

<b>TITLE</b>	<b>Contract for Legal Advice for Adults &amp; Children's Services</b>
<b>FOR CONSIDERATION BY</b>	The Executive on Thursday, 16 February 2023
<b>WARD</b>	None specific
<b>LEAD OFFICER</b>	Director, Children's Services - Helen Watson, Director, Adult Social Care and Health - Matt Pope
<b>LEAD MEMBER</b>	Executive Member for Children's Services - Prue Bray, Executive Member for Health, Wellbeing and Adult Services - David Hare

## **PURPOSE OF REPORT (INC STRATEGIC OUTCOMES)**

The purpose of this report is to seek approval from Executive of the “Heads of Terms” (attached as Appendix 1) which will inform the new 5 year Shared Agreement for the Joint Legal Team (JLT) serving Adults’ and Children’s Services which will involve expenditure of approximately £4.6 million over 5 years.

## **RECOMMENDATION**

That the Executive:

- i) approves the continuation of provision of adults and children’s legal services by the Joint Legal Team based in Reading Borough Council on the basis of the “Heads of Terms” (appendix 1); and
- ii) delegates to the Director of Children’s Services and Director of Adults’ Services, in consultation with the relevant officers in legal, finance and service areas, authority to enter into a contract for joint services with Reading Borough Council.

## **EXECUTIVE SUMMARY**

The Joint Legal Team (JLT), established in 1998, is a shared service comprising a partnership of six Berkshire local authorities which delivers legal services to Wokingham’s Children’s and Adults’ directorates. The JLT is hosted by Reading Borough Council.

The most recent Shared Service Agreement for the Joint Legal Team was signed in 2013.

A review by the Berkshire Chief Executives in 2019 found charging anomalies between the authorities, and in 2020 the newly formed Joint Legal Governance Board, chaired by Susan Parsonage, concluded that the 2013 agreement was no longer serving the needs of the partnership.

As a result a year-long piece of work was initiated to review the Shared Service Agreement to ensure that all partners could realise the benefits of operating as a joint service.

This piece of work has led to the drafting of a “Heads of Terms” on the basis of which the new Shared Service agreement will be created. These Heads of Terms have been approved by the Joint Legal Governance Board for partners to take through their respective local governance processes for approval.

It is recommended that Executive approves these “Heads of Terms”.

## **BACKGROUND**

The Joint Legal Team (JLT) was established on 1<sup>st</sup> April 1998 to provide shared legal services to the Children's Social Care Directorates of the six Berkshire Unitary Authorities: Wokingham Borough Council; Bracknell Forest Council; Royal Borough of Windsor and Maidenhead; Slough Borough Council; Reading Borough Council; and West Berkshire Council.

The JLT is hosted by Reading Borough Council.

Today the JLT has expanded to provide the following legal services to Wokingham Borough Council:

1. Children's Services advice including pre-proceedings and adoption;
2. Advice on Judicial Review, principally concerning unaccompanied minors, asylum seekers, and the "child" status of refugees;
3. Adults Services and Special Education Needs; and
4. Training related to the above.

The above services all relate to 'proceedings' where the Council is a party. Currently there is a view that in addition to the above, corporate advice related to Adults & Children's Services is required. This will be addressed in a revised specification of services.

The most recent shared services agreement for the JLT, signed by all six councils was put in place in 2013, and was considered in a review of the JLT by the Berkshire Chief Executives in October 2019.

The 2019 review noted that a mixture of charging mechanisms had developed over time as well as recognising that some councils had taken a procurement approach to purchasing JLT services outside the 2013 shared services agreement. This had resulted in some councils being charged more per hour for services than others for the same work.

In 2020, the newly established quarterly Joint Legal Governance Board, chaired by Susan Parsonage and with senior attendance from each partner authority's Children's Services, concluded that this arrangement was not sustainable or desirable.

As a result of the Board's conclusions, a new "Heads of Terms" for the Joint Service has been drawn up following extensive consultation with the six partner authorities which, once approved by all partners at Executive level, will inform a new Shared Service Agreement.

The "Heads of Terms" was approved by the Joint Legal Governance Board for submission through each partner authority's local Executive governance process for sign-off in October 2022.

## **BUSINESS CASE**

The provision of a shared legal service offers a number of benefits including:

- Economies of scale
- Pooling of expertise and specialisms
- Resilience and business continuity

The aim of the new Shared Service Agreement will be to provide assurance to all partners that these benefits will be realised.

The “Heads of Terms” which will inform new Shared Service Agreement:

- Clears away all the previous contractual agreements and replaces them with clear mutual commitments, re-establishing JLT as a fully shared service, not a contracted service with all Berkshire authorities;
- Commits partners to a pooling of resource in JLT to ensure efficiency and effectiveness of delivery of legal services through the peaks and troughs that a single council might encounter; and
- Commits partners to sharing the skills and experience accumulated in the JLT centre of excellence to achieve better performance of social care and education functions and demonstrable cost reductions.

