

1. The Strategic Case for Integration

The alignment with Council strategies

1.1 As employers, service providers, regulators and landowners, both Councils have a substantial demand for legal advice and advocacy. To date that has been provided by two small in-house practices with elements, such as specialist advice and higher courts advocacy, being bought from the private sector.

1.2 However, both legal services are facing an increased demand for services, and an increased complexity in the issues they have to deal with, to support the changing nature of Council operation. For example, there is likely to be growing demand for legal support to enable the Councils to be more robust and creative in dealing with procurement, property and contracts matters to support new commissioning strategies. There may be a need for corporate governance and specialist advice on partnering arrangements with the public, private and other sectors, as the Councils explore more radical options for delivering services and possibly consider which functions they may no longer exercise.

1.3 Therefore while there is a need for improving efficiency in both Councils, **the key driver in this case is not to primarily reduce costs but to future proof the authorities by ensuring flexible, resilient and skilled legal services are in place which can support the Councils' future strategies.**

1.4 More generally, the Lewes Change Management Programme (CMP) outlines the need to redesign the Council around an operating model which focuses Corporate Services on providing professional guidance and support. Eastbourne's Future Model Phase 3 may reshape professional support functions around a customer-centric operating model encouraging cross-skilled specialist, case management and transactional roles. Both strategic directions are supportive of appropriate partnering and sharing arrangements which provide best value for money and quality of service to residents. This business case seeks to align with the principles of both these strategic directions.

How customer needs are better met

1.5. Experience from the various shared service initiatives suggests 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;
- Managed costs in the face of increased demands;
- Improved career opportunities for staff;
- Improved ability to recruit and retain the best staff;
- Greater resilience to undertake day-to-day operations
- Improved and consistent service to client departments.

1.6 An integrated service will allow the services to:

- Build a critical mass of experience and improve flexibility to meet unforeseen customer demands;
- Develop a means of sharing legal expertise and providing a specialist knowledge base;
- Provide opportunities for training / professional development / development of special expertise;
- Provide opportunities in the longer term for income generation.

The issue of recruitment (and retention) of skilled staff is at the centre of the case for a shared service. Independently both Eastbourne and Lewes services have had significant problems in recruitment, examples of which are given below.

In 2009 in Eastbourne, due to staff leaving, all 3 senior lawyer posts (Contracts, Property and Regulatory & Litigation) were filled by locums or temporary staff. There was only one appointable candidate in relation to the Regulatory & Litigation Role. Since 2011 a locum has worked for the service, originally providing cover during maternity leave, staying on to provide much needed resilience to the team. He left in January 2013 but during 2013 the Regulatory & Litigation Lawyer left and the locum was required to return to cover his work, on a zero hours contract.

In Lewes, recruitment for a Senior Lawyer (Regeneration Projects) was undertaken in December 2013, with a salary of £42,700 - £45,700. There was only one appointable candidate, who declined the offer. The recruitment was rerun in April 2014. This time, there

was only one application, and the applicant was unsuitable. Lewes is currently using a locum lawyer at a rate commensurate for the skills and experience of the particular locum, but a rate that would be, over the course of the year, considerably in excess of in-house legal staff.

How integration supports budget restraint

1.7 Expenditure can be reduced via the benefits from

- Reduction of expenditure on external advice,
- A streamlined case management approach to provision of services so that resources are applied at the correct level of expertise
- Reduction of expenditure on staff due to each authority having access to a wider range of legal skills (e.g. shared litigator) and improved ability to recruit and retain, leading to a reduction in the need for locums. (There is a measure of shared working between the two authorities already in that Lewes' litigation lawyer undertakes prosecution work for Eastbourne.)

1.8 Regarding expenditure on external advice, there may be some scope to reduce external spend, particularly in relation to the use of Housing Law Services by EBC. However, the need for some areas of external advice will not be eliminated e.g. employment law; commercial property transactions.

