



# Executive Decision Report

<b>Decision maker(s) at each authority and date of Cabinet meeting, Cabinet Member meeting or (in the case of individual Cabinet Member decisions) the earliest date the decision will be taken</b>		 THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
	Cabinet  Date of decision: 30 <sup>th</sup> October 2017	 City of Westminster
<b>Report title (decision subject)</b>	Shared Legal Services Alternative Business Structure Proposal	
<b>Reporting officer</b>	John Quinn	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public	

## 1. EXECUTIVE SUMMARY

- 1.1 This report provides a business case for the merger of the Shared Legal Services with LGSS Law Ltd. When Shared Legal Services was being created in 2015, the Cabinet reports for all three Councils indicated that once the new shared service was in place and embedded, the next step would be to explore alternative models such as a Company and /or an Alternative Business Structure (ABS), which would enable the service to generate income. LGSS Law Ltd is such an ABS, which operates as a social enterprise law firm.
- 1.2 Councils are looking at alternative delivery models for their services including joint ventures and the existing Legal Service is currently unable to act for any Council vehicle that involves the private sector. This is because it does not have the necessary professional licence to provide advice to these organisations and, unless it moves to operate as an Alternative Business Structure under the Legal Services Act 2007, would not be able to act in future. A local authority legal services ABS enables the service to follow the work or retain the work that the in-house service used to carry out prior to any outsourcing or joint venture.
- 1.3 Recent interviews with clients of the Shared Legal Service indicate that although they are very satisfied with the quality of legal advice received and have seen significant improvements in the service provided, there are areas where improvements are required (particularly in the commercial and financial aspects). Clients' priorities for how the overall service should be improved are as follows:
- Clear demonstration of value for money including transparency on legal costs and how they break down.
  - The right business processes including regular and correct billing.
  - More business-like (more structured and consistent) strategic relationship management.
  - A Legal Service that acts in more business-like and commercial way, focused on supporting services achieve desired outcomes.
  - Some services have identified responsiveness and accessibility as an issue – these are in areas of routine work eg some property work.
- 1.4 This proposal addresses the above issues and recommends the expansion of the current shared services and the creation of a social enterprise law firm through a merger with LGSS Law Ltd, to enable the Legal Service to act for organisations with an affiliation with the private sector such as Council Joint Ventures and to also deliver a more rigorous and business-like experience for clients. The recommendation is to create a company wholly owned by five local authorities, which provides a good quality, value for money, resilient and responsive legal service to the shareholder clients and a range of other bodies in the public and not-for-profit sectors.

1.5 Our Shared Legal Service office will in effect form a London Branch of LGSS Law Ltd, which will be well positioned and resourced to expand through merger and increased ad-hoc work. The ABS vehicle established by LGSS Law over the past two years will provide a modern business-like platform from which the combined teams will grow their business through in-sourcing work currently outsourced and attracting new external clients by trading surplus capacity released by productivity improvements. If necessary, capacity will be increased to grow the business and expertise.

1.6 The following four options have been considered in the development of this business case.

1. Shared Legal Service merges with LGSS Law Ltd.
2. LBHF Legal Service remains in-house and WCC & RBKC merge with LGSS Law Ltd.
3. Shared Legal Service creates its own ABS.
4. Remain As Is (with continuous improvement).

Option 2 is recommended to enable WCC and RBKC to progress the merger for a 1<sup>st</sup> December 2017 go-live and to start to realise the projected benefits early. WCC and RBKC leadership have endorsed Option 2 and LBHF have confirmed that they do not wish to progress with the merger. This option provides the two Councils with access to a tried and tested ABS vehicle and its associated processes and infrastructure. It also avoids the requirement to set-up a new ABS from scratch (involving a 12 to 18 month regulatory process) and provides access to LGSS Law's clientele.

See **Appendix A: Options Considered** section for an analysis of the pros of cons of each option.

1.7 The primary objectives of the proposal are to (1) continue to improve the quality of the service, (2) further increase the resilience and (3) deliver significant financial benefits to the owner councils through cost reduction and income generation. This recommendation is projected to deliver the following combined financial benefits for WCC and RBKC:

<b>£000's</b>	<b>WCC</b>	<b>RBKC</b>	<b>Total</b>
Total General Fund Savings by 2019/20	374	329	703
Other Efficiencies by 2019/20 (HRA, Capital & Other Funded)	247	89	336
Increased Income by 2022/23 (low projection)	178	178	356

- 1.8 The savings above have been calculated based on legal services controllable staff and non-staff budgets only. Non-controllable budgets for overheads (e.g. IT, Finance, HR and Accommodation) have been excluded and any potential saving resulting from Legal staff transferring to LGSS Law would require a plan for realisation as part of a wider corporate-led initiative. It is expected that over time, the variable portion of the overhead costs will be realised as savings via budget and financial plans due to a lower staff population.
- 1.9 The business case is based on progressing implementation at pace to enable go-live for the RBKC and WCC Shared Legal service to operate as LGSS Law Ltd from 1<sup>st</sup> December 2017. The overall cost of implementation is £572k with a WCC share of £291k and a RBKC share of £281k.

## **2. RECOMMENDATIONS**

- 2.1 To note this report and the business case for the Shared Legal Services to join LGSS Law Ltd as the London branch.
- 2.2 To agree that WCC joins LGSS Law Ltd as a shareholder and to transfer staff to LGSS Law Ltd under TUPE regulations.
- 2.3 To delegate to the Bi-borough Director of Corporate Services, following consultation with the Cabinet Member for Finance, Property and Corporate Services, the authority to approve and enter into the agreements and take such other steps necessary to implement the decision recommended at paragraph 2.2.
- 2.4 To delegate to the Chief Executive authority to vary the s113 agreement in respect of Legal Services as necessary to reflect changes following the merger with LGSS Law Ltd and to serve notice to terminate the s113 agreement if necessary.

## **3. REASONS FOR DECISION**

- 3.1 A key decision is required as the proposal has significant financial implications in that it results in significant savings for the Councils.

