

Shared Legal Service Operating Guidelines

1. The Shared Service Strategic Partnership Agreement

The SPA will be based upon similar shared service agreements in existence and the first draft has been received for comment.

2. Governance

The Partnership will be overseen by a Governance Board of the three Client Leads. The draft terms of reference are attached at Appendix A.

It is expected in the first instance the Board will meet monthly to ensure that the Partnership is being established correctly, to keep an oversight of the quality of case management, and to monitor costs and budgets.

But for the purposes of the smooth operation the following definitions have been agreed when discussing the service.

- Host Authority – South Staffordshire District Council
- Partner Authorities – all 3 Councils
- Client Lead - lead senior officer from each council
- Client - instructing officer
- Lead Lawyer – the lawyer in charge of allocating work and quality control
- Lawyer - lawyer doing the work
- External Lawyer - external solicitor/barrister
- Governance Board – the management group of the 3 client leads
- External Clients - Parishes etc who may use the service
- Third Party Cost Payers – third parties that pay the councils' costs for completion of legal work, e.g. s106, property, unilateral undertakings etc

3. The team and their specialisms

In the first instance the team, their qualifications and specialisms, and the hours dedicated to the partnership, per week, will be as follows:

David Pattison – Solicitor general / local government / elections (2 hours)

Lorraine Fowkes – Solicitor - general /local government (3.7 hours)

Manjit Dhillon – Solicitor – planning (37 hours (over 4 days))

Rachel Maddocks – Solicitor - regulatory services / litigation (37 hours) and Lead Lawyer

Sophie Sherratt – Solicitor – planning / property (37 hours (over 4 days))

Heather Dean – Solicitor – governance/contract/procurement (22.2 hours (over 3 days))

R Hill – Trainee Legal Executive – (22.2 hours)

E Green – admin support (no hours charged but available to support)

Work undertaken by the in-house team will be allocated and overseen by the lead lawyer. It is anticipated that the in-house team will be given the work that is commensurate with their capacity, conflicts and competency,

4. The Fixed Costs

It is anticipated that each council will meet a third of the costs that are fixed.

5. Variable Costs

It is recognised that the team will neither have, and nor should it, the capacity or the expertise, to complete all instructions from clients. On occasions the team may also have conflicts which make them unable to act.

In consequence, other legal providers including barristers, will need to be instructed.

This means that in any one given year, the service provided directly by the team might not be equally divided to the three partners – and more individual council's work might be privately instructed.

But we also recognise that councils will occasionally wish to instruct external solicitors on issues that are more complex and more extensive than is usual so we need to consider how such instructions are funded.

We need to ensure that the partnership is equitable but also that the costs apportioned to each council reflect the approximate value of work instructed.

Each council will make a contribution, initially, of £30,000 each per annum to fund private instruction.

At the year-end there will be a formal review of how these funds have been used to ensure equity and that the costs broadly reflect demand, and to revise the required sum for future years.

Budgets, instructions and invoices will be monitored by the Governance Board at its regular meetings.

6. Overheads

Other than those agreed to be incorporated within the 'fixed costs', there will be no additional overheads allocated to the partnership.

Each council will pick up its own overheads for the provision of the Client Leads and accommodation for the team.

7. Income

The partnership team will complete work where a third party pays. Such work will include the preparation of s106 agreements, unilateral undertakings and property transactions.

Any income generated by such work will be applied to the partnership budget and will reduce the contributions required from each partner.

In recent years, the council has generated around £7000, payable directly to it which has reduced the net cost of the service. It has also instructed external solicitors to complete works that was previously outsourced will be undertaken by the team.

The likely level of income for this type of work is estimated to be c£30,000 pa.

The partnership, if capacity and expertise allows, may also provide advice to selected public and voluntary sector clients. Such clients may include parish councils, other councils, and housing associations.

This work will be charged with a view to generating a surplus.

Again any such income will be used to offset partners' contributions.

8. Contributions from each council

It is anticipated that the contribution per council, after fee income, will be approximately £110,000 pa.

This will be reviewed frequently with a formal review completed annually.

9. Service Standards

It is anticipated that clients will be able to expect the following:

1. Access to the team via email, telephone and face to face.
2. Advice can be provided either verbally or in writing.
3. All requests, and advice provided, will be recorded.