The overall benefits for the Councils

1.9 The cashable and non-cashable benefits to the organisations from a shared service model are suggested to include

- Greater resilience and stability for the service;
- Reductions in external legal spend through additional internal specialism;
- Provision of appropriate, high quality and timely advice and other aspects of high quality customer service;
- Provision of more attractive roles for legal services staff including significant staff development and career options;
- Legal services to be more involved in proactive problem solving;
- Solutions to succession planning issues;

- Legal services specialists to spend the maximum time on complex legal issues, delegating more routine tasks to more junior staff;
- Improvements to the flow of work through better case management

The key risks for the Councils

1.10 The risks that will require managing include:

- Implementation. The managerial capacity to deliver effective implementation is not given time and opportunity. The implementation may need to be delayed or the benefits may not be realised as anticipated.
- Conflicting demands. Key resources may be required by Councils simultaneously. If high levels of demands from the Councils occurs at the same time, which will need addressing through robust case management and allocation of work.
- Possibility of conflicts. Differences in the local service priorities between the two partners may emerge. A clear understanding of expectations will be needed and consolidated as part of service level agreements. Continued, regular client review meetings will need to highlight problems early on.

2.1 The Economic Case for Integration – Ambition

The overall measures of success

2.1.1 The critical measures to assess the success of a shared service for clients will be:

- Reduced external spending due to accessing a greater range of expertise, through wider, and more specialist, group of advisors;
- Greater customer satisfaction - a more responsive service involving closer involvement with clients, more rapid delivery of advice and case work through enhanced processes and monitoring
- Improved managerial control through clear service standards and mechanisms being put in place to monitor and respond to issues and Improved case management involving case progress and performance allowing for service risks to be better managed and planned. A case management system will free up lawyer time, allowing for more involvement in strategic and proactive advice.
- Retention of key legal staff locally but with cover when not available, thereby providing more continuity and resilience;
- A case management system will free up lawyer time, allowing for more involvement in strategic and proactive advice.

2.1.2 For legal services staff the critical measures of success will be:

- Improved career progression and wider opportunities to progress through specialisation;
- Maximising the time spent on legal work with less on management or administration;
- Reduction in reactive work and increases in proactive work through improved practice management arrangements and client interactions;
- Effective introduction of a practice management role will improve the working arrangements with clients which will for example reduce time spent following up unclear instructions.

What options are open to the Councils?

Option 1. Joint Council owned company.

An ultimate ambition for a shared service may be the establishment of a 'Teckal' company to provide the services. Both Councils would have joint control over the new company similar to that which they exercise over their own departments, which would allow them the power to exert decisive influence over strategic objectives and significant decisions. The company would carry out the 'essential part' of its activities with the controlling contracting authorities, albeit with the ability to extend activities to the provision of legal services to other public sector bodies. Potential public sector clients could include town and parish councils, the Sussex Police Authority and local Higher Education institutions. Extending services to other bodies might enable the company to expand its range of expertise with obvious benefits for Eastbourne and Lewes. An example is engaging an employment lawyer in the event that sufficient additional work could be generated to justify the new post. In principle the cost of such additional resources would be paid by generating fee income from new clients.

It is also felt that such a company would find it easier to hire and retain high-quality staff, attracted by the prospect of working in an innovative new company set-up. The viability of this option has yet to be explored in terms of whether Solicitors Regulation Authority approval would be forthcoming for the structure. There is also a potential barrier in terms of the insurance costs normally levied on law firms. Specialist legal advice has been sought and is pending.

Therefore, it is suggested that at this stage, the establishment of a 'third party' entity would be too great a step. Both Councils have a close relationship with their legal services which sees them use them as trusted advisers on both informal and formal bases. Moving straight to a more market-oriented service could introduce a degree of separation and distance from departments which would not be welcomed by clients.

Option 2. Joint management of separate teams.

Bringing the management of two existing teams would essentially build on the close relationship between the two teams currently in existence. It would allow greater sharing of knowledge, and with a single oversight possibly allow better allocation of work across the commercial and regulatory functions.

However, this option would not address the key issue of resilience. Legal staff would still first and foremost be working to their employing Council's requirements, with little ability to support each other not least because of the maintenance of separate working systems and practices. A joint management would be able to see sharing potential, but not be able to implement it practically.

Option 3. Single shared service under a 'lead provider'.