The objectives of the new Shared Service Agreement are that:

- The JLT will be run on a cost recovery basis for all partners and all work types;
- The Joint Legal Governance Board will oversee any future service developments and any resulting changes to the financial model;
- The JLT will consider ways to move away from billable hours to more certain fixed costs to facilitate better budget planning for partners. Moving towards more certainty of cost for partners might mean, in any one year, that the JLT could over or under recover. This would be handled through JLT aiming to break even over a rolling three-year period.
- A value for money service is provided with a focus on continuous improvement in the efficiency of the team, and transparency of costs.
- The JLT will be accountable for its work and provide the necessary information to allow partners to track their expenditure and manage their operations effectively.
- Complex and high cost cases are monitored closely to ensure these are delivered efficiently, effectively and economically;
- Value added services are provided such as general advice and training which allow all partner Councils to take advantage of the expertise of the JLT.
- JLT participates in the improvement of social care and education services in Berkshire, raising standards across the partnership.

There are no financial consequences arising from the new Shared Service Agreement itself. Although the partner councils are not required to procure services from the Shared Service, they are still required to assure themselves of the best value duties of efficiency, effectiveness and economy. If however, the Shared Service did not continue there would be a one off cost of unravelling the service (or Wokingham’s part of the service) with a likely cost for possible redundancies.

It is proposed that best value duties are achieved through scrutiny of the JLT at the quarterly Joint Legal Governance Board in accordance with the governance structures set up after the 2019 review and developed since then.

The Board is currently seeking a Director of Adults Social Services (DASS) from each partner to join the Board in recognition of the growth in legal work in this area.

In summary, the 2019 review by Berkshire Chief Executives noted that JLT provides a good quality service that is held in high regard. The majority of the concerns raised by Partners within the Shared Service were driven by increasing costs resulting from increased demand or more complex demand, and anomalies in charging structures between partners.

The “Heads of Terms” document is attached as appendix 1 to this report.

### **Alternatives to the Recommendation**

The review of the service also considered (i) provision of the services by a private sector legal provider (ii) seeking alternative shared services with other Councils and (iii) repatriation of services to Wokingham.

A private legal provider is not recommended due to the lack of providers who would be able to offer a service tailored to Wokingham’s needs at the same costs. It is considered that costs would be inflated beyond those currently paid.

An alternative shared service is also not recommended due to the lack of services ready and willing to offer this. It is likely that the cost would be at best no better than that of the JLT and such a service would not be proximate to Berkshire or its courts leading to increased costs.

Repatriation of services to Wokingham would deliver service at a comparable unit cost. However, there would be a serious reduction in capacity which would require any peaks in services to be outsourced which in turn increases the costs above that offered by the JLT. Having direct control and influence over the service has benefits but these are not considered to outweigh the financial cost. Further, influence is now being asserted through the Joint Legal Governance Board and the increased emphasis on reporting back to partner councils and transparency.

### **Recommendation**

The “Heads of Terms” informing a new JLT Shared Service Agreement builds on improvements and allows the JLT and Partners to work effectively in the future to realise the benefits offered by delivering services through a joint arrangement.

As such it is recommended:

That the Executive approves:

- i) the continuation of provision of adults and children’s legal services by the Joint Legal Team based in Reading Borough Council on the basis of the “Heads of Terms”; and
- ii) Delegates to the Director of Children’s Services and Director of Adults’ Services, in consultation with the relevant officers in legal, finance and service areas, authority to enter into a contract for services with Reading Borough Council.

## FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	n/a	n/a	n/a
Next Financial Year (Year 2)	n/a	Yes – see below	Revenue
Following Financial Year (Year 3)	n/a	Yes – see below	Revenue

### Other Financial Information

Legal costs incurred through the JLT arrangement are budgeted for within Children's Services and Adult Social Care. Services are demand led and therefore budgets are set through the MTFP.

There are no direct financial implications arising from the new Heads of Terms, however these do provide for a more robust, transparent approach to financial monitoring and reporting of legal costs. This approach ensures that the delivery of efficient, cost effective services is at the heart of the agreement, demonstrating value for money for all partner local authorities.

Savings deliverable through improved management information and a more transparent approach to costs and cost drivers that the Heads of Terms supports, have already been included in MTFP figures for Children's Services.

### Stakeholder Considerations and Consultation

N/A

### Public Sector Equality Duty

The report relates to the continuation of a joint service which is already operating. There are no equality implications of the new joint services "Heads of Terms".

**Climate Emergency – This Council has declared a climate emergency and is committed to playing as full a role as possible – leading by example as well as by exhortation – in achieving a carbon neutral Wokingham Borough by 2030**

The decision will have no impact, positive or negative, on achieving a carbon neutral Wokingham by 2030, although the benefits of a shared service through pooled accommodation and energy consumption will continue to support regional and national climate change goals.

### Reasons for considering the report in Part 2

Not applicable.

### List of Background Papers

Appendix 1: JLT Heads of Terms.

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