4. A generic telephone number to be provided so that initial contact can be made more easily.
5. An out of hours telephone number to be provided – but only to be used in the most urgent circumstances.
6. A generic email address to be provided such that clients are not reliant on an individual Lawyer reading the email.
7. Email inboxes to be provided with sufficient capacity to accommodate usual business.
8. All Lawyers to use Out-of-office notifications if they are not available.
9. If immediate contact is not made, communications to be acknowledged within one working day.
10. Initial instruction form (request form) to be provided to each partner to enable easier exchange of information when raising issues initially by email.

11. Each case to be given a priority status by the client at first contact. Priority definitions to be as follows:
 - a. Urgent – initial contact to be by telephone - acknowledgement to be provided at once, response required urgently (within hours) (for instance, in the cases of enforcement, security, during an election, or immediately before a meeting)

- b. Immediate – initial contact to be by telephone - acknowledgement to be provided within hours; advice to be provided as soon as reasonably practicable (say within one working day)
 - c. Routine – initial contact to be at surgery or email with a request form completed by the Client - acknowledgement required within one day, and work to be incorporated within work programme and completed within 10 working days unless agreed otherwise by the Client and Lawyer.
12. The client to be advised of complexity and hence likely timescales for delivery.
 13. The client to be advised frequently of progress of the case.
 14. When complete, cases to be formally closed with agreement of client.
 15. Each instruction to be given a unique case number by Lead Lawyer.
 16. Each case to be recorded on Iken case management system.
 17. Case book to be reviewed monthly to ensure that all cases are actively managed.
 18. Quality standards to be overseen by Lead Lawyer.
 19. Client / Lawyer may decide to instruct External Lawyer for any reason. Client has the right to insist on the instruction of an External Lawyer.
 20. Host Authority to undertake procurement and commissioning / contracting with external lawyers including barristers.
 21. Lawyer to act as client liaison on behalf of client with external lawyers including barristers.
 22. Lawyer to oversee and sign-off work of external lawyers including barristers and to authorise the payment of invoices.
 23. Each partner to be allocated a designated planning lawyer, which will remain consistent whenever practical, to support all planning committees and preparation meetings.
 24. Planning officers to provide draft planning committee reports to the Lawyer in advance of the preparation meeting for comment.
 25. Service to make available planning training for Members – to be agreed with Planning Officers.
 26. Services to standardise and to communicate approach for the completion of regular work streams including s106 agreements and unilateral undertakings etc.
 27. Lawyers to visit partners frequently to allow for surgeries, case conferences.
 28. In the first instance, planning surgeries will be held fortnightly, or as agreed.
 29. Planning officers will prepare an agenda of issues / cases to be discussed in advance
 30. Visits to other councils to be no less frequent than fortnightly, or as agreed.
 31. Client Leads to be provided with access to the IKEN case management system.
 32. No client will be refused legal support because of budgetary pressures. The Client Leads / Governance Board will be responsible for ensuring that the service is funded appropriately.
 33. Each council to establish its own client group to be a conduit for corporate feedback to the partnership / Governance Board.
 34. Clients to be consulted by the Lead Client at least quarterly as to client satisfaction.

35. Lead Clients to report to the Governance Board on client feedback and demand.

10. Expectations of Clients

The partnership will expect the following from Clients, and this will be monitored by the Lead Client:

1. Instructions to the team to come from specified postholders based on seniority or responsibility.
2. Clients to consider the priority of their case sensibly.
3. Clients to provide clear and meaningful instructions to lawyers
4. Officers to inform the partnership immediately if they receive correspondence or other communication from solicitors.
5. Clients to respond positively to requests for information / evidence / key documents from lawyers.

11. Other Services

It is expected that the partnership will provide other services including:

- Training sessions and materials for Members and officers on legal matters including planning; data protection; freedom of information; etc
- Best practice advice and legal updates
- Access to subscriptions to law cases
- Knowledge transfer – advising the Client in such a way that they retain the knowledge that they can carry out their function without needing to seek advice in similar situations in future.
- Standardisation of approach to legal / regulatory services

12. Quality Control and Escalations

Fundamental to the shared service arrangement is the provision of a quality and value for money service. The service will ensure the following:

Quality

- **Case Management** - that a suitable electronic case management system (CMS) will be used for all matters on which the service works
- **Time Recording** - that all time worked on matters for the service will be recorded using the CMS
- **Client Lead Access** - that access to the CMS will be provided to the client lead, save where a conflict situation arises or confidentiality/data protection restrictions apply
- **Right Lawyer** - that the right level lawyer with the right specialisms will work on the file and in the absence of this consideration will be given to use of external legal representation
- **Service Standards** - the service standards will be met
- **File Checking** - regular file checking will take place on all files to ensure that the service standards are met – where files are inactive consideration will be given to whether the file should be closed

- **Peer File Checking** - peer file checking will be carried out by the lead lawyer on a number of files on a monthly basis to ensure that the service standards are being met and that the quality of advice is good and that conflicts have been met and addressed.

