
REPORT FOR: CABINET

Date of Meeting:	18 February 2016
Subject:	Expansion of HB Public Law
Key Decision:	Yes
Responsible Officer:	Tom Whiting, Corporate Director of Resources and Commercial
Portfolio Holder:	Councillor Kiran Ramchandani, Portfolio Holder for Performance, Corporate Resources and Policy Development Councillor Sachin Shah, Portfolio Holder for Finance and Major Contracts
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures	Appendix A – Summary of Agreement

Summary and Recommendations

This report sets out the expansion plans for HB Public Law, including the possibility of Buckinghamshire County Council joining HB Public Law together with various other initiatives outlined.

Recommendations:

Cabinet is requested to:

- (1) Delegate to the Corporate Director of Resources and Commercial, following consultation with the Portfolio Holders for Performance, Corporate Resources and Policy Development and Finance and Major Contracts, authority to execute an agreement with Buckinghamshire County Council underpinning the relationship, and to make necessary amendments to the agreement with current partner authorities.
- (2) Agree to HB Public Law developing similar relationships with such other local authorities as are assessed by HB Public Law as being able to bring further benefits to Harrow Council, either through shared service arrangements or federated agreements.
- (3) Delegate to the Corporate Director of Resources and Commercial, following consultation with the Portfolio Holders for Performance, Corporate Resources and Policy Development and Finance and Major Contracts, authority to execute any agreement reached with such authorities underpinning the relevant relationship, and to make any necessary amendments to the agreements with current partner authorities.

Reason: To support HB Public Law delivering a cost effective and high quality legal service and its plans for growth.

1. **Background**

HB Public Law was established in 2012 on the merging of Harrow and Barnet's legal teams, which has allowed both Councils to enjoy improved services at a reduced cost. Whilst one option considered was that the Harrow/Barnet merger would be a conclusion, it was thought that the better option was for further growth and expansion to be pursued, to create a sustainable, quality legal practice capable of supporting a range of public sector clients. On 1st April 2015 Harrow's Director of Legal & Governance Services also became the service director for Buckinghamshire's legal team; on 1st June LB Hounslow joined HB Public Law and on 1st September Aylesbury Vale District Council also joined.

2. **Options Considered**

As part of HB Public Law's expansion plans it has been in discussion with a number of authorities with a view to them joining the practice. Some of these discussions are continuing, however, it has been identified that joining with a County Council would be a beneficial option for HB Public Law. This would further improve resilience, capacity, career opportunities as well as providing the ability to insource more work and provide more specialist teams. It would also represent a unique arrangement as it would include 3 London Boroughs, a District Council and a County Council.

3. **Current Situation**

Buckinghamshire County Council

For the past six months officers have been discussing with Buckinghamshire County Council regarding the possibility of HB Public Law discharging their legal function. Negotiations are continuing to finalise the agreement between the two authorities, but in essence it is based on Buckinghamshire County Council agreeing to:

- Delegate its legal function to Harrow for three years;
- Retain a Monitoring Officer who will also discharge the 'client' function in relation to the arrangement;
- Transfer its legal staff to Harrow under the TUPE regulations;
- Commission an agreed number of hours from HB Public Law each year for an agreed hourly rate;
- Pay all set up costs to include e.g. scanning paper files and funding pension fund deficit on transferring employees (calculated in accordance with Harrow's fund actuarial assumptions);
- Channel all of its legal work (including that currently outsourced) to HB Public Law.
- Retain a significant legal presence in County Hall.

Fuller details in relation to this agreement are set out in Appendix A.

Other Potential Partners

Over the past few months discussions have also been taking place with other local authorities, with the aim of developing relationships of mutual benefit between them and HB Public Law. These discussions may result in further shared services arrangements or alternatively may result in federated arrangements where the partner organisation and HB Public Law are able to work together and benefit from greater economies of scale. It is also anticipated that there will be opportunities to share work which will enable all of the partner authorities to be able to deal more effectively with peaks and troughs and also to retain even more legal work in-house, which will result in tangible savings to the authorities concerned.