## **4. BACKGROUND**

- 4.1 Since 2015 the Shared Legal Service has been looking at further opportunities for sharing services with other Councils and in late 2016 started considering a more commercial approach. In late 2016 / early 2017, their discussions with legal services outside London led to LGSS Law, an ABS in the South East, who were very keen to explore a partnership with them. This coincided with the vision Members had when they approved the current shared arrangements. See section 5 of the RBKC Cabinet report of December 2014 and WCC Cabinet report of March 2015.
- 4.2 LGSS Law Ltd is a company limited by shares, which is currently wholly owned by three Councils, Cambridgeshire County Council (CCC), Northamptonshire County Council (NCC) and Central Bedfordshire Council (CBC). LGSS Law was established as a shared legal service in 2010 and following sustained growth, it converted to an ABS under the Legal Services Act 2007, using a company limited by shares. It is a Social Enterprise Legal Practice and surpluses are returned to its local authority owners. There are a number of local authority ABSs but LGSS Law is recognised as being the most advanced and successful example of this emerging model for the shared provision of legal services. Since its launch in April 2015, LGSS Law's turnover has increased by 30% (by £2.2m) to almost £8m.
- 4.3 The recommended model is for a merger with LGSS Law and establishment of a London arm. This would enable access to a tried and tested ABS vehicle and associated infrastructure such as case management and accounting systems. Also, a key advantage of joining an already established ABS is that the Councils would avoid the time, cost and uncertainty of a regulatory process.
- 4.4 Our Legal Service has gone through three restructures/ mergers since 2012 and the last merger to create the current shared service delivered £1.4m savings across the three Councils. Further savings of such a significant scale are not possible to deliver without some considerable innovation. The ABS proposal provides such an opportunity.
- 4.5 Councils have for some time sought to reduce their external legal spend and this has been done incrementally by growing the in-house teams as far as possible and creating a critical mass. An ABS would provide an opportunity to create a sizeable firm of over 200 staff which can reduce external legal spend more significantly.
- 4.6 Shared Legal Services also has an ambition to be more business-like and commercial and an ABS provides the best chance of instilling those private practice disciplines whilst retaining the best of public sector ethos.

## 5. PROPOSAL AND ISSUES

### Proposal

- 5.1 The proposal is to merge the Shared Legal Service with LGSS Law Ltd, creating a firm owned by five local authorities, which provides value for money, responsive and excellent legal services to the shareholder clients and a range of other bodies in the public and not-for-profit sectors.
- 5.2 From the point of merger, the Shared Legal Service lawyers will be employed by an SRA (Solicitors Regulation Authority) regulated legal practice and will be authorised to provide a full range of legal services to any organisation. The merged service will operate flexibly out of six branch offices (two in London ie Kensington Town Hall and City Hall in due course and four in the home counties).
- 5.3 As an ABS the service will be able to act for any organisation but the intention is to continue to grow expertise in all aspects of local government work. For example there is no intention to venture into private client work eg divorce, conveyancing etc. The target new clients will be local authority partner organisations eg police, health and other local authority service providers such as charities, housing associations or private organisations that provide local authority services.
- 5.4 The aim of the ABS is to be wholly owned by the Councils and therefore there is no intention to set up a mutual or consider a management buy-out. It is anticipated that the ABS will be successful due to the Shared Legal Service's track record of operating successfully with an internal trading account for each of the three Councils. The unique selling point will be that Shared Legal Services will continue to be part of the Councils, as a wholly owned company of the councils, operating from the same locations for the same WCC and RBKC clients but under a different legal structure.
- 5.5 One of the key objectives of the recommendation is to deliver significant financial benefits to the owner Councils through the following:
  1. Reduced internal legal costs through economies of scale and improved transparency and control - Fixed costs spread over a larger cost base and the centralisation of business support functions will deliver early returns and reduce the cost of the services. Internal legal costs will also reduce due to transparent and regular billing allowing for greater user discipline and cost control.

2. Reduced external legal spend through significantly more work being done in-house – The merged organisation would create greater resilience and capacity to allow the further development of specialist teams, which will enable more legal work currently delivered externally to be done in-house.
  3. Increased income – the ABS vehicle will provide the required business platform for the combined team to grow their business through attracting new external clients by trading surplus capacity (released by productivity improvements).
- 5.6 It is proposed that the merger will be implemented through the existing Shared legal team members transferring to LGSS Law. In return, LGSS Law will issue and transfer shares to each Council, which will constitute each Council's key instrument of ownership and influence over LGSS Law Ltd. In summary, the deal would involve each Council receiving an allocation of LGSS Law shares in exchange for the transfer of their legal team and a commitment to work with LGSS Law to deliver savings.
- 5.7 The allocation of shares will be based on the value of the Shared legal business currently being undertaken in-house. The offer of shares from LGSS will be validated by an independent valuation of the Shared Legal Service, LGSS Law and the combined entity, which has been commissioned from an external firm of accountants, BDO LLP. The allocation of shares, and the rights attached to the shares, will be agreed by the Bi-borough Director of Corporate Services prior to contract completion and go-live, which is proposed to be on 1<sup>st</sup> December 2017.
- 5.8 LGSS Law have indicated that the agreed commercial terms will be encapsulated in a five-year exclusivity agreement, which will mirror the terms agreed by the existing owners. These terms include a commitment to route all legal work through LGSS Law, thereby enabling all work to be managed in an intelligent way to ensure that maximum value for money is delivered for all shareholder owners. It is recognised that on occasion it will be appropriate to use external law firms and this is accommodated under the terms of the agreement, which ensure that the client councils retain the ability to use specialist support accessed via LGSS Law.
- 5.9 The five-year term not only ensures that maximum value for money is delivered for all shareholding owners, it also provides certainty to clients and staff. It ensures that the new business is given maximum opportunity to achieve its full potential. There will be provision for termination on 12 months' notice. However, it should be noted that the same staff will be providing the same services, which they have been doing for the past 10 or 15 years with minimal turnover. So, clients will experience little or no disruption to services but will see significant improvements in the areas identified in para 1.3. A description of the Target Operating Model is included in **Appendix B**.

## Cashable Financial Benefits

5.10 The financial benefits projections shown in section 5.12 have been calculated for the benefits listed below and are based on the following assumptions.

1. Reduced internal legal costs through economies of scale and improved transparency and control. Benefit assumptions:
  - 5% reduction in internal legal costs due to transparent and regular billing allowing for more effective demand management through greater user discipline and cost control.
  - 9% reduction in costs in relation to: Improved systems processes and support, spreading of fixed costs and operating overheads (staff and non-staff), shared systems/procurement, increased buying power/leverage.
  - It is assumed that these improvements will be realised over 2 years.
2. Reduced external legal costs through significantly more work being done in-house. Benefit assumptions:
  - Additional scale and capacity will allow the further development of specialist teams, which will enable more legal work currently delivered externally to be done in-house.
  - It is assumed that **50%** of external spend can be brought in-house, and delivered **30% cheaper** than the external cost (based on LGSS Law's experience and comparison with other providers/competitors).
  - This assumption has been validated through a thorough assessment of existing external legal spend to identify whether it can be delivered in-house now, later as part of the wider LGSS Law or whether specialist external expertise would continue to be required. See **Appendix C** for analysis.
  - It is assumed that this benefit will be realised over 2 years.
  - There will also be opportunities in relation to increased purchasing power, enabled by being a legal provider for five local authorities.
3. Increased income (Shareholder dividends). Benefit assumptions:
  - The dividends are calculated based on a growth forecast for LGSS Law that reflects the larger scale that the Shared Legal Services authorities would bring.
  - The LGSS vehicle will provide the required business platform for the combined team to grow their business through attracting new external clients by trading surplus capacity (released by productivity improvements). LGSS Law has delivered average annual external sales growth of 34% since 2010 (see **Appendix D**).
  - Legal work done for other clients (ie. income from non-partner clients) is charged at a higher rate, which allows for greater profits to flow back to the partners in the dividend.
  - There will be a negotiated share/dividend agreement, which will result in dividends being paid to the partner authorities. The estimate range (high and low scenarios) in the benefit calculation is based on a tapered



approach, which results in the full 100% of dividend being paid in Year 5. See section 5.14 for details.

