

Item No. 12.	Classification Open	Date: 7 February 2012	Meeting Name: Cabinet
Report title:		Lambeth and Southwark Shared Legal Team Proposals for the Way Forward	
Ward(s) or groups affected:		All wards	
Cabinet Member:		Councillor Peter John, Leader of the Council	

FOREWORD – COUNCILLOR PETER JOHN, LEADER OF THE COUNCIL

This report represents an important step forward in Southwark and Lambeth councils working together in order to improve the services which are provided to our residents whilst making significant financial savings.

Our legal departments have already developed and implemented a joint framework agreement for the purchasing of barristers services which will provide significant savings. However, following significant work our legal teams have agreed that further work can be done to join up the Litigation, Regulatory and Property teams in Southwark and Lambeth, in order to take advantage of the real expertise which exists in those areas across both councils.

It is my hope that the good work and good practice which we develop in Southwark and Lambeth can be extended to other boroughs in due course, bringing with it even greater savings and efficiencies for the residents of our boroughs.

RECOMMENDATIONS

1. That the Cabinet notes the work that has been done on exploring shared legal services with Lambeth.
2. That the Cabinet approves the proposals detailed in this report to:
 - Establish a pilot joint litigation team with Lambeth under the leadership of Southwark's new head of litigation;
 - Establish a joint regulatory and prosecutions team under the leadership of a Lambeth senior regulatory lawyer; and
 - Establish a pilot joint property team in Southwark.
3. That the Cabinet notes that following the success of the pilot to share a business manager with Lambeth that this will become a permanent arrangement under the new legal services structure.
4. That the Cabinet instructs officers to continue to explore opportunities to develop shared legal services with Lambeth over the next year and to report back to the Leader on developments.

BACKGROUND INFORMATION

5. The councils of Southwark, Lambeth and Lewisham have entered into a commitment to work together with a view to sharing services between the authorities, so that new ways can be found to deliver services at reduced costs or to provide better value for money. Such an approach compliments Southwark Council's Business Plan and addresses Lambeth's long-term goal of delivering savings by reviewing the levels and nature of their legal work that remains outsourced, including all of its general (non-housing) litigation and contract disputes, and a proportion of contract advice and property work.
6. In June 2010, Cabinet approved the development of a joint Barristers Framework with Lambeth. This has now been awarded and is due to go live in April 2012. The levels of Counsel's fees agreed under this framework are highly competitive, and participation within it has now been offered to other London authorities, who may pay a fee to Southwark and Lambeth to join the framework.
7. In April 2011, in order to reduce administrative costs for both authorities Lambeth's Legal Services Business Manager was shared with Southwark, on a part-time basis. This not only enabled Southwark to benefit from the services of a skilled and experienced manager at a reduced cost, but has also enabled the identification of opportunities to improve back office services and information technology to reduce overheads, for example the development of an extranet system with Lambeth to monitor the Barristers Framework Contract and the development of legal's case management system to interface with the council's financial management systems.
8. Since then, Lambeth and Southwark have been working closely together to find opportunities for further savings by further collaboration. At the same time, Southwark Legal Services is committed to delivering £600,000 of savings over the years 2012/13 and 2013/14, and is undertaking a major internal reorganisation to achieve this. Lambeth is also reorganising their legal service to make efficiency savings and has identified £100, 000 to be delivered specifically in 2012/13 from sharing legal services with Southwark. It has identified the potential for saving by bringing legal services back in-house from external law firms, but does not have the capacity to deliver that service. Southwark, with a larger in-house legal team, can develop the capacity to deliver some of the services which Lambeth needs.
9. Undertaking legal work on behalf of Lambeth should enable Southwark to generate a small amount of income to contribute to savings targets and allow Lambeth to deliver their efficiency savings, because it will be cheaper for Southwark to undertake this work on their behalf, rather than instructing expensive external solicitors.
10. Southwark have set an income target of £100k to be delivered from the pilot by 2013/14. Income achieved from the first year of the pilot in 2012/13 will be reviewed to assess whether the income target for 2013/14 is achievable. If at that stage, the income projections are on target, it is likely the pilot will continue to 2013/14. If however the income target cannot be achieved, further consideration will need to be given as to whether this proposal should continue.

