

**Report for: Cabinet**

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<b>Date of Meeting:</b>	13 <sup>th</sup> October 2022
<b>Subject:</b>	Inter Authority Agreement for Legal Services
<b>Key Decision:</b>	No
<b>Responsible Officer:</b>	Hugh Peart - Director of Legal and Governance Services
<b>Portfolio Holder:</b>	Councillor Stephen Greek - Portfolio Holder for Performance, Communications & Customer Experience
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	Yes

## **Summary and Recommendations**

### **Recommendations:**

Cabinet is requested to:

1. Welcome Barnet Council's continuing commitment to the shared legal practice, noting their wish to continue the arrangement for a further 5 years;
2. Advise Slough Borough Council of Harrow's ongoing willingness to provide their legal services; and
3. Authorise the Director of Legal and Governance Services, following consultation with the Portfolio Holder for Performance, Communications & Customer Experience to agree an extension to the Inter Authority Agreement with the London Borough of Barnet until 2027 and with Slough Borough Council for a period of up to five years.

### **Reason (for recommendations):**

1. The London Borough of Barnet was with Harrow the founder member of HB Public Law in 2012. The initial agreement was for 5 years and has been extended until 2022 and the proposal is to further extend until 2027.
2. Barnet is pleased with the service provided and agreed to seek an extension at its Policy and Resources Committee on 30th September 2021.
3. Harrow entered into a shared services agreement with Slough on 31st May 2018 and this agreement is due to expire on 1st June 2023. The indications are that Slough are happy with the service, and so authority is sought to extend the arrangement.

### **Introduction**

This report updates Cabinet on the progress of HB Public Law ('HBPL') and seeks authority to extend the arrangements whereby it provides legal services to the London Borough of Barnet and if required to Slough Borough Council.

## **Implications of the Recommendations**

The extension of the current agreement with Barnet will support HBPL's sustainability and future plans which means that Harrow will continue to receive a robust legal service and the economies of scale that sharing services brings.

## **Background**

HBPL was formed in 2012 when Barnet agreed that Harrow would discharge its legal function and transferred its lawyers under the TUPE regulations.

With now nearly 170 lawyers, Harrow has grown HBPL into one of the largest local government legal practices in the country, with a reputation for innovation and quality. HBPL now provides legal services to the London Boroughs of Harrow, Barnet and Hounslow, the West London Waste Authority and Slough Borough Council, as well as to over 100 schools and academies.

The history of the Practice is as follows:

- 2012 Harrow & Barnet create HB Public Law
- 2012 Secure Law Society 'Lexcel' accreditation
- 2015 Hounslow join
- 2016 Aylesbury Vale DC join
- 2017 Bucks CC join (includes BCC running Harrow's HR)
- 2018 Slough joins with contract until 2023
- 2019 Bucks & Aylesbury Vale leave as new unitary council formed
- 2021 Hounslow agree extension until 2026
- 2021 Barnet resolve to extend the agreement until 2027

HBPL are currently covering the Monitoring Officer posts for Harrow, Barnet, Slough and the West London Waste Authority and have previously undertaken this role for Hounslow. The practice also works for Barnet Homes, Harrow, Barnet, Hounslow and Slough Schools and does ad hoc work for other councils.

## **Rationale for Sharing**

Creating a larger legal practice to support more than one authority has delivered the following benefits:

- A greater range and depth of legal expertise is available;
- More flexibility in response to Council demands;
- Reduced cost;
- Improved career opportunities for staff;
- Improved ability to recruit and retain the best staff;
- Greater resilience.
- Reduced management costs
- Shared overheads – eg case management system, legal resources
- Cost avoidance - less use of external lawyers, manage peaks & troughs

- Explicit quality assurance culture

## **Extension**

The heads of terms of this proposed extension include:

- Barnet will continue to delegate its legal function to Harrow
- Harrow will continue to employ the staff
- Work is charged at an hourly rate and Barnet is invoiced monthly
- Harrow provides management and monitoring information to Barnet
- Barnet continues its redundancy indemnity should a reduction in demand by them lead to a need to make staff redundant
- Dispute resolution procedures which ultimately include the respective chief executives
- Staff working on Barnet work are treated as Barnet staff and are covered by Barnet's insurance policy
- At any time, following 24 months of the Commencement Date either party may terminate the Agreement by giving the other not less than one year's written notice
- Exit costs are shared
- Arrangement is not commercial
- A mechanism for increasing the hourly rate