- This benefit is also paid back to partner authorities in the form of reduced hourly rates (which are 18% lower than non-partner not-for-profit rates).

5.11 The 2017/18 opening budget shown in the table below indicates that for 2017/18, WCC has budgeted for a £915k surplus and RBKC a small £62k deficit.

Current Legal Services Planned Budget (2017/18)

£000's	WCC	RBKC	Total
<b>Cost Budget</b>			
Staff salaries	1,451	1,439	2,890
Non-staff controllable budget	741	539	1,280
Non-staff non-controllable budget	775	602	1,377
Total Cost Budget	2,966	2,580	5,546
<b>Income Budget</b>			
Internal re-charge income	-2,752	-2,184	-4,936
Fees & charges	-1,129	-334	-1,463
Total Income Budget	-3,881	-2,518	-6,399
<b>Total Budget (2017/18)</b>	<b>-915</b>	<b>62</b>	<b>-853</b>

5.12 For the full business case, the following spend figures have been validated at a departmental level and used to calculate a baseline for the current cost of internal and external legal support:

- Internal legal spend: Two year average (2015/16 and 2016/17) spend on internal time recorded work from General Fund, HRA and Capital budgets.
- External legal spend: Actual 2016/17 general fund revenue spend, HRA, Capital and Other funded spend on external legal firms.

## Current Legal Costs Baseline for Business Case

<b>£000's</b>	<b>WCC</b>	<b>RBKC</b>	<b>Total</b>
<b>External</b>			
General Fund	541	477	1,018
HRA	464	120	584
Capital	236	354	590
Other (e.g. funded by reserves)	181	-	181
<b>Sub Total</b>	<b>1,422</b>	<b>951</b>	<b>2,373</b>
<b>Internal</b>			
General Fund	2,117	1,863	3,980
HRA	775	188	963
Capital	133	12	145
Other (e.g. funded by reserves)	395	-	395
<b>Sub Total</b>	<b>3,420</b>	<b>2,063</b>	<b>5,483</b>
<b>Grand Total</b>	<b>4,842</b>	<b>3,014</b>	<b>7,856</b>

\* External Legal spend figures are based on total value of invoices paid to external Legal firms during 2016/17 (identified top firms by spend). No disbursements (e.g. counsel and other payments etc) are included.

### Total Projected Savings (General Fund)

<b>£000's</b>	<b>2018/19</b>	<b>2019/20</b>	<b>Total</b>
<b>External Spend</b>			
RBKC	36	36	72
WCC	41	41	81
<b>Internal Spend</b>			
RBKC	170	88	258
WCC	193	100	293
<b>RBKC Total</b>	<b>206</b>	<b>124</b>	<b>329</b>
<b>WCC Total</b>	<b>234</b>	<b>140</b>	<b>374</b>
<b>Grand Total</b>	<b>439</b>	<b>264</b>	<b>703</b>

5.13 Thorough financial due diligence has been completed and the internal and external legal savings shown above have been identified at a service level at WCC and RBKC. In order to realise general fund savings, budgets will need to be retracted from service areas. For information, additional efficiencies will be delivered for HRA, Capital and Other funded legal support as shown below.

Other Efficiencies (HRA, Capital & Other Funded)

£000's	2018/19	2019/20	Total
<b>External Spend</b>			
RBKC	36	36	71
WCC	66	66	132
<b>Internal Spend</b>			
RBKC	13	4	18
WCC	86	29	115
<b>RBKC Total</b>	<b>49</b>	<b>40</b>	<b>89</b>
<b>WCC Total</b>	<b>152</b>	<b>95</b>	<b>247</b>
<b>Grand Total</b>	<b>201</b>	<b>135</b>	<b>336</b>

5.14 The table below shows the future hourly charge-out rates which underpin the business case and that will be charged to London branch partner Councils. A formal process to review rates will form part of LGSS Law governance and will be documented within the contract with LGSS Law to ensure that these rates can not be altered without agreement from at least one of the London shareholder Councils.

Future Hourly Charge-out Rates

Grade / Level	Rate Level	Current Rate	% Reduction	£ Reduction	Revised Rate
Director	1	£180	-18.5%	-34	£147
Chief Solicitor / Project Lawyer	2	£140	-18.5%	-26	£114
Principal Lawyer	3	£140	-18.5%	-26	£114
Solicitor	4	£80	-18.5%	-15	£65
Legal Officers	5	£55	-18.5%	-10	£45
Paralegal / Admin	6	£50	-18.5%	-9	£41

5.15 The Councils' existing corporate overhead costs for the Shared Legal Service will continue following the transition to LGSS Law and a corporate approach to reduce these costs will be required to realise further savings. The Shared Legal Service budget for non-controllable overhead costs totals £775k for WCC and £602k for RBKC (2017/18 budget). It is expected that over time, the variable element of the overhead costs, for example ICT support and software licences, will be realised as savings via budget and financial plans due to a lower staff population.

## Dividend Payments

- 5.16 LGSS Law have proposed that dividends will be payable using a tapered approach that works by releasing a percentage of the total dividend entitlement to new partners, and growing this percentage each year. At year 1 this is 10% of the declared distribution and this increases to 20% in year 2, 40% in year 3, 80% in year 4 and 100% in year 5.
- 5.17 The incremental approach is proposed by LGSS Law in recognition of the significant investment of time and resources that was required to establish the company by the founding owners (NCC and CCC). (CBC has the same arrangement as that proposed for the Shared Legal Service). The dividend amount not paid as part of the tapered entitlement during years 1 to 4 will be reinvested in the company.
- 5.18 For this business case a dividend range (low to medium) has been provided and reflects the fact that exact arrangements around shareholding, the tapering approach and dividend retention policy require discussion and agreement by the Bi-borough Director of Corporate Services prior to go-live. These discussions will include consideration of the independent business valuation (by BDO LLP) to ensure that WCC and RBKC receive an allocation of shares representative of the value of their legal business contribution to the merged company. The dividend calculations are based on the LGSS Law profit forecast, which reflects the greater scale of the merged organisation and market analysis.
- 5.19 Dividends are subject to corporation tax and there may be a preference to reduce hourly rates for shareholder Councils as part of planning prior to the start of each tax year rather than issue a dividend.