KEY ISSUES FOR CONSIDERATION

11. The key driver behind these proposals is to make savings while maintaining the quality of the services that both authorities require and meeting the demand within both authorities. While there are considerable opportunities, there are also risks to be managed in moving to share more legal services. In particular, a charging model needs to be developed that saves both authorities money and is trusted by client departments as transparent, fair and credible. Where both authorities already have large, well managed and efficient teams there are limited savings to be made from combining services and considerable potential costs in restructuring. The focus has therefore been on identifying areas where one authority has a current lack of capacity, or where teams are small and aggregating them can improve quality and reduce management costs.
12. The approximate total expenditure on the provision of legal services in Southwark is £12m, of which £5m is spent on the procurement of “bought-in” legal services, including external solicitors, counsel and other disbursements, such as court fees. The comparable figures for Lambeth’s legal services are approximately £8m, of which nearly £4m is spent on external services and other disbursements.
13. The difference in the cost of legal services in Southwark and Lambeth is primarily due to two factors:
 - The size of the housing stock in Southwark which is approximately 45,000 properties;
 - The significant regeneration which is taking place across the borough, such as the Elephant and Castle development, the Aylesbury development and Potters Field.
14. The Business Model options which have been considered to deliver the shared legal teams are:
 - Seeking to develop a shared legal team which would include shared management structures;
 - Developing shared legal teams by the development of shared legal teams across both authorities, this would include the joint appointment of staff to deliver the service;
 - Southwark to undertake legal work on behalf of Lambeth under a Service Level Agreement.
15. Each of these options were carefully considered with advice being taken from human resources in both Lambeth and Southwark on the employment implications of these options.
16. Senior managers in Southwark and Lambeth both fully support the option of developing shared legal teams located in either Southwark or Lambeth. However current employment legislation and respective HR policies in both authorities make it extremely difficult to create shared legal teams without a major and costly joint restructure, which is not supported by the prospect of savings across the whole service and which might delay the savings already identified by both authorities for 2012/13. It is therefore more appropriate to continue with current practice, at least in the short term, which is to seek to

second staff from one authority to the other, under a secondment agreement and share the cost of the post between both authorities.

17. In order to manage the risks mentioned above, and in order to move swiftly within the HR constraints, the quickest and simplest option to deliver some shared legal services for Southwark to undertake legal work on behalf of Lambeth on an agency basis under a Service Level Agreement and create shared teams by seconding staff from Lambeth into vacant posts on the Southwark Legal Services structure.

Aligning reorganisation processes

18. Southwark Legal Services have recently completed a staff consultation process on the reorganisation of the service. During the consultation process staff were made aware of the intention to develop shared legal teams with Lambeth and the possible income stream which this might produce. The new structure in Southwark will be implemented from 1 April 2012 onwards.
19. Lambeth are also reorganising their service to deliver efficiency savings. As part of the process to develop shared legal teams, consideration was given to seeking to align the reorganisation process. This has however proved to be difficult due to the size of the respective services and different HR processes. The proposals set out in this report for piloting services under a Service Level Agreement will be developed alongside the current structure of Legal Services and therefore will not impact on the legal budget or current staff employment rights. Staff would be specifically recruited to undertake Lambeth's work on a fixed term basis.
20. This approach will enable the pilot to be evaluated to see whether it delivers the savings expected, and either extended, expanded or closed down depending on its success.

The way forward

21. Based on the agency model with Southwark undertaking work on behalf of Lambeth, it is proposed that the legal teams be developed as follows:

Head of Litigation

22. This is a permanent post on Southwark Legal Services structure. This post will be appointed to in accordance with Southwark's Human Resources processes. Lambeth will be asked to sit on the interview panel for the appointment. Initially this post will be ring fenced to senior managers in Southwark. If an internal appointment is not made, an external advert will be placed.
23. The successful candidate will be expected to lead on the development of a shared service to Lambeth.

Joint Litigation Team

24. The Head of the Litigation team will take the lead on establishing this team which will run as a pilot for 1 year. Staff will be recruited to undertake this work for Lambeth on an agency basis or Fixed term contracts.

25. A service level agreement will be developed with Lambeth which will detail the services to be provided, performance information, costs and charges for the service. The team would sit alongside the Legal Services structure reporting to the Head of Litigation.

Joint Regulatory and Prosecutions Team

26. The head of this team remains on Southwark's Legal Services structure as a Senior Regulatory Lawyer. Recruitment to the post will be by means of a secondment from Lambeth initially for 6 months. The secondee will report to the Head of Litigation and will be expected to lead a team of lawyers in Lambeth and Southwark to provide the prosecutions function to both authorities. It is anticipated that the team could be based in either Lambeth or Southwark, but the location of the team will be subject to further discussions between managers.