In the future the aim of the service is to seek Lexcel accreditation within a three year period – see link [here](#).

Escalations

In the event that any issues are raised the lead lawyer will seek to escalate the issue with the Client lead and the Governance Board.

In the event that there is a potential issue of a conflict between the parties this should be raised immediately with the lead lawyer and the client lead will seek to agree a resolution to the issues through informal mediation between the parties before the matter comes to a legal instruction to the service.

13. Retaining other legal providers

The following process will be adopted when procuring external advice:

1. Instruction scoped between client and lawyer.
2. Client may request that an External Lawyer is instructed. The client has the right to ask and the Lawyer has the right to question the reason why in order to ensure that the correct instruction is issued.
3. If no specific instruction, then, assessment completed by Lead Lawyer as to whether work can be completed in-house
4. If external advice is required potential solicitors /barristers and procurement routes discussed between Client and Lawyer.
5. Decision to procure – note not instruct, in accordance with the procurement principles below.
6. The team to identify and adopt suitable frameworks so that procurement processes are straightforward and that team can lead on appointment. Of course, it is recognised that clients may have preferred advisors and the team will support such appointments.
7. In-house lawyer prepares instruction to external – and hands over client / solicitor relationship to client to follow
8. Lawyer continues to monitor progress, support client and receives and authorises invoices unless alternative arrangements are made.
9. Lawyer signs off case when completed.

Any request for legal advice, including the instruction of barristers, must go through the partnership.

This is important because the Partnership has access to procurement frameworks and agreements that represent better value for money than an individual client could secure (for example, we now have access to a contract that is significantly cheaper than the fees that we have previously agreed for barristers' advice).

The principles of retaining external advisors

To ensure that the team has the ability to operate effectively but that there is appropriate oversight by the Governance Board to ensure probity and equity the following delegated levels are proposed. These levels are for procurement decisions only, not on whether legal advice should be obtained.

The delegation levels reflect South Staffs council's procurement rules:

Less than £5,000	team can instruct without further approval from Governance Board; to be funded from partnership budget but spend and equity to be monitored by the Governance Board.
£5,000 - £25,000	approval to come from Governance Board. Decision to be made whether to fund from partnership funds or by Client.
£25,000+	partnership to be advised. Work to be funded by Client. Team to help instruct and supervise. Individual council's procurement rules to be observed.

Lead lawyer will need to ensure that there is not a split of agreements to avoid these trigger levels and to avoid procurement challenge.

14. Managing Conflicts

The partnership must manage any potential conflict situations. This is important not only in relation to complying with the Solicitors Regulation Authority Rules - which can be seen [here](#) but also to ensure that there is no perception of a conflict or of a favouring of the partners to the service.

The key principles are these:

- **Systems** - The service will at all times have effective systems and controls in place to able it to identify and assess potential conflicts of interests;
- **Training** - All officers working for the service will have regular training on identifying and addressing conflicts of interests
- **Where conflict cannot be addressed** - In the event that there is a conflict that cannot be addressed the service will provide options to the client lead for potential external representation to be funded by the service eg through a framework agreement.
- **Conflicts that can potentially be resolved** - If there is a conflict, or a significant risk of a conflict, between two or more of the partners to the service the service will not act for either or both of them **unless the matter falls within the scope of the limited exceptions set out below**. In deciding whether to act in these limited circumstances, the overriding consideration will be the best interests of each of the clients concerned and, in particular, whether the benefits to the clients of the service acting for all or both of the clients outweigh the risks.
 - where there is a client conflict and the clients have a **substantially common interest** in relation to a matter or a particular aspect of it, the service will only act if:
 - (a) the lead lawyer has explained the relevant issues and risks to the clients and she/he has a reasonable belief that they understand those issues and risks;
 - (b) all the clients have given informed consent in writing to the lead lawyer acting;