### Increased Income (Shareholder Benefits Range) 2017/18 – 2022/23

£000's	2017/18	2018/19	2019/20	2020/21	2021/22	2022/23
<b>Low Scenario</b>						
RBKC	0	0	27	59	130	178
WCC	0	0	27	59	130	178
<b>Total (Low)</b>	<b>0</b>	<b>0</b>	<b>53</b>	<b>119</b>	<b>261</b>	<b>356</b>
<b>Medium Scenario</b>						
RBKC	0	13	30	70	160	230
WCC	0	13	30	70	160	230
<b>Total (Medium)</b>	<b>0</b>	<b>25</b>	<b>59</b>	<b>139</b>	<b>320</b>	<b>459</b>

## Cost Avoidance Benefits

5.20 The proposal has the following cost avoidance benefits:

- Setting up of an SRA licensed Law firm, including 2 years of operation and the expertise developed in that period.
- Required procurement, design and implementation of a new case management system. The proposed merger avoids the associated procurement and implementation costs for this necessary upgrade.

## Non-Financial Benefits

Benefit	Description
Increased resilience through greater scale	A larger service would bring much needed resilience to our smaller teams eg adult social care, education and employment. Larger teams would also benefit from greater resilience as our workload increases.
Additional areas of specialisation	Increased scale would help us develop in areas of law that we don't cover now eg company law, construction law, enabling more work to be undertaken in-house at significantly lower cost. The service would have the freedom to attract staff from private firms and attract the best talent.
Ability to support Council partners	We would be able to provide legal advice and support to joint venture companies owned by the Council or private organisations that undertake Council work, which we are currently not licensed to support.
Increased staff retention and ability to attract good lawyers	The opportunity to work as part of a larger and well supported team opens up additional opportunities for lawyers to undertake more complex and interesting matters which benefits them in terms of career development. The team benefits through better rates of retention.

## Implementation Costs

5.21 The costs of the change will include the capital expenditure to roll out the LGSS Law case management system, enablement of flexible working through laptops and smart phones and change project management (on both the LGSS Law and Shared Legal Service side). There are also the costs of external legal advice, business valuation advice and the actuarial assessment required for pensions as part of the transfer.

## Implementation Costs (One off during 2017/18)

£000's	Total Cost	WCC Share	RBKC Share
Case Management implementation (external DPS costs)	100	50	50
Case Management implementation (LGSS costs)	52	26	26
ICT equipment (e.g. laptops, monitors, docking stations etc)	127	64	64
ICT infrastructure (e.g. network connectivity, server build etc)	66	33	33
Accommodation moves (Amey)	8	4	4
Shared Legal Services Programme Management	96	48	48
LGSS Law Project Management	56	28	28
LGSS Partnership Officer time (implementation project)	18	9	9
LGSS IT Resource Costs	16	8	8
Business Valuation Advice	16	8	8
Legal Advice (Commercial & Pensions DD)	6	3	3
Actuarial Assessment (Pensions)	10	10	0
<b>Grand total</b>	<b>572</b>	<b>291</b>	<b>281</b>

### **Implementation Approach**

- 5.22 Implementation will be managed by a joint team from the Shared Legal Service and LGSS Law and comprise Leads for change management, communication, HR, IT and Systems and Process change (including billing and accounts). The joint team will report into a Programme Board jointly chaired by the SROs, namely the Shared Legal Services Director of Law and the Executive Director of LGSS Law Ltd. Effective management of programme risks will be the responsibility of the Programme Board (see **Appendix E** for Risk Register).
- 5.23 It is proposed that the implementation plan is based on the approach successfully used by LGSS Law for a previous merger, which is to make the LGSS Law network and case management system fully accessible to the Shared Legal Service team members from day one. The proposal is to set up appropriate network connections/availability within the Shared Legal office location to enable a fast and reliable connection to the LGSS Law network and case management system. Staff will access the network through docking, wireless connection and when working outside of the office, remotely through 4g and broadband connection. The system will interact seamlessly with the client councils through email and other document exchange systems, which provide effective and secure methods of sharing large volumes of data such as court bundles.

- 5.24 TUPE will apply so staff will be transferred to LGSS Law on their existing Terms and Conditions. LGSS Law have indicated their preference for access to the LG Pensions Scheme for new starters to be retained as an important staff benefit.
- 5.25 The implementation approach will have a strong focus on communication and engagement and on managing the business change. This has already begun with senior clients and staff being engaged during the business case development stage. A full communication and engagement approach will be delivered during implementation to raise awareness, understanding and buy-in to the change across all identified stakeholder groups.

#### 5.26 Implementation Timeline

No	Activity / Deliverable	Timeline
1.	CEOs approval to proceed to complete full business case	mid-June (Complete)
2.	Full business case officer-level approvals at EMT, Management Board	July (Complete)
3.	Briefing for Cabinet Members	July (Complete)
4.	Cabinet Briefing in WCC	17 July (Complete)
5.	Leader's Group in RBKC	September (Complete)
6.	Staff / TUPE consultation, financial and legal due diligence	August / Sept
7.	Cabinets' approvals	October
8.	Go live with implementation of new case management system	November
9.	Go-live for new Legal Services ABS	1 <sup>st</sup> December

## 6. CONSULTATION

- 6.1 Staff and stakeholder engagement has taken place. This has included briefings to Cabinet Member and Chief Officers, meetings with senior officers and directors, drop in sessions with staff and meetings with Unions. Key clients were engaged during April and May. Twelve Directors and senior officers have been interviewed. The Director of Law and the Business Change Consultant have attended Senior Officer Boards in all three Councils.

