house advocacy savings projections and performance data. This will be available for 2019/20.

Monitoring activity pilot

21. Since January 2018, ESCC has been running a pilot to monitor the time spent on certain types of work. Time recording data is good in terms of understanding hours spent on a file. However it does not record whether matters are being dealt with efficiently. In a drive to review and improve efficiency, fixed amounts of time have been established for a number of work types. Practice management monitor time spent and if the established time is exceeded on a file this is looked at in more detail. This has helped build a picture of the common tasks and the average time taken for these.
22. Initial analysis concludes that where the trigger has been reached the work has either been completed or there are good reasons why time needed to be extended. On a small number of files it highlighted work that should have been done by a client department before the file was taken by legal. Looking strategically at risk, some time was also excessive and this has been addressed.
23. This is now embedded for these work types and with the introduction of a single system and joint teams, OPL will consider whether the pilot is extended to other work areas. This will also strengthen the common approach to undertaking work.

Q3 2018 (Apr-Dec) performance data

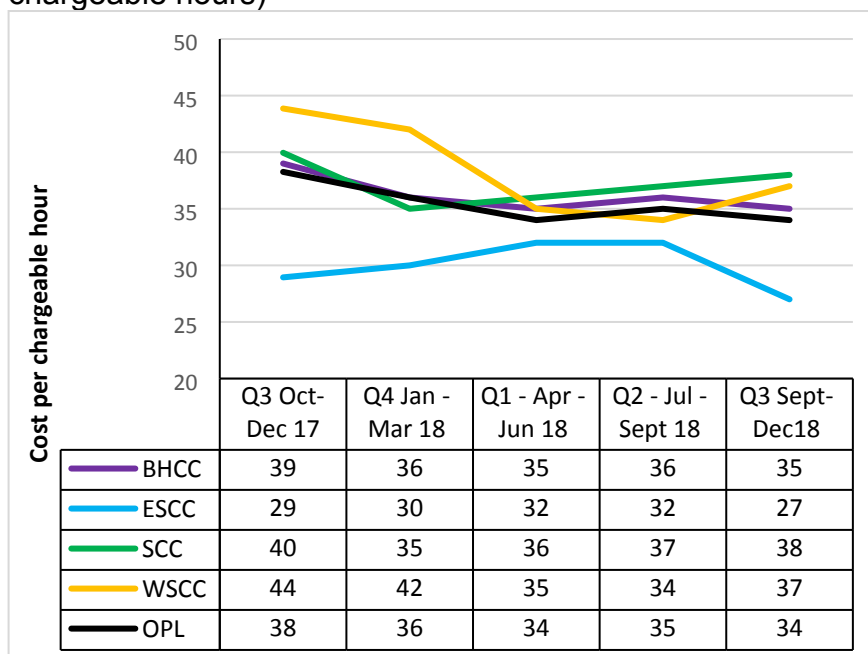
24. Annex 1 details the OPL performance data up to 2018/19 Q3 (Dec 18). Data is captured on:
 - a. Volumes and types of work

- b. Cost per chargeable hour
- c. Staff make up
- d. Work sharing
- e. Child care advocacy
- f. Financial data is reported separately.

25. OPL is data driven and committed to making decisions based on available and correct data. Since April 2018 all partners have been time recording. Following this implementation, OPL has conducted a data audit to ensure the data is as accurate as possible. The review has concluded that overall the time recording data is reasonably robust and provides a firm basis to underpin the OPL business model. The review identified system issues which were addressed. There are cultural issues which are being addressed through improved guidance and clarity on what to record and when. The performance data is so important as it ensures the 'staffing cost per chargeable hour' is accurate and reliable.

26. OPL's efficiency measure is monitored against the staffing cost per chargeable hour (staffing costs divided by chargeable hours). The trends over the prior quarters are demonstrated in Figure 3 below. This is settling into a pattern as the integrity of the time recording and finance monitoring improves. With the move to a single structure and the principle of doing work at the lowest appropriate level, OPL continues to monitor this cost.

Figure 3: Staffing per chargeable hour (staff costs divided by chargeable hours)



CONCLUSION

27. 2019 is an important year for OPL while the blueprint for the single structure is designed. The key priorities of a single structure, joint case management system and a joint budget will

need to dovetail in 2019/20 to achieve the benefits of integration. While timescales have slipped slightly this is still achievable.

28. OPL awaits the outcome of the SCC review. The next steps, which will include a refresh of the business plan and moving forward with the Head of OPL is dependent on the outcome of this.

29. Engagement with staff and stakeholders will continue into the next phase.

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Annex: 1 – OPL Q3 performance data

Sources/background papers: None

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