Property Team

27. It is proposed that a small team of staff are established to undertake property work on behalf of Lambeth. Following review of the cases, consideration may be given to taking a small amount of work from Lambeth, again as a pilot for one year. Recruitment to the team will be on an agency or fixed term contracts and the service will be delivered through a service level agreement.
28. Lambeth currently have an in-house team undertaking property work and careful consideration will have to be given to the possible TUPE implications if this work is transferred to Southwark.

Future opportunities

29. The development of shared teams/posts across both authorities is an evolutionary process, both authorities will take the opportunity to explore and develop further shared services as opportunities present themselves. This may include a shared Contracts and Planning Team located in either Southwark or Lambeth, in addition to the possible creation, in due course, of shared Property and Prosecutions Teams, as mentioned above. All opportunities will be considered as they arise for making further savings.
30. If these pilots are successful, consideration will be given to extending the service to other authorities.

Indicative timetable

31. An indication of the timetable for implementing the shared teams/services is detailed below. Due to the need to deliver efficiency savings in Lambeth the shared teams/posts must be in place by mid 2012 to achieve the savings target.

Post / Team	Proposed Date	Location
Head of Litigation	31 March 2012	Southwark
Joint Litigation Team	July 2012	Southwark
Senior Prosecutions Lawyer and joint Prosecutions Team	1 April 2012	Southwark or Lambeth
Property Team	July 2012	Southwark

Post / Team	Proposed Date	Location
Business Manager	Ongoing	Southwark and Lambeth

Comments from Human Resources (Lambeth)

32. Lambeth HR have reviewed the proposals, and are content that they will make arrangements locally to implement proposals within Lambeth's policies and procedures, in consultation with Southwark legal and HR teams.

Comments from Human Resources (Southwark)

33. The proposal to establish a shared service model for both boroughs in delivery of areas of legal work presents a number of HR/Management issues that should be considered in terms of practical operation of any shared services arrangement.
34. It should be noted Southwark has successfully undertaken 'partnership working' with other organisations in delivery of service such as in health (with the NHS) and in transport planning and delivery with a private sector provider.

Community impact statement

35. This decision is judged to have no impact on local people, businesses and communities, because the legal teams in both Southwark and Lambeth are in-house teams providing legal advice and support to service departments.

Resource implications

36. The development costs of these proposals will be contained within current budgets. Any additional savings to those identified already in the 2012/13 budget will be recognised in Legal Services proposals for the 2013/14 budget. The forecast additional income is therefore over and above these savings proposals.

Consultation

37. Consultation with staff in Southwark around developing shared legal team with Lambeth took place as part of the Legal Services reorganisation proposals. Staff in Lambeth has also been made aware of the proposals.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Strategic Director of Communities, Law & Governance

38. The report before Cabinet explains the discussions which are taking place between Southwark and Lambeth Councils for sharing legal services.
39. This report also seeks approval:
- to establish a pilot scheme for joint teams for litigation, regulatory & prosecutions and property
 - to explore over the next year further opportunities for shared legal services with Lambeth Council.

40. There is no specific power which permits the council to enter into shared services with another authority. The legal powers are contained in a variety of legislation including section 101 of the Local Government Act 1972, sections 19 and 20 of the Local Government Act 2000 and the Local Authorities (Goods and Services) Act 1970. The combined effect of this legislation is to give local authorities the powers to second staff to other organisations and to do anything which will improve the economic, social and environmental wellbeing of the council's area.
41. There is a proposal (paragraph 16) that employees are seconded to and/or from Lambeth Council. Section 113 of the Local Government Act 1972 provides that local authorities may, for the purposes of their functions, enter into an agreement with another local authority to second employees.

Finance Director

42. This report recommends that the Cabinet notes the work that has been done on exploring shared legal services with Lambeth, approves the proposals detailed in this report to establish a pilot joint litigation team with Lambeth, a joint regulatory and prosecutions team and a pilot joint property team in Southwark. The Cabinet also to note that the pilot to share a business manager with Lambeth will become a permanent arrangement under the new legal services structure and that Cabinet instructs officers to continue to explore opportunities to develop shared legal services with Lambeth.
43. The Finance Director notes the resource implications contained within the report and the dependency of the indicative income forecasts on the success of the pilots, (this income is additional to savings already factored into future budgets). Officer time to effect the recommendations will be contained within existing budgeted revenue resources

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

AUDIT TRAIL

Cabinet Member	Councillor Peter John, Leader of the Council	
Lead Officer	Doreen Forrester-Brown, Head of Legal Services	
Report Author	Doreen Forrester-Brown, Head of Legal Services	
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Key Decision?	No	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
Cabinet Member	Yes	Yes
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