6.2 There has been extensive consultation with staff since April. The early informal /soft consultation was put on a formal footing on 18 August, with a formal letter to all staff and Trade Union representatives. The consultation which started in April took the form of:

- *April onwards* - Around a dozen staff drop in sessions have been held from April – one or two per month
- *June onwards* - The Director of Law has attended team meetings so that all staff have had an opportunity for a face to face discussion
- *July and August* - Three sessions were held in July and August, called Meet the Directors Sessions (including the Director of Law and the LGSS Law's Executive Director), when 74 staff attended
- *August and September* - Four HR sessions for staff and Trade Unions on TUPE were held in August and September, as part of an ongoing consultation process. Again over 70 staff attended as well as Trade Union representatives.
- *September and October* - Individual drop in sessions for staff on Pensions and HR issues were held over three days in September and October.
- There have been six meetings held by HR with the Trade Unions since the summer (4 with staff in attendance and 2 separately with the trade unions) and a further three meetings with the trade unions are scheduled up to the transfer date. The Director of Law has attended some of these meetings as part of the ongoing dialogue and formal consultation process required as part of the proposed TUPE transfer process.
- Following these sessions written Q&As were prepared and published in July, August and September. In total 78 Questions have been answered, some were repeated questions about terms and conditions and pensions.
- The service had also established a staff group of Change Champions with a representative from each team, who have contributed to the project throughout.

6.3 The only outstanding consultation until recently was on the TUPE measures and this is taking place now (as of 18 October). A key outstanding issue for staff is the pensions arrangements, which will be agreed and incorporated in the contract with LGSS Law prior to go-live. If for any reason this is not complete the go-live date will be delayed.



## **7. EQUALITY IMPLICATIONS**

- 7.1 There are no equality implications for staff resulting from this proposal as it is a direct TUPE transfer.

## **8. INFORMATION, COMMUNICATIONS AND TECHNOLOGY (ICT) IMPLICATIONS**

- 8.1 Following discussions with Cambridgeshire County Council IT department who will be providing the systems to support the merged service, the bi-borough shared ICT service is satisfied that what is being proposed is appropriate. Our network team will be providing the necessary in-building network connectivity to support the Shared Legal Service staff once they become part of LGSS Law under the new business model.

## **9. PROPERTY IMPLICATIONS**

### **General and Royal Borough of Kensington and Chelsea**

- 9.1 At present, the Shared Legal team occupy 79 desk spaces on the 3rd floor at Kensington Town Hall. This proposal, if accepted, will see this requirement reduce to 55 desks. However, due to the need for independent I.T and telecoms to be installed, these 55 desks will not be capable of use by Council officers. Similarly, staff from the new Legal company will not be able to occupy or use any other desk space within Kensington Town Hall. This being the case, it is currently proposed that the new Legal company will move to room G29 at Kensington Town Hall. Room G29 is a semi-detached and self-contained office area which will be much better suited to an occupation by a 3<sup>rd</sup> party than the main office areas at the Town Hall.
- 9.2 This proposal will see non-Council staff occupying and having some limited access to office space at Kensington Town Hall. Whilst some concerns have been raised regarding security, similar arrangements do already exist elsewhere in the building with Amey PLC occupying office space in room B118 and CNWL NHS Trust occupying office space on the 2nd floor. All non-Council staff using KTH will be issued with a security pass in the usual manner with access restrictions incorporated as required.
- 9.3 As above, whilst Initially, staff from the new Legal company will require access to some parts of the building for the purposes of file and archive retrieval, it is anticipated that in time, much of this stored material will be digitised and therefore, the need to access the main building will diminish over time.
- 9.4 Corporate policy dictates that an external service provider occupying Council property and providing services to a customer base beyond RBKC should be liable for a full market rent. In this case, it is estimated that the all-inclusive rent for this occupation will be approximately £275,000 per annum. This increase in

income will be offset by the loss of income from the current shared services property arrangements whereby LBHF and WCC pay between them £257,000 to RBKC in respect of the shared use of Legal office space at KTH.

- 9.5 Room G29 has limited meeting facilities and as such, it has been agreed that a room booking facility will be maintained with the new Legal company using and paying for meeting space on a pay as you go basis. This arrangement will be reviewed over time so as to ensure that it suits all parties.
- 9.6 This occupation will be documented by way of a formal lease which will be co-terminus with the associated service contract. The Council will retain responsibility for all maintenance/repair and compliance activities in respect of this occupation so that consistency of service may be maintained and so that any associated compliance risks may be mitigated against. Similarly, the Council will reserve the right to relocate this occupation elsewhere in the building should the need arise.

### **Westminster City Council**

- 9.7 Westminster City Council is currently based in temporary accommodation at 5 Strand and Portland House while 64 Victoria Street undergoes a major refurbishment. It is anticipated that the council will return to Victoria Street at the end of 2018/early 2019. Lisson Grove remains in operation as the north borough administrative centre and it is anticipated that this facility will be moved into new accommodation in 2022. The following applies to any WCC administrative building, temporary or permanent. Given the accommodation strategy adopted by WCC, EMT should consider whether the arrangement proposed by the Legal department can be adopted by the Council. Property's proposal to seeking a solution follows -
- 9.8 The council has committed its administrative sites to a shared workspace arrangement (nominally 7 desks per 10 employees) and staff now work flexibly with fixed 1:1 desks only where required for an individual's accessibility needs or for specific operational requirements. As this is fundamental to the success of the property strategy and the realisation of operational cost savings, Council property officers have proposed a scheme whereby the new legal structure can have access to workspaces (including meeting facilities) while maintaining the principles of a shared work environment.
- 9.9 It is therefore proposed that Legal team members can have access to a total of six desks throughout the WCC administrative sites. These desks will not be in fixed locations, however. It is anticipated that legal team members will co-locate with their (internal) clients in the course of their work and as the services which are expected to employ the legal team themselves work in a flexible environment (and often over multiple sites), it is logical to enable and require the legal team to do so.

- 9.10 In the Council's current layout, the legal team can use shared desks on the 2<sup>nd</sup> floor of 5 Strand as a touchdown "base" as it has done in the past, but this area, like all others within the administrative sites is subject to the dynamic nature of flexible space usage and there is no implied "ownership" of desks in this area. Touchdown spaces are provided at Portland House and Lisson Grove and the emphasis should be on legal team members working with their clients in the team areas in the first instance.
- 9.11 Access to the same facilities enjoyed by WCC staff can be given to the legal team, including kitchen, toilet and other amenities.
- 9.12 No provision for lockers or storage cabinets has been given as legal team members will not be permanently based at WCC. Temporary storage of materials relevant to client work will be at the discretion of the client team within allocated storage for that team
- 9.13 Access cannot extend to printing or other ICT-facilitated operations as these are restricted to council staff for security firewall reasons. This includes the ability to book general meeting room space (see below).
- 9.14 Meeting room facilities: WCC manages its administrative site meeting rooms with two separate systems. These will continue to operate for the foreseeable future. As there are implications for external organisations, attention has been paid to this aspect of the scheme. General purpose meeting rooms are bookable only through an MS Outlook system. However, external organisations are not able to access this for firewall reasons. The "formal" (sometimes referred to as "committee") rooms can only be booked through the reception desks at 5 Strand and Portland House. The legal team can book the formal rooms by this method, but due to demand for these and all meeting rooms, use of these facilities is restricted to WCC business.
- 9.15 General meeting rooms can be booked for meetings with the legal team by WCC employees (hosting clients), who will have access to the booking system.
- 9.16 Legal team members will require WCC passes to access the facilities. Passes can be issued with the appropriate access privileges given. Access into Portland House is given by LandSec security, not WCC, and arrangements, including payment for the cards, will be made by the legal team directly with LandSec. WCC will verify to LandSec that the personnel are authorised visitors, but assumes no responsibility for administration of LandSec access privileges.
- 9.17 As there is no demised accommodation, this occupation cannot be documented by a formal lease, unlike RBKC. Thought must be given, if the principle of occupation itself is agreed, how to formalise the arrangement which might be via a licence to occupy co-terminus with the associated service contract. The Council will retain responsibility for all maintenance/repair and compliance activities in respect of this occupation.
- 9.18 The cost of this arrangement will be £6,400 per person per annum, therefore £38,400 total, per annum, inclusive of rates and service charges.