4. **Implications of the recommendation**

- 4.1 If implemented the recommendation in relation to Buckinghamshire County Council will result in HB Public Law increasing in size by almost 50%, and discharging the legal function of a County Council. This will require a significant change management programme and considerable effort from both organisations management teams. It may also necessitate additional management capacity in order to ensure the smooth running of the expanded service.

- 4.2 The expansion programme, once consolidated, should increase HB Public Law's market presence and ability to retain existing clients and attract new ones. It will also allow it to develop new services which a smaller practice could not support. This will mean that its clients, including Harrow as the host authority, will have a reduced need to commission expensive external legal advice as well as benefitting from greater resilience and economies of scale.

Resources, costs

- 4.3 As host authority for the arrangement with Buckinghamshire County Council, Harrow will be liable for the staffing, infrastructure and support costs of the larger practice, but these will be fully recovered from authorities using HB Public Law's services. With regard to the other arrangements, the resource implications will vary depending on the type of agreement entered into.

Staffing/workforce

- 4.4 It is proposed that Buckinghamshire County Council's legal staff (excluding their Monitoring Officer, and the Complaints, Insurance and Education Appeals Teams) transfer to Harrow under the TUPE regulations, and join Harrow's pension scheme. The agreement assumes that the pension fund transfer will be dealt with by Buckinghamshire funding the pension fund deficit on transferring employees (calculated in accordance with Harrow's fund actuarial assumptions).

Arrangements with other authorities may differ depending on what is appropriate in the circumstances.

Performance Issues

- 4.5 HB Public Law has consistently delivered to a high standard against equivalent provisions in its agreements with Barnet, Hounslow and Aylesbury Vale. Any agreement with other authorities would mirror similar provisions.

Environmental Implications

- 4.6 HB Public Law operates a flexible working model to minimise staff travel, and hence the impact of its operation on the environment. Lawyers supporting Buckinghamshire County Council would be expected to attend County Hall and other locations in Bucks as required. Similar arrangements would exist for other authorities.

Risk Management Implications

- 4.7 The project for Buckinghamshire will be overseen by a Project Board and that oversight will include a detailed risk management strategy. The main risk that has been identified is the rate of growth that has seen HB Public Law increase in size from 25 staff to 150 in three years. This will be mitigated by a period of consolidation. The steps required will be detailed in an integration plan. This will ensure that client care standards are maintained, office procedures adhered to and staff are supported. Any other arrangement would be risk assessed and any risks would be appropriately mitigated.

5. Legal Implications

- 5.1 The council has the power to provide legal services by virtue of s111 of the Local Government Act 1972.

- 5.2 Each authority, by virtue of the 1972 Act, has the power to arrange for the discharge of their functions by another authority.
- 5.3 There is a legal basis for the sale and purchase of legal services between local authorities using Section 1 of the Local Authority (Goods and Services) Act 1970.
- 5.4 HB Public Law will need to comply with all Solicitors' Regulatory Authority regulations in relation to acting for Buckinghamshire or any other local authority.

6. Financial Implications

- 6.1 The current financial model assumes an hourly rate for an agreed number of hours, which makes a positive contribution towards HB Public Law's management costs and corporate overheads. This would be likewise for any other authority joining HB Public Law.
- 6.2 The following table sets out the Medium Term Financial savings that Harrow's Legal Service has to make over the next three years:

Year	Saving £	Cumulative Saving £
2016/17	284,000	284,000
2017/18	354,000	638,000
2018/19	354,000	992,000

It is considered that the proposal in relation to Buckinghamshire will contribute towards achieving these savings. Any other arrangement entered into would be required to do likewise.

- 6.3 The arrangement with Buckinghamshire ensures that Harrow is indemnified in respect of liabilities for transferring staff and that the costs of employing the additional staff are fully recovered. Buckinghamshire will fund the pension fund deficit on transferring employees (calculated in accordance with Harrow's actuarial assumptions).
- 6.4 The Council have sought advice from LAVAT, public sector tax specialists, to ensure the correct treatment of VAT in relation to the partnering arrangements with Barnet, Hounslow, Aylesbury Vale and Buckinghamshire and would do likewise if any other authority joined the practice.

7. Equalities implications

- 7.1 There are no equalities implications arising directly out of the recommendation, however, a full equalities impact assessment is in the process of being undertaken to ensure awareness and mitigation of any adverse impacts in

respect of Buckinghamshire and a similar assessment would be carried out in respect in respect of any other partner organisation.