This model is for a fully collaborative partnership arrangement that allows for highly effective access to quality advice. This would be achieved by bringing together the range of available skills and expertise within Eastbourne and Lewes, managed through a single approach approaches to case management, client delivery standards and streamlined processes. A shared Practice Management would be introduced, in line with emerging best practice elsewhere, to allocate work across the partnership and undertake much of the overall management.

Since the staff are a fully shared resource, a new case management approach would be established to ensure priorities are managed equally. The best practice of both services would be adopted – the procedural discipline of LDC's Lexcel accreditation and the Agile working of EBC's team - which would ensure effective management of processes and the flow of work managed in line with the requirements specified by clients.

The complementary nature of respective skills and expertise across Eastbourne and Lewes service suggest that a real synergy exists and the 'sum; of the two services can be greater than its parts – illustrated here:

	Property	Planning	Litigation	Corporate Projects
EBC	strength			strength
LDC		strength	strength	

Option 4. Maintain the status quo.

Given the increasing demand for legal services, this is likely to result in more work being put out to the private sector, at rates which are much higher than the costs of employing legal staff. Maintaining the current small size of separate legal practice also reduces their resilience, depth of expertise and overall efficiency. It does nothing to address the potential

for losing existing staff over the next 12 to 24 months, and concerns as to whether suitable replacements can be recruited (see above analysis of recruitment & retention issues).

Which option is preferred?

2.1.3 In summary, the potential merits of the options can be appraised as follows:

LEGAL	Greater resilience	Staff retention / develop'nt	Reduced external spend	Better specialist service	Efficiency savings	Meeting client needs
Joint Council owned co.	high	high	high	high	medium	medium
Joint mgmt of separate teams	medium	low	medium	medium	low	high
Lead provider / TUPE over	high	medium	high	high	medium	high
Status quo	low	low	nil	low	nil	medium

2.1.4 **The proposed approach is to establish a shared service under a lead provider (option 3)**, with the aspiration and ambition being to move – once the shared service has ‘bedded in’ and capacity issues are addressed – to establishment of a joint Council owned company (option 1). The preferred lead provider would be Lewes, with EBC staff transferred over. There may also be potential in the future to extend the service to include other local authorities which are seeking to gain benefits from integration and sharing of legal services.

2.2. The Economic Case for Integration – current baseline

Current Costs and Resources

2.2.1 Current costs are shown in the report to put the activities into context, rather than as a fundamental part of the businesses cases. Looking forward, they will be important to determine a baseline against which future savings can be measured and shared between EBC and LDC. The net costs of the Legal service for comparative purposes – using 2014/15 budgets - are:

- EBC £251,100
- LDC £396,190

In Eastbourne, expenditure on external advice has been high. Without including Towner Art Gallery litigation work, expenditure has been on an upward trend:

09/10	10/11	11/12	12/13	13/14
£39,858	£34,851	£267,034	£122,175	£357,045

In Lewes, external spend has been less significant.

12/13	13/14
£7,670 (for Litigation, Housing, Planning)	£13,750 (for Planning, Litigation)
£12,295 (for Property, Planning)	£15,674 (for Property / 49 sites)
Total £19,965	Total £29,424

2.2.2 Staffing levels (FTEs) are:

Eastbourne

Lawyer to the Council	1.5 (0.5 to maintain service levels charged to non-legal service budgets)
Regen and Corporate Project Lawyer	1
Property Lawyer	1
Regulatory & Litigation Lawyer (vacant)	1
Paralegal	1

Lewes

Assistant Director	1
Head of Legal Services	1
Solicitors	2
Senior Lawyer (vacant)	1
Legal Assistant	0.4
Administration Officer	1

It is envisaged that the unfilled vacancy for a senior lawyer, currently being provided by a locum, could be replaced with a junior lawyer post.

Key Systems and Processes

2.2.3 Legal case management (LCM) is a common feature of the efficient legal practice in both the private and public sectors. LCM is designed to leverage knowledge and methodologies for managing the life of a case or matter more effectively. Generally, LCM involves case management software (a “case management system”) and associated workflow routines.