## 10. LEGAL IMPLICATIONS

10.1 Section 1 of the Localism Act 2011 provides the Council with a general power of competence and as such allows it to enter into arrangements such as the collaborative provision of legal services via a jointly owned corporate vehicle.

10.2 The Council is currently seeking external legal advice from external lawyers in respect of:

- The responses to legal due diligence questions, which have been received from LGSS Law.
- Legal issues arising from the terms of transfer of the Bi-borough Shared Legal Service to LGSS Law including the mechanisms for issuing shares in LGSS Law to RBKC and WCC and for restricting profit distributions, as explained earlier in this paper.
- The governance arrangements for LGSS Law under its expanded ownership structure.
- The terms on which RBKC and WCC will receive services from LGSS Law.
- The appropriateness of mechanisms to apply in the event that either RBKC or WCC chooses to take its service provision back in-house (or to transfer it to a third party) at a future point.

10.3 External lawyers are also advising on the following matters and that advice will be considered by the Bi-borough Director of Corporate Services before he takes any decisions in accordance with recommendation 2.3:

- The ability of LGSS Law to accept business from third parties (ie from non-shareholding authorities) without jeopardising its privileged Teckal procurement status. That is to say, given that LGSS Law will be owned by 5 local authorities, it is acceptable for the company to trade with its owning authorities and vice versa without being required to follow the procurement rules. Regulation 12 of the Public Contract regulations 2015 gives statutory force to the Teckal principle and this provides an exemption to the procurement requirements in circumstances of a multi-authority version of a "Teckal" company.
- Further advice will be sought to confirm the current understanding that the proposed arrangement would not constitute 'State Aid'. As proposed, the company will not be provided with any financial advantage by way of service or accommodation being provided at preferential rates. In addition there is no suggestion that this arrangement will distort the market for legal services.

## **11. FINANCIAL AND RESOURCES IMPLICATIONS**

- 11.1 There is a WCC MTP commitment of £0.500m for this initiative of which, £0.200m is expected to be realised in 2018/19 and £0.300m in 2019/20. Legal budgets would need to be retracted from services within the different directorates to realise the saving on the internal and external legal spend. Engagement with service managers will be undertaken prior to any budget retraction. A shortfall of circa £0.100m is anticipated in 2019/20 due to a tapering approach being applied to the projected dividend income. This is expected to be mitigated through non-recurrent financial savings from within corporate services.
- 11.2 The implementation costs for the WCC are £0.291m which are expected to be financed from under spends within Corporate Service's overall financial position for 2017/18.
- 11.3 The RBKC Group Finance Manager, Corporate Services, has been consulted and is satisfied that the Service have made every effort to ensure that the financial analysis within this Report has been based on comprehensive, accurate and up to date information on Legal operating costs, income and demand in relation to the proposed merger of the Shared Legal Services with LGSS Law Ltd. The reduction in the charge out rate resulting from the merger should bring about the savings as expected.
- 11.4 The fact remains that the sustainability of the financial benefit projections (and on-going savings) are based on a set of assumptions which, whilst reasonable, cannot in themselves be guaranteed (e.g. around expected demand for internal/external legal services; demand management from greater transparency and LGSS growth forecasts). Furthermore, as stated in the Report, additional savings to the Council from a reduction in Corporate overheads will only be realised following a real reduction in Support Service resources, which may not be seen in the medium term.

*John Quinn*

***Bi-borough Director of Corporate Services***

### **Local Government Act 1972 (as amended) – Background papers used in the preparation of this report**

*None*

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**Options Considered (including Pros & Cons)**

The following four alternative options have been considered in the development of the business case.

1. Shared Legal Service merges with LGSS Law Ltd

Pros	Cons
<ul style="list-style-type: none"> <li>• More business-like legal practice.</li> <li>• Generates income for the Councils through surplus, rent and dividends.</li> <li>• LGSS Law has an established clientele in the market</li> <li>• Reduces external legal spend.</li> <li>• Increased transparency of costs</li> <li>• Greater resilience through scale.</li> <li>• New areas of expertise.</li> <li>• Reduced costs of overheads.</li> <li>• More accurate billing as real money.</li> <li>• Clients will be more conscientious about spending on legal advice (demand management).</li> <li>• Greater efficiency through focus on core business.</li> </ul>	<ul style="list-style-type: none"> <li>• A need to manage client misconceptions (e.g. concerns about reduced availability, less contact).</li> <li>• Fear of change for staff (new employer).</li> <li>• Change for clients having to deal with finances, e.g. new billing processes.</li> <li>• More business-like (more rigorous processes), which some clients will need to adjust to.</li> </ul>

2. WCC and RBKC merge with LGSS Law Ltd (H&F Legal Service remains in-house)

Pros	Cons
<p>For WCC &amp; RBKC:</p> <ul style="list-style-type: none"> <li>• Generates income for the Councils through surplus, rent and dividends.</li> <li>• LGSS Law has an established clientele in the market</li> <li>• More business-like legal practice.</li> <li>• Reduces external legal spend.</li> <li>• Increased transparency of costs</li> <li>• Greater resilience through scale.</li> <li>• New areas of expertise.</li> <li>• Reduced costs of overheads.</li> <li>• More accurate billing as real money.</li> <li>• Clients will be more conscientious about spending on legal advice (demand management).</li> <li>• Greater efficiency through focus on core business.</li> </ul>	<p>For WCC &amp; RBKC:</p> <ul style="list-style-type: none"> <li>• Some reduction in benefit of increased resilience compared to option 1.</li> <li>• A need to manage client misconceptions (e.g. concerns about reduced availability, less contact).</li> <li>• Fear of change for staff (new employer).</li> <li>• Change for clients having to deal with finances, e.g. new billing processes.</li> <li>• More business-like (more rigorous processes), which some clients will need to adjust to.</li> <li>•</li> </ul>