8. Council Priorities

The Council wants to be a modern, efficient Council, able to meet the challenges ahead. It aims to protect frontline services by delivering support functions in the most cost effective way and making a difference to the vulnerable, to businesses, to communities and to families. This may be achieved by collaborating with other boroughs on shared services and procurement opportunities.

These initiatives support these aims as it puts the legal service in a much stronger position to develop services for other organisations and widen its client base, thereby providing a resilient legal service so that the Council can focus resources into front line services.

Section 3 - Statutory Officer Clearance

Name: Sharon Daniels	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 8 February 2016		
Name: Jessica Farmer	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 5 February 2016		

Ward Councillors notified:	NO, as it impacts on all Wards
EqIA carried out:	NO (we do not yet have the details of all employees likely to be affected. A full EqIA will be undertaken as part of the implementation project)

Section 4 - Contact Details and Background Papers

Contact: Hugh Peart, Director of Legal & Governance Services,
0208 424 1272, hugh.peart@harrow.gov.uk

Background Papers: None.

**Call-In Waived by the
Chairman of Overview
and Scrutiny Committee**

NOT APPLICABLE

[Call-in applies]

Appendix A

Summary of Proposed Agreement between LB Harrow and Buckinghamshire County Council

1 INTRODUCTION

- 1.1 This note summarises the core elements of the proposed legal agreement between LB Harrow (Harrow) and Buckinghamshire County Council (Buckinghamshire).

2 CORE TERMS OF THE AGREEMENT

Nature and term of the agreement

- 2.1 The agreement will be clearly described as a shared services arrangement, i.e. a collaboration governed by considerations of the public interest and with the aim of ensuring that public services are provided to achieve common objectives. It is not intended to be a commercial transaction between the parties.
- 2.2 The arrangements are due to start on 1 April 2016 and run for three years, with the capacity for them to be extended by agreement. After two years, either party can give one year's notice of termination.
- 2.3 Buckinghamshire will delegate their legal function to Harrow. The staff (once transferred to Harrow) should then be made available to Buckinghamshire (and Barnet, Hounslow and Aylesbury Vale) using s.113 of the Local Government Act 1972. Harrow's position is that this is needed because (1) it provides additional comfort that staff in the HBPL team can act for any of the five councils without being concerned about the extent of the delegation and (2) this is a cheaper route for insurance purposes.
- 2.4 Governance arrangements are to be agreed in detail, but will include Buckinghamshire appointing a Contract Manager to monitor the agreement.

Staffing and pensions

- 2.5 All permanent staff currently working in the Buckinghamshire legal team will transfer by TUPE to Harrow. The agreement contains provisions requiring indemnities from Buckinghamshire to Harrow in relation to employment claims arising from the transfer – these terms are not yet agreed. The agreement also contains standard clauses re TUPE information etc.
- 2.6 Staff transferring from Buckinghamshire will be able to join the Harrow pension scheme. Buckinghamshire will fund the pensions fund deficit on transferring employees (calculated in accordance with Harrow's fund actuarial assumptions).

Delivery of services

- 2.7 The agreement will require Harrow to deliver defined legal services to Buckinghamshire in accordance with specified standards of service delivery. A Service Level Agreement will be entered into setting out details of KPIs and client liaison etc.

Financial provisions

- 2.10 Buckinghamshire will pay for the legal service through an agreed hourly rate for an agreed number of hours per year. A higher rate will be applied where work is commissioned outside the agreed core hours and for urgent work.
- 2.8 Buckinghamshire will pay an agreed list of set up costs which will be identified and produced to Buckinghamshire prior to the signing of the agreement.

2.9 Exit arrangements

- 2.10 Provision will be made for an Exit Plan at the end of the agreement, which will seek to ensure a smooth transition for services and staff and to minimise costs. But if there are redundancy costs as a result of the end of the agreement, the proposal is that Buckinghamshire picks those up.

3 NEXT STEPS

- 3.1 Final negotiations are taking place, but it is anticipated that the agreement will be signed prior to 31st March 2016 with the Shared Service going live on 1st May 2016.