2.2.4 EBC currently use Civica Legal, LBC use Iken as the case management systems which are fundamental to how each stores their information and work. While integration will involve at least one of the two legal teams using a new system, it will be imperative that decisions are made which work for the medium term so that further system changes are not required in the short term, with all of the staff time and data access risks that would represent. Investigations are ongoing into the costs of the new service adopting a Lexis Nexis case management product which East Sussex and Brighton & Hove Councils are currently considering procuring on a joint basis. With an eye to the future it would seem sensible for EBC and LDC, if making a change to their existing case management systems, to consider advantages of joint procurement with these authorities. Further details will be provided once obtained.

2.2.5 In terms of processes, it is worth noting that LDC are Lexcel accredited and this standard would be maintained under a joint service. Lexcel is the Law Society's practice management standard designed for the legal sector. The benefits of Lexcel include the development of consistent operational efficiencies.

Key issues affecting performance

2.2.6 Currently performance measures such as end to end times for progressing cases, volume of work undertaken, chargeable hours or other measures are not available. The main concern relates to the size of the team, and their capacity to deliver what the Councils actually should require of them.

2.3. The Economic Case for Integration – the New Model

Functions to be integrated

2.3.1 The proposal which forms the basis of this business case would see all current legal functions to be integrated into a joint service, with the exception of the Information Officer role in Eastbourne, which is quasi legal and, while sitting within EBC's legal team, will be subject to consideration of corporate review. (An ambition is for this joint service to form a joint Council owned 'Teckel' company subsequently).

2.3.2 Employment law advice would not be within the expertise of the new service, and would still be procured from external providers.

2.3.3 ESCC currently provide a cost-effective and efficient service to Lewes on debt, which it is envisaged would continue. Housing Law Services are used by Eastbourne Homes, and it is envisaged that this service could be provided in-house. Leasehold issues currently dealt with by LDC Legal team could and should be transferred to the LDC housing team.

2.3.4 The Monitoring Officer role is a issue requiring consideration by both Councils.

- The Monitoring Officer is a statutory role that sits with a designated officer. Its primary functions are to oversee the corporate ethics, probity and standards; maintain sound constitutional governance; and intervene in matters of possible maladministration and unlawful activity. In both LDC and EBC the current position is that the designated monitoring officer is the person(s) holding the most senior qualified lawyer role. However, this is not a requirement of the legislation.
- The statutory responsibility of the Monitoring Officer means that it is essential for that officer to be fully aware of all projects and intended decisions at the local authority. For that reason it is thought preferable that the Monitoring Officer should have a substantial 'on site' presence.
- It will be for both authorities to determine whether they would wish the monitoring officer role to be designated to qualified lawyers within the merged team or whether the designation should be part of the remit of a chief officer on the management team with access to legal advice from the merged team as required depending on the matter in hand. It is not crucial to this business case that both authorities have the same approach in this matter.

2.3.5 At Lewes the Local Land Charges Team (2 FTEs) report to the Head of Legal Services. In the event of a merger of any sort of the Councils' legal teams, it is recommended that the responsibility for Local Land Charges should transfer to Lewes' Head of Democratic Services, and the team work flexibly alongside the Electoral Services Team. This would assist in increasing election work capacity at peak times, and would mirror the structure at Eastbourne.

2.3.6 Procurement arrangements – for example in EBC where the Contracts Lawyer and staff from other teams work together – will be the subject of further review.