- (c) the lead lawyer is satisfied that it is reasonable to act for all the clients and that it is in their best interests; and
 - (d) the lead lawyer is satisfied that the benefits to the clients of you doing so outweigh the risks;
- **Competing interests** - where there is a client conflict and the clients are **competing for the same objective**, the service will only act if:
 - (a) the lead lawyer has explained the relevant issues and risks to the clients and has a reasonable belief that they understand those issues and risks;
 - (b) the clients have confirmed in writing that they want the service to act, in the knowledge that the service acts, or may act, for one or more other clients who are competing for the same objective;
 - (c) there is no other client conflict in relation to that matter;
 - (d) unless the clients specifically agree, **no individual acts for, or is responsible for the supervision of work done for, more than one of the clients in that matter**; and
 - (e) the **lead lawyer** is satisfied that it is reasonable for the service to act for all the clients and that the benefits to the clients of the service acting outweigh the risks.
- **Direct Conflict** - If there is a direct conflict between the parties (where parties are in litigation with each other) we will not act for either partner. We would seek to ensure that there was external legal representation to cover the issue. We will however seek to minimise the risks of such direct conflict where at all possible.

15. Confidentiality Expectations

The in-house team will follow the solicitors' code of practice on client confidentiality but we will incorporate a sentiment in the partnership agreement that covers the confidentiality expectation on non-solicitors operating on the Governance Board.

We wish to encourage full and frank discussion; that we are open and transparent, but we can only achieve this if we are confident that material is not inappropriately disclosed.

But we will need to ensure that the operations of the Governance Board is as transparent as possible so the minutes of the Governance Board will be circulated to the respective Leadership Teams.

16. Expectations on Partners

Collaboration

With effect from the commencement date the original partner authorities shall collaborate in the establishment and subsequent operation of the Agreement.

From the Operational Start Date all parties shall provide the necessary support to the Shared Service in accordance with the provisions of the Agreement.

Nothing in the Agreement shall have the effect of requiring any Partner Authority to act in breach of their statutory functions or duties.

Finance

Each Partner Authority shall retain and administer capital and revenue budgets in connection with the Shared Service as provided in their respective areas; and arrange for attendance at any financial meetings as reasonably required.

Monitoring and Review

The Host Authority will issue both other partners with monthly invoices detailing case load.

The Shared Service shall carry out quarterly and annual reviews of the operation of this Agreement and the provision of the Shared Service and shall promptly report the findings of these reviews to their respective authorities.

The annual and quarterly reviews of the Shared Service shall include the identification of performance measures and outputs which show:

- How far the aims of the Partnership are being achieved in delivering the Shared Service;
- How far it has explored opportunities to redesign the service to better meet the needs of user;
- An analysis of legal spend identifying any relevant trends;
- The extent to which outputs including timescales and milestones for the Shared Service are being met; and
- The extent to which agreed outcomes for the Shared Service are being fulfilled and targets met.

Annually the Partnership shall carry out a review of how the provision of the Shared Service through this Agreement compares with other possible methods of delivery of the Shared service, both in general and with specific regard to value for money and efficiencies.

Resources

The Partner Authorities each agree to provide human, financial and other resources as required and sufficient to deliver the Shared Service for the duration of this Agreement.

Support Services

Each Partner shall provide support services to the Shared Service to include:

- Client Lead - The name of a designated Director or senior officer within each authority as to whom can be contacted in case of an emergency, dispute or urgent clarification on a matter may be required. It is expected that this will be Anica Goodwin on behalf of this authority.
- A nominated administrator (or whatever title) to act as the administrative liaison point for meetings, correspondence, invoicing, etc. It is expected that this will be Tracey Pointon for this authority.
- Appropriate accommodation and facilities for the provision of hot-desking for the use by the Partnership for mobile working.
- Provide a bookable confidential work space with access to internet and a land line for solicitors to make use for surgeries or 'drop in' sessions.

- Access to necessary ICT support and system to ensure secure access to files, servers, etc.
- Access to meeting rooms as required.

Each partner shall meet its own costs of these obligations.

Complaints and the Local Government Ombudsman

Any complaints in respect of the Shared Service shall be dealt with in accordance with the principle that it will be handled by the Partner Authority that was responsible for the administration of the task, act or omission complained about. In the event that South Staffs was responsible then the complaint shall be dealt with by South Staffs.

In the event of a complaint to the Local Government Ombudsman involving activities in respect of the Shared Service, the Partner Authorities shall give the Local Government Ombudsman every assistance in the investigation of the complaint, including co-operating fully and promptly in every way required by the Local Government Ombudsman during the course of that investigation.

Scrutiny and Audit Committees

Scrutiny remains the responsibility of each Partner.

The relevant committee of each Partner Authority charged with audit shall have the right to inspect any documents relating to this Agreement and to require the Lead Client to answer any questions raised by them.