## **Staffing**

The benefits of a larger legal practice include the opportunity for staff to progress their career without moving to another employer, and the capacity to train legal staff and invest in succession planning. Key achievements under the practice's workforce strategy include:

- (a) Career grading at legal assistant/paralegal and lawyer/senior lawyer level. This allows staff to progress their careers without waiting for vacancies or moving into management roles
- (b) In-house bespoke management training
- (c) Apprenticeship programme – in legal, practice management and finance roles.
- (d) Supporting 2 trainees under the Government's kickstart programme.
- (e) Train your own – staff have qualified as chartered legal executives and solicitors via the CILEX training and trainee solicitor programmes. The practice employs up to 5 trainee solicitors per year and many have moved into lawyer roles within HBPL upon qualification.
- (f) Bespoke in-house training programme, including essentials of local government training and tailored external training programme delivered by the London Boroughs Legal Alliance.
- (g) Wellbeing programme.

## **Performance**

HBPL is Lexcel accredited, which is the Law Society quality assurance standard for legal practices. The last assessment was in January 2022. The key findings were:

“Despite all the challenges of the pandemic, HB Public Law continues to maintain a robust commitment to all the policies and procedures of the Lexcel Standard. There has been a clear emphasis on ensuring the health and wellbeing of its staff, well beyond basic levels (see report for details) supported by excellent communication for staff working remotely and on-going supervision.

HBPL was able to have a fairly easy transition to working remotely, as it has worked digitally for a long time and has always supported flexible working. It has therefore been able to accommodate hybrid working where possible, as and when the situation allowed.

It has also continued its wellbeing programme which is now remote and this has been very well received by staff who have been able to access a range of remote programmes. Everyone continues to be set clear targets which ensures both staff and managers are able to track their performance.”

The report noted:

- HBPL’s business plan for 2021 to 2026 is comprehensive covering values and vision, a detailed SWOT analysis and sections on marketing, finances and options for the future. There are clear aims, with KPIs with associated resources for each team.
- The business continuity plan remains robust with detailed descriptions of testing and outcomes.
- HBPL’s financial management remains robust and ensure it meets Lexcel criteria.
- HBPL places a strong emphasis on data protection and maintained policies and procedures to support this, including a detailed register of information assets.
- Last year the practice moved to a new case management system and people are adapting to this and have ongoing training and support.
- The register of information assets remains very detailed with a list of assets, format and location.
- Induction of staff remains comprehensive with excellent examples of this occurring in teams and with the support of buddies.
- Despite the challenges of remote working, staff felt well supported with regular communication and supervision.
- The department is looking at the principles of flexible working and future working patterns going forward.
- The health and well-being programme has been a long feature of HBPL’s commitment to its staff and has continued remotely and is really welcomed by staff.

- On going learning and development remains very much in evidence and clearly encouraged, with a range of webinars and LBLA weekly newsletters of what is available. There were excellent examples of training being shared in teams.
- The file review process remains both regular and robust with a good overall analysis.
- The annual review of risk remains detailed through quality meetings and is very comprehensive and reviews and records all key areas of risk.
- The risk register also continues to be detailed and sets out risk levels, reported issues, status of individual risk areas and when they are closed out.
- Communications remains good within monthly team meetings, in person if possible or through teams. There is regular 1-1 monthly supervision and the addition of WhatsApp groups.
- Legal practice meetings take place through MS Teams and legal practice updates continue.
- Quality questionnaires continue to be sent to clients at the end of a matter and compliments/comments are logged. Clients continue to be very complimentary about the work of HBPL and there is a robust analysis summary to demonstrate this.
- File management continues to be robust and there is a new case management system to support this.

Suggestions for best practice are as follows:

- HBPL should consider a matrix approach in its business plan as to what resources are required and potential risks linked to stated objectives.
- HBPL should consider developing a “formal” remote working policy focusing on areas such as data protection, health and safety and supervision.
- Continue to ensure that new staff and trainees/paralegals feel they can contact their manager if they need to do so. It is also important that line managers encourage them to do so.
- Given the majority of staff are working remotely, ensure supervisors continue to monitor staff workloads.