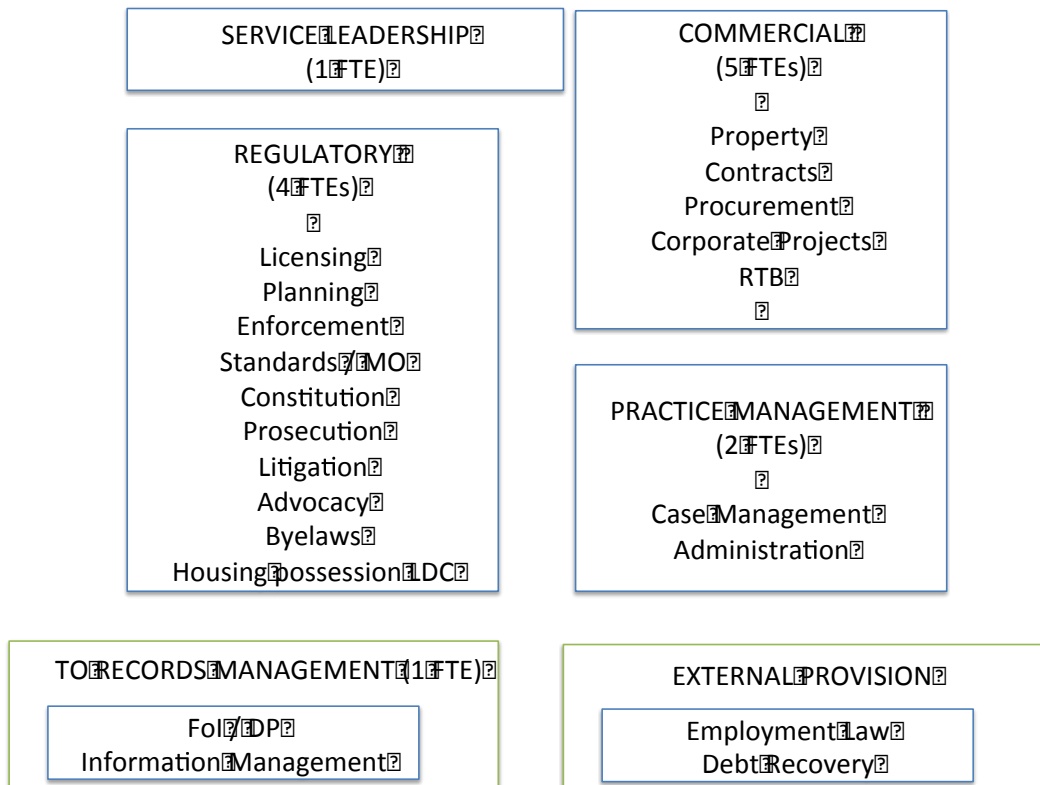
Performance Targets

2.3.7 The range of targets which the merged service would use to monitor its performance to client departments would be drawn from the following:

Clear roles and accountabilities	Customers and Service clear about responsibilities for delivery of agreed outcomes
Economies of scale	Reduced costs through joint procurement
Reduced staff attrition	Reduced costs of recruitment
Increased capacity to meet variations in demand	Service reduces or eliminates spend on additional staff to meet peaks in demand
Capability	Service trains own staff or recruits new skills to meet wider range of needs across partners
Strong specifications focused on performance	Customers agree that Service is delivering clear agreed outcomes
Processes designed around customers	Customer needs clearly identified and recognised as met by customers following process redesign
Increased levels of customer satisfaction	Customers agree Service is responsive and meets their needs
Appropriate accessibility	Customers agree access to Service meets their needs
Built in continuous process improvement	Customers acknowledge continuous improvement in services provided that meet their needs
Process simplification	Streamlined, simplified processes leading to increased customer satisfaction and/or increased capacity

Resourcing requirements

2.3.8 In the short-term, resourcing will remain at existing levels, although a new role in practice management would be developed from existing administrative staff. The provisional structure for the service would be as follows:



