

REPORT FOR: **CABINET**

Date of Meeting:	18 February 2015
Subject:	Expansion of HB Public Law
Key Decision:	No
Responsible Officer:	Tom Whiting, Corporate Director of Resources
Portfolio Holder:	Councillor Graham Henson, Portfolio Holder for Performance, Corporate Resources and Policy Development
Exempt:	No
Decision subject to Call-in:	Yes
Wards affected:	All
Enclosures:	None

Summary and Recommendations

This report sets out Hounslow's agreement to join HB Public Law in the next few months and asks Cabinet to support their inclusion.

Recommendations:

Cabinet is requested to:

(1) Welcome Hounslow Council's decision to ask HB Public Law to discharge its legal function, and

(2) Delegate to the Director of Legal & Governance Services, following consultation with the Portfolio Holders for Performance, Corporate Resources and Policy Development and Finance and Major Contracts, authority to execute an agreement with Hounslow underpinning the relationship, and to make any necessary amendments to the agreement with Barnet.

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

1. Background

- 1.1 As a large employer, service provider, regulator and landowner, Harrow has a steadily increasing demand for legal advice and advocacy. That demand is driven by both significant changes in the law, eg the Care Act 2014, and the increasingly difficult decisions facing the Council as it copes with reduced income.
- 1.2 In 2010 a shared legal service model was explored to see how it might address the 'perfect storm' of increasing demand, greater complexity of work and pressure on budgets.
- 1.3 Experience elsewhere suggested that creating a larger legal practice to support more than one authority could deliver the following benefits:
 - A greater range and depth of legal expertise;
 - More flexibility in response to Council demands;
 - Reduced cost;
 - Improved career opportunities for staff;
 - Reduced reliance on private sector legal advice;
 - Improved ability to recruit and retain the best staff; and
 - Greater resilience.
- 1.4 Given these benefits, 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.

2. Options considered

- 2.1 When the project was first developed, one option was for the Barnet/Harrow merger to be its conclusion, but its Leaders were clear from the start that further growth and expansion would be pursued, to create a sustainable, quality legal practice capable of supporting a range of public sector clients.

3. Recent Developments

- 3.1 A Cabinet report in November 2014 explained and authorised the setting up of a separate legal practice, HBPL Ltd, capable of supporting private sector providers of services to local authorities.
- 3.2 A subsequent report in January 2015 welcomed Bevan Brittan LLP, a leading national law firm as HB Public Law's private sector partner. This report also advised members that discussions were on going with

other authorities who wished to join HB Public Law, but that at the time nothing had been agreed.

4. Current situation

5.1 For the last six months officer have been discussing with LB Hounslow the possibility of HB Public Law discharging their legal function. These discussions have included a meeting between the respective Leaders, and presentations to Hounslow legal staff.

5.2 Hounslow agreed at its Cabinet meeting on 10th February 2015 to:

- Enter into a shared services arrangement with the London Borough of Harrow in order for the London Borough of Harrow to discharge this Council's function in respect of the delivery of legal services in accordance with Section 101 of the Local Government Act 1972 and of the Local Government (Arrangements for the Discharge of Functions) (England) Regulations 2000 and
- Instruct the Chief Executive to agree a suitably worded contract for the provision of legal services from HBPL following appropriate consultation with the affected staff

5. Structure of New Arrangement

5.3 As is clear from the above, no formal agreement has yet been executed between the 2 authorities, but Hounslow's agreement to delegate its legal function to Harrow is based on Hounslow agreeing to:

- Delegate its legal function to Harrow for 5 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 legal hours from HB Public Law each year for an agreed hourly rate;
- Pay set up costs to include, eg scanning paper files, and funding the pension fund deficit on transferring employees (calculated in accordance with Harrow's fund actuarial assumptions);
- Provide hot desk at its civic centre;
- Channel all its legal work (including that currently outsourced) through HB Public Law.

5.4 In order to ensure service continuity, Hounslow wish that for at least the first 9 months its work will be done, so far as is possible, by its transferring staff. Thereafter the work will be allocated, in consultation with Hounslow clients, in accordance with how the new, larger practice is organised.

5.5 In addition to the above the proposed agreement would include detailed provisions to cover:

- The scope of the services HB Public Law will offer;
- Service standards, liaising with clients and key performance indicators
- Managing conflicts of interest;
- Risk management and quality accreditation
- Minimising the impact on both authorities if Hounslow decided to withdraw;

- Dispute resolution;
- Extending the agreement if the parties so wish;
- Confidentiality and data protection;
- Insurance;
- Payment of bills and disbursements;

5.6 The above reflect the arrangements which underpin Harrow's relationship with Barnet.

6. Implications of the Recommendation

6.1 Once implemented this recommendation will result in HB Public Law increasing in size by almost 50%, and discharging the legal function of a third London Borough. This will require a significant change management programme and considerable effort from its management team.

6.2 Once consolidated this 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.

Resources, costs

6.3 As host authority 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.

Staffing/workforce

6.4 It is proposed that Hounslow's legal staff (excluding their Monitoring Officer) transfer to Harrow under the TUPE regulations, and join Harrow's pension scheme. The agreement will provide that the transfer be fully funded in accordance with Harrow's pension fund actuarial assumptions.

Performance Issues

6.5 The proposed agreement with Hounslow will include detailed provisions to ensure a quality and timely service is provided. HB Public Law has consistently delivered to a high standard against equivalent provisions in its agreement with Barnet.

Environmental Implications

6.6 HB Public Law operates a flexible working model to minimise staff travel, and hence the impact of its operation on the environment. This will be replicated in the agreement with Hounslow, through eg the provision of hot desks.

Risk Management Implications

6.7 The project will be overseen by a Project Board including Hounslow's Chief Executive and Harrow's Director of Legal & Governance Services, and that oversight will include risk management.

7. Legal Implications

- 7.1 The council has the power to provide legal services by virtue of s111 of the Local Government Act 1972.
- 7.2 Each authority, by virtue of the 1972 Act, has the power to arrange for the discharge of their functions by another authority.
- 7.3 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.
- 7.4 HB Public Law will need to comply with all Solicitors' Regulatory Authority regulations in relation to acting for Hounslow.

8. Financial Implications

- 8.1. As stated above all staffing, infrastructure and support costs pertaining to the expansion of the practice will be recovered from LB Hounslow.
- 8.2 The proposal before Hounslow ensures that Harrow is indemnified in respect of liabilities for transferring staff, that there is no adverse impact on its pension fund and that the costs of employing the additional staff are fully recovered.
- 8.3 Legal and Governance have savings to be delivered for future years, which are dealt with in the Budget reports elsewhere on the agenda.

9. Equalities implications

- 9.1 There are no equalities implications arising directly out of the recommendation, but as the project is implemented, a full equalities impact assessment will be undertaken to ensure awareness and mitigation of any adverse impacts.

10. Council Priorities

- 10.1 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, including collaborating with other boroughs on shared services and procurement opportunities. This initiative supports these aims as it puts the legal service in a much stronger position to develop services for other organisations and widening 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: Simon George

Chief Financial Officer

Date: 9 February 2015

Name: Hugh Peart

on behalf of the
Monitoring Officer

Date: 9 February 2015

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 4242 1287, hugh.peart@harrow.gov.uk

Background Papers: None.

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

NOT APPLICABLE

[Call-in applies]