## **Data Protection Implications**

The Inter Authority agreement covers all data protection issues and Harrow retain Barnet data on a secure case management system.

## **Risk Management Implications**

Risks included on corporate or directorate risk register? No

Separate risk register in place? No

The following key risks should be taken into account when agreeing the recommendations in this report:

Risk Description	Mitigations	RAG Status
Budget Pressure for Harrow Council & threat to HBPL's financial viability if Agreement not extended	<p>Agreement to the extension will remove these risks</p> <p>Barnet Council's Policy and Resources Committee agreed to extend the agreement on 30th September 2021</p> <p>TUPE regulations</p> <p>Harrow and Barnet have agreed to Harrow building up &amp; managing a reserve to offset any costs incurred by HBPL in circumstances including a reduction in the demand for the service by Barnet</p>	
Damage to Harrow's reputation should HBPL's activities attract negative attention	<p>Senior lawyers meet client boroughs and key client teams every month to review work, address issues etc</p> <p>The practice is inspected regularly by the Law Society lexcel inspector</p> <p>Staff are supervised and have regular supervision meetings</p> <p>Work is checked by supervisors who review files</p>	

## Procurement Implications

As this is a delegation of function there are no procurement implications.

## Legal Implications

The Council has the power to provide legal services to the London Borough of Barnet by virtue of Section 111 of the Local Government Act 1972, and Barnet may arrange for the discharge of their functions by another authority. There is also 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. HB Public Law will need to comply with all Solicitors' Regulatory Authority

Regulations when acting for Barnet or any other local authority. Under Section 3 of the Local Government Act 1999, Local Authorities are under a general duty to secure best value services. The duty is to “make arrangements to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness”.

## **Financial Implications**

Failure to agree the extension of the Barnet and Slough agreements would mean a loss of income to the authority and whilst there would also be cost savings as staff would be TUPE'd to those boroughs, the overall impact on Harrow would create a budgetary pressure. There may also be pension strain liabilities.

Operationally, it would lead to Harrow being required to fund the practice that remained or reduce the legal provision to Harrow services. This could possibly create additional financial, operational, and reputational risk for the authority.

The internal budget for the shared legal practice for the 2022/23 financial year is £1.69M. As at Period 4 (July), the practice is projecting a small underspend of £0.016M.

The future costs for the practice will be driven by the impact of salary and inflationary rises. This cost will be passed onto clients through increases in the rates the practice charges.

Most of the funding of the legal practice comes from client income, rather than internal income, and is approximately £7.4M per annum.

The recommendations proposed by the report will have no impact on the authority's Medium Term Budget Strategy. It is HBPL's aim for the practice to be financially self-sufficient and securing the extension of the IAA with Barnet Council will allow for the continuation of a financially stable service.

The recommendations proposed by the report contains no requirements for savings to be made elsewhere within the Legal budget and will have no impact on the current staff establishment within Legal and Governance.

The terms within the proposed new IAA provide that all salary award increases will be reflected in changes to the hourly charge out rates. The proposed new terms will set HBPL's ability to automatically apply an increase of up to 5%. Increases above 5% (that can be proven) will require the approval of the client council.

The current IAA has financially benefitted both Harrow and its client partners. HBPL has for several years produced surpluses that have supported both Harrow and its partners through contributing to Harrow's overall financial position and creating earmarked reserves.



## **Section 3 - Statutory Officer Clearance**

**Statutory Officer: Sharon Daniels**

Signed on behalf of the Chief Financial Officer

**Date: 03/10/22**

**Statutory Officer: Hugh Peart**

Signed by the Monitoring Officer

**Date: 03/10/22**

**Head of Procurement: Nimesh Mehta**

Signed by the Head of Procurement

**Date: 03/10/22**

**Head of Internal Audit: Susan Dixson**

Signed by the Head of Internal Audit

**Date: 03/10/22**

**EqlA carried out: NO**

**Contact:** Jessica Farmer, Head of Legal Practice,

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**Call-in waived by the Chair of Overview and Scrutiny  
Committee - NO**