2.4. The Economic Case for Integration – Cost Benefit Analysis

NPV @ 3.5% p.a.						
	SERVICE: Legal					
	OPTION: Option 3 – Merged Service					
YEAR :	Year 1	Year 2	Year 3	Year 4	TOTAL	
CAPITAL COSTS (£ 000s):						
Purchase of Integrated IT System		10			10	
Purchase of Agile Technology		15			15	
A. Total Capital Costs (Annual)	0	25	0	0	25	
B. Total Capital Costs (Cumulative)	0	25	25	25	25	
REVENUE COSTS (£ 000s):						
Ongoing Increase IT System			7	7	7	
Training of Lexcel Requirements		5	5		10	
Practice Manager Salary Adjustment		7	7	7	28	
Restructuring Adjustments			25	25	75	
C. Total Revenue Costs (Annual)	0	12	44	39	134	
D. Total Revenue Costs (Cumulative)	0	12	56	95	134	
E. Total Costs (Annual) (A+C)	0	37	44	39	159	
F. Total Costs (Cumulative) (B+D)	0	37	81	120	159	
BENEFITS (£ 000s):						
Freeing up of Specialist Time			20	20	60	
Reduction of external strategic advice		15	50	75	265	
Reduction in Agency Staff		10	10	10	40	
					0	
G. Total Benefits (Annual)	0	25	80	105	365	
H. Total Benefits (Cumulative)	0	25	105	210	365	
NET UNDISCOUNTED COST* (F-H)	0	12	-36	-66	-206	
DISCOUNT FACTOR @ 3.5% p.a.	1.0000	0.9662	0.9335	0.9019	0.8714	
NET PRESENT COST* (Annual)	0	12	-34	-60	-183	
NET PRESENT COST* (Cumulative)	0	12	-22	-82	-183	
TOTAL NET PRESENT COST* =	-183					

2.4.1 The overall net present value of a shared service option is therefore estimated at £183,000 over a four year period. A move to the ambition of a 'Teckel' company would bring additional cost at point of establishment in regard to company set up, insurance and indemnities.

2.4.2 Costs involve:

- A single case management system for the shared service. The figure of £10,000 given in 2.4 above assumes the need to purchase additional licenses for the LDC Iken system, for use by Eastbourne staff. In addition, there may be data migration costs incurred Eastbourne Borough Council. In the future, there may be a business case to move to an entirely new case management system for the shared service.
- Training costs for new joint processes and where necessary, Lexcel requirements
- Purchase of equipment to enable Agile working

- Pay adjustments to reflect the new practice management roles, and any necessary reconfiguration following transfer.

2.4.3 Key cashable benefits involve:

- The freeing up of senior legal staff to undertake more 'fee earning' work
- The reduction of expenditure on third party external legal advice, which is needed to enable volume of workload to be delivered, plus the associated clienting costs to the internal services. Cases which involve issues of complexity which cannot be met from existing internal expertise will still require external support.

3. The Commercial Case for Integration

Procurement Approaches

3.1 There are no additional procurements required from the proposed new model.

Charging Mechanisms

3.2 Existing charging mechanism to both Councils will remain.

Risk Transfer

3.3 Operational risks will be transferred to the employing Council although these operational risks will be mitigated by way of a defined specification of service.

TUPE considerations

3.4 It is acknowledged that any merging will initially require operational staff to TUPE across on existing terms and conditions. The design phase for a new service will consider the staffing needs of shared services. FTE and skill-sets should be compared with existing staff structure, and where there is a case for employing additional personnel this will be considered. Conversely where there is surplus capacity / skills, there will be a need to restructure after merger.

3.5 However, conscious of the need for defined leadership of the merged team to be in place from the outset and clarity around the monitoring officer issue, it will be necessary to recruit to and define the senior roles of the merged team as part of the pre-implementation work. It is considered that the lead roles can be defined and ring fenced to the existing senior posts across the two current teams.

4. The Financial Case for Integration

Affordability and Impact on Review Budgets

4.1 The costs and benefits projected in the Economic case will need to be signed off by respective Heads of Finance with regard to affordability, recharging and impact on budgets prior to implementation.

5. The Management Case for Integration

How Implementation will be managed

5.1 The proposed option will be implemented following Cabinet approval. **It is suggested that implementation will run from October 2014, with an envisaged 'go live' date for April 2015.** The implementation phase will involve stages of Designing, Building and Rolling Out the new service, which may include the following activities:

Design	Build	Roll-out
Organisational and job design	Process design and new documentation	Manage relationship with clients (through Service Specifications)
Confirm governance framework and service specification	In-house training and building of skills as required	'Go-live' (phased or at once) and manage service
Design technology needs	Implement technology	
Design any physical location issues		
Communication with all clients		

Ensuring Deliverability

The management of the implementation will work alongside the LDC Transformation Strategy and the EBC continuing Future Model workstream. The Assistant Director, LDC will be the lead officer for its delivery, reporting to the Director of Corporate Services LDC / Deputy Chief Executive EBC.