Audit

Each Partner shall keep separate accounts with respect to the Shared Service Agreement and these shall be open to inspection by the Governance Board.

The Host Authority shall undertake an internal audit review of the Shared Service early in the first year of service. A decision shall be made by the Partnership in respect of the timing of subsequent audits.

Risk Management

Each partner shall support the Shared Service Agreement in terms of its approach to risk management by providing indicative assessment of legal risks.

General

Each Partner shall:

- Establish and maintain a client forum to enable and encourage client feedback
- Each partner shall ensure that the officers use the partnership without agreement by the Client Lead
- Ensure that strong trust and the vision for the shared legal services is promoted both within partner organisations and between external partners by building and support effective relationships
- Seek to adopt and share best practice

- Make use of benchmarking data to improve and/or transform so that VfM is evidenced
- Agree a Shared Service Communication Plan that:
 - o ensures effective engagement with users and members is maintained and supports the outcomes of the Agreement
 - o clearly communicates the shared vision for change as well as the expected outcomes
 - o uses common language between all parties to support the agenda for change
- Identify trends and training needs
- Ensure that any changes to constitution /council policies are communicated to the team
- Ensure that the team get sight of proposals – forward plan / draft cabinet reports etc - at an early stage
- Share and discuss forward plans with the team so that any potential legal issues can be addressed before they emerge.

Governance Board (Shared Legal Service)

Terms of Reference

The officers sitting on the Governance Board

In line with the Shared Service Agreement the Governance Board is comprised of the client leads for the 3 authorities. These are currently:

- South Staffordshire Council – Corporate Director Governance
- Lichfield District Council – Monitoring Officer
- Tamworth Borough Council – Executive Director Organisation & Deputy Chief Executive

The role of the Governance Board

To oversee the operation of the partnership and ensure that it operates in accordance with the agreed principles of the service set out below.

- All partners to be equal albeit South Staffordshire Council will be the Host Authority.
- The partnership to be informed by a Strategic Partnership Agreement
- 5 year initial term. Dissolution before end of the term can be by mutual consent.
- The partnership to be governed and monitored by a tri-partite Governance Board comprising a senior officer, 'Lead Client' from each partner
- The partnership to be branded to differentiate it from the Host Authority and to ensure that partners feel that they have equal ownership
- South Staffordshire Council to be the Host Authority because they already employ a team of solicitors
- South Staffordshire Council to continue employment of the team of solicitors and legal support
- The team to have specific specialisms to complete work in-house including local government, elections, planning, property, regulatory and contract law
- South Staffordshire Council to procure external legal advisors as required by the partnership
 - External advice will be sought when the team does not have the expertise or capacity or where there is conflict
- Fixed costs of the team to be shared equally between the three parties
- Variable costs (i.e. the costs of external advice) to be met either from a partnership budget equally funded by the partners or from the partner specifically requiring advice.
- No partner will pay more because more of their routine work is contracted out rather than being completed in-house
- Lead Lawyer to ensure that work is allocated appropriately to the team
- Work to be managed through a case management system to allow for full transparency

- Caseload to be reviewed regularly to ensure quality and progress
- Expectation that all legal work from all 3 partners will go through partnership
- Team will be available to 'clients' by telephone, email and in person at frequent 'surgeries' and for case meetings
- Team expected to be able to 'hot desk' at partner offices.
- Team to attend committee meetings as required.

Budgets

Budgets, instructions and invoices will be monitored by the Governance Board at its regular meetings.

Business Plans will be shaped and shared by the Governance Board.

Governance Board will also monitor the levels of external work sent out and how this is procured.

Performance

The Governance Board will consider the performance dashboard to monitor the levels of performance of the shared service arrangements.

Staffing

The Governance Board will keep oversight of the levels of staffing and representatives from all 3 partners will be involved in the recruitment of new lawyers servicing the partnership.

The Governance Board will also ensure that best practice is shared across the 3 authorities.

Caseloads

The Governance Board will keep oversight of caseload and costs to ensure that the contributions made by each partner are broadly equitable. But it is recognised that in some years, one partner may benefit more than the others.

Frequency of meeting

The Board will meet monthly for the first year to ensure that the Partnership is being established correctly, to keep an oversight of the quality of case management, and to monitor costs and budgets.

Service standards

The Governance Board will ensure that the case book is being managed in accordance with the quality standards. The Governance Board will also seek client feedback for the purposes of continuous improvement.

Secretariat

Lead lawyer to provide secretariat support to the Governance Board and ensure that the notes of each board and shared with the client leads for each authority.

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