### 3. Shared Legal Services creates its own ABS

Pros	Cons
<ul style="list-style-type: none"> <li>• More management control.</li> <li>• Ability to do some work for external clients (potential capacity issue).</li> <li>• More commercial and business-like.</li> <li>• Some reduction in external legal spend.</li> <li>• Generating some income for the Councils through surplus, rent and dividends.</li> <li>• Increased transparency of costs.</li> <li>• More accurate billing as real money.</li> <li>• Clients will be more conscientious about spending on legal advice (improved demand management).</li> <li>• Greater efficiency through focus on core business.</li> </ul>	<ul style="list-style-type: none"> <li>• Requires lengthy regulatory set-up process (12 to 18 months).</li> <li>• Officer time and cost in creating an ABS.</li> <li>• May fail as a project if license not granted by SRA.</li> <li>• Loss of opportunity to join ABS case management system (new procurement required).</li> <li>• Increased risk in market as a new business.</li> </ul>

### 4. Remain As Is (with continuous improvement)

Pros	Cons
<ul style="list-style-type: none"> <li>• Continue to increase transparency of finance and billing.</li> <li>• Increased efficiency with a new case management system (requires procurement).</li> <li>• Continue to improve staff compliance on time recording and billing processes.</li> <li>• Less change for staff</li> <li>• No change for clients</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced scope for improvement in business approach / transformation.</li> <li>• Less opportunity to grow new areas of expertise.</li> <li>• Inability to generate income, such as through surplus, rent and dividends.</li> <li>• Lost opportunity to drive change in clients' behaviours in relation to costs.</li> <li>• More difficult to manage demand.</li> <li>• Loss of opportunity to join ABS case management system (new procurement required).</li> </ul>

**External Legal Spend Cost Reduction Validation**

A validation exercise has been conducted to test whether at least 50% of existing external legal work can be delivered in-house or whether specialist external expertise would continue to be required. The tables below show a breakdown of current external legal spend by type of work and indicate the percentage of this work that can be delivered in house now or later as part of the larger LGSS Law organization.

Validation of Total (16/17) External Legal Spend Deliverable in-house (WCC)

Type of work	External legal spend	Deliverable in-house now?	Deliverable in-house as part of ABS?	Requires external legal expertise	Total spend deliverable in-house	% of external spend
Contracts	222,746		✓ □ 90%	✓ □ 10%	200,471	90%
Debt Recovery	83,700		✓		83,700	100%
Education	46,645		✓		46,645	100%
Housing	195,526		✓		195,526	100%
Mixed	213,054		✓ □ 90%	✓ □ 10%	191,749	90%
Property	659,082	✓ □ 5%	✓ □ 75%	✓ □ 20%	527,266	80%
Social Care	1,702	✓			1,702	100%
<b>Total</b>	<b>£1,422,455</b>				<b>£1,247,058</b>	<b>88%</b>

Note: WCC figures include revenue (general fund), capital and HRA revenue funded external legal spend.

Validation of Total (16/17) External Legal Spend Deliverable in-house (RBKC)

Type of work	External legal spend	Deliverable in-house now?	Deliverable in-house as part of ABS?	Requires external legal expertise	Total spend deliverable in-house	% of external spend
Charity	10,600			✓	0	0%
Contracts	192,879		✓ □ 90%	✓ □ 10%	173,591	90%
Employment	27,572	✓ □ 90%		✓ □ 10%	24,814	90%
Parliamentary	2,097			✓	0	0%
Property	717,671		✓ □ 80%	✓ □ 20%	574,137	80%
<b>Total</b>	<b>950,818</b>				<b>772,542</b>	<b>81%</b>

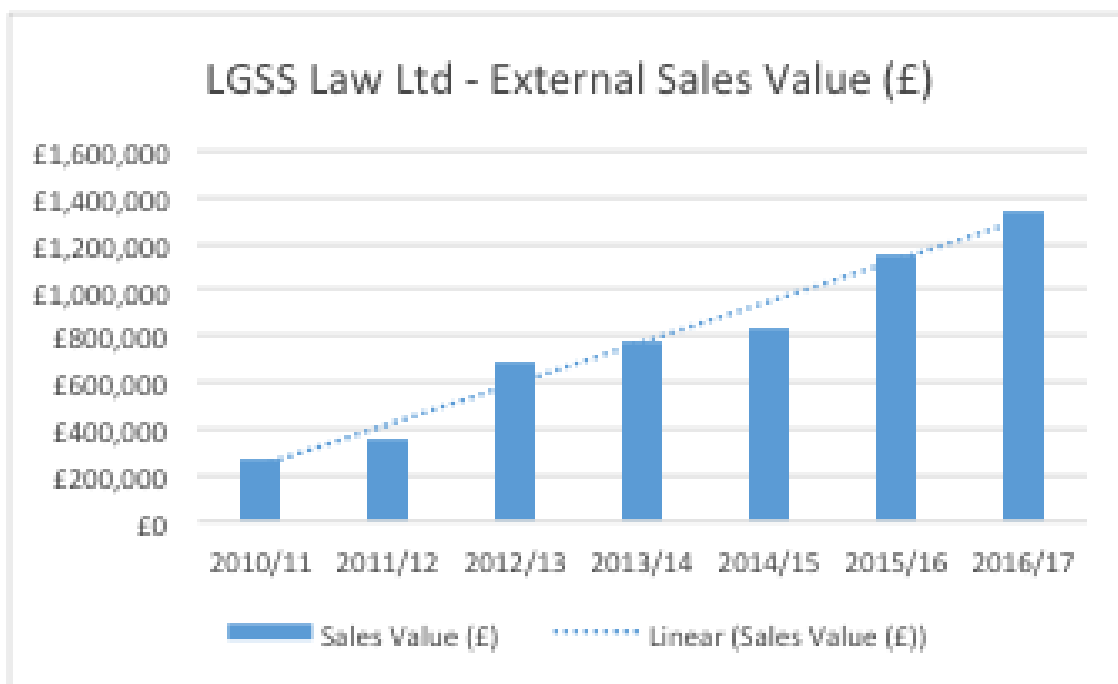
Note: RBKC figures include revenue (general fund) and capital funded external legal spend.



The analysis shown in the tables above indicates that there is a potential to bring at least 80% of existing external legal work in-house (to LGSS Law) and deliver it for 30% less than current costs. As part of the next stage, a detailed analysis by Finance is required of actual legal spend in departments. Departmental agreement will then be required to claw back appropriate budgets so that the savings projections can be realised.

**LGSS Law Historic External Sales Value**

Year	Sales Value (£)	Sales Growth (%)	Average Sales Growth (%)
2010/11	264,301		
2011/12	352,585	33.4	
2012/13	694,298	96.92	
2013/14	775,428	11.7	
2014/15	830,000	7.0	
2015/16	1,156,630	39.4	
2016/17	1,333,336	15.3	34.0



## Risks

## APPENDIX E

No.	Risk	Negative Consequence	Mitigation
1	There is a risk that the Councils (as only a part shareholder) will not be able to protect their interests and receive the legal service they require if the ABS fails to deliver.	Increased costs as Council departments look to external firms for the service they are not receiving from the ABS.	<ul style="list-style-type: none"> <li>- Need clear and acceptable contract terms to protect the Councils' interests, e.g. exit arrangements and performance management</li> <li>- Independent Legal firm to advise, mediate contract negotiation and finalise all legal documents</li> </ul>
2	There is a risk of conflict of interest if the ABS is acting for both sides of a dispute between two shareholder boroughs. Authorities now need assurance that acting in best interest.	<ul style="list-style-type: none"> <li>- Lack of trust in the Legal Service that it is acting in the Council's best interest.</li> <li>- Potential increased costs if the Council looks to an external firm to act for it instead.</li> </ul>	<ul style="list-style-type: none"> <li>- Require right arrangements within the ABS to flag and manage any potential conflicts of interest (e.g. Chinese walls), which will be easier as the ABS will be in six locations and can physically separate lawyers and files</li> <li>- Need to manage perception of Members as part of stakeholder engagement. And if necessary send work to external solicitors</li> </ul>
3	There is a risk that the move to a more invoice driven relationship (and if the service re-locates) will negatively impact the day-to-day client relationship with Legal Services.	<ul style="list-style-type: none"> <li>- Reduced client satisfaction.</li> <li>- Client relationships more transactional and less strategic.</li> <li>- Less ability to horizon scan and anticipate client requirements.</li> </ul>	<ul style="list-style-type: none"> <li>- Client relationship management approach needs to be defined including finance set aside to fund day-to-day conversations with Legal.</li> <li>- Communicating clearly the benefits (transparency of costs, potential demand management)</li> <li>- Working with clients to help them change their process. Ensure visibility of staff in all locations</li> </ul>
4	There is a risk that the ABS will not be able to provide (or be perceived to be providing) value for money for existing shareholders.	<ul style="list-style-type: none"> <li>- Client dissatisfaction with ABS legal service leading to increased external legal spend.</li> <li>- Possible decision to exit the ABS contract.</li> </ul>	<ul style="list-style-type: none"> <li>- Preferential hourly rate for shareholder Councils equating to 18% discount from not-for-profit rate.</li> <li>- Transparency on costs drives greater discipline on legal spend</li> <li>- SLAs and performance monitoring.</li> </ul>
5	There is a risk that the boroughs will be unable to absorb the required change for managers due to the scale of	- Managers are unable to engage with the change and do not understand how to engage legal support following go-live.	- Need to fully understand and manage impact of change on managers, local and central Finance teams. Communicate the changes and the

## Risks

## APPENDIX E

No.	Risk	Negative Consequence	Mitigation
	change already underway.	<ul style="list-style-type: none"> <li>- Negative perception of the ABS due to 'bumpy' go-live &amp; transition.</li> </ul>	timescales and provide extra support to clients who are not heavy users of the service.
6	There is a risk that Shared Legal Services will lose the productivity gained from new ways of working (e.g.using Office 365) if the service moves to the ABS's ICT environment.	<ul style="list-style-type: none"> <li>- Staff disappointed to lose good IT experience in move to ABS.</li> <li>- Some loss in productivity as flexible working less effective.</li> </ul>	<ul style="list-style-type: none"> <li>- Communicate benefits of better invoicing, case management etc enabled by move to ABS as part of communication and engagement approach. Identify and communicate the advantages of ABS IT cloud eg speed.</li> </ul>
7	There is a risk that the Shared Legal Services ABS does not have the capacity to take on additional external work.	<ul style="list-style-type: none"> <li>- Shortfall in realising business case external income projection. Reduced dividend payment (to that projected) for shareholder councils.</li> </ul>	<ul style="list-style-type: none"> <li>- Business development focus required including definition of service offers (building on strengths &amp; specialisms) and target clients to make up the 20% of external business.</li> </ul>
8	There is a risk that staff who currently cover transactional activities will feel disengaged if this work moves outside London and anxious about covering higher value work.	<ul style="list-style-type: none"> <li>- Increased staff turnover.</li> <li>- Disengagement with the desired culture change and objectives of the programme.</li> </ul>	<ul style="list-style-type: none"> <li>- Likely to affect very small number of staff - one to one communication of the reasons for the change and target benefits.</li> <li>- Management of the change including for staff taking on new and more challenging activities.</li> </ul>
9	There is a risk that there is a gap in the commercial skills (e.g. business development) and culture (e.g. commercial mindset, responsiveness) required to make the move to an ABS a success.	<ul style="list-style-type: none"> <li>- Failure to develop the external business effectively leading to a shortfall in the business case income projection.</li> </ul>	<ul style="list-style-type: none"> <li>- ABS programme of learning and skills development in business development.</li> <li>- Shared Legal service will have access to the ABS's existing market.</li> </ul>

**Risks****APPENDIX E**

<b>No.</b>	<b>Risk</b>	<b>Negative Consequence</b>	<b>Mitigation</b>
<b>10</b>	There is a risk that there will be a loss of Member control over senior appointments with a move to an ABS. The Director of Law is currently appointed by a panel of councillors from the three Councils.	<ul style="list-style-type: none"><li>- Perception by Members of loss of influence / control over appointment of senior Legal officers.</li><li>- Reduced buy-in to the change at Political level.</li></ul>	<ul style="list-style-type: none"><li>- Agree approach for Snr Officer appointments ensuring appropriate Member influence as part of finalising contracts.</li><li>- Clearly describe how future senior appointments will work in Key Decision reports.</li></ul>
<b>11</b>	There is a risk that the ABS will not be able to provide value for money and be competitive in the market and will be unable to win new external business.	<ul style="list-style-type: none"><li>- Shortfall in realising business case external income projection. Reduced dividend payment (to that projected) for shareholder councils.</li></ul>	<ul style="list-style-type: none"><li>- Business leadership to drive the required change in culture.</li><li>- Programme of learning &amp; skills development. Shared legal have access to ABS's existing market.</li><li>- Focused business development approach (exploiting competitive advantages)</li></ul>