

SLOUGH BOROUGH COUNCIL

REPORT TO: Council **DATE:** 24th April 2018
CONTACT OFFICER: Sushil Thobhani, Service Lead Governance & Deputy Monitoring Officer
(For all enquiries) (01753) 875036
WARD(S): All

PART I **FOR DECISION**

SHARED LEGAL SERVICE WITH LONDON BOROUGH OF HARROW

1 Purpose of Report

On 19 March 2018 the Cabinet made a decision to implement a shared legal service with the London Borough of Harrow to be defined in an agreement between the London Borough of Harrow and the Council ('the agreement'). In order to implement that decision, it is necessary for the Council to make the following delegations to the London Borough of Harrow and to the Head of Legal, London Borough of Harrow.

2 Recommendation(s)/Proposed Action

Council is asked to make the following delegations:

- a) From 01 June 2018 until expiry or termination of the agreement to delegate to the London Borough of Harrow the discharge of the Council's function in respect of the delivery of legal services in accordance with s101 and s113 of the Local Government Act 1972 and the Local Government (Arrangements for the Discharge of Functions) (England) Regulations 2012, such discharge of function to include the duties set out in Recommendation 2 below.
- b) From 01 June 2018 until expiry or termination of the agreement to authorise the Head of Legal, London Borough of Harrow to institute, defend or participate in any legal proceedings in accordance with s222 and s223 of the Local Government Act 1972 and sign documents on behalf of the Council.

To further agree that:

- c) That the Constitution be revised in Article 14(3); Article 14(4); Part 3.6 Scheme of Delegation to Officers Section 1 paragraphs 1.3 and 1.4 and Section 2 paragraph 2e; Part 4.6 Financial Procedure Rules paragraphs 16.7, 16.68 and 16.81(d); to give authority to the London Borough of Harrow Head of Legal to act on behalf of Slough Borough Council as specified therein.
- d) That the Constitution be revised in Article 14(5); Part 4.6 Financial Procedure Rules paragraphs 16.39, 16.45 (b), 16.45(d), 16.46, 16.49, 16.76, 16.81(a) and 16.81(c); and Part 5.4 Member and Officer Relations Code paragraph

16(b) and Appendix 1 paragraph 8 by the deletion of reference to Head of Legal Services to be substituted by Service Lead Governance;

- e) That the constitution be revised to remove any further references within it to the Head of Legal Services by substituting these with the Service Lead Governance.
- f) That the Service Lead Governance be instructed to make the necessary changes to the Constitution.

That it be noted that:

- g) The delegation in 1 above shall not prevent the Council from continuing to discharge those legal services functions that have been identified as being excluded from the terms of the Agreement and/or where it is not desirable for any reason for such functions to be discharged by the London Borough of Harrow.

3. **The Slough Joint Wellbeing Strategy, the JSNA and the Five Year Plan**

3a. **Slough Joint Wellbeing Strategy Priorities**

In order to meet the priorities agreed with partners organisations the Council needs back office services, including legal services, which are able to support the following priorities:

1. *Protecting vulnerable children*
2. *Increasing life expectancy by focusing on inequalities*
3. *Improving mental health and wellbeing*
4. *Housing*

3b. **Five Year Plan Outcomes**

A fortified Legal Services Function for the Council will enhance all the outcomes of the Five Year Plan.

4 **Other Implications**

(a) Financial

There are no financial implications for the proposed actions.

(b) Risk Management

Recommendation from section 2 above	Risks/Threats/ Opportunities	Current Controls	Using the Risk Management Matrix Score the risk	Future Controls
Grant of necessary delegations and Revisions to	Governance arrangements are implemented	The existing provisions of the Constitution	Legal/ Regulatory Probability:	Properly revised Constitution and

officer post descriptions in the Constitution.	and operated without proper constitutional authority.		Almost Impossible Impact: Critical Score: 3	delegations authorised.
--	---	--	---	-------------------------

(c) Human Rights Act and Other Legal Implications

These are set out below in paragraph 5 of this Report.

(d) Equalities Impact Assessment

There is no need identified for an Equalities Impact Assessment in connections with this Report.

5 Supporting Information

5.1 On 19 March 2017 Cabinet resolved to implement a shared legal service with the London Borough of Harrow as follows:

(a) That delivery of the Council's Legal Services through HB Public Law for a period to be set out in an Inter-Authority agreement be agreed.

(b) That the delegation be agreed to the London Borough of Harrow of the discharge of the Council's function in respect of the delivery of legal services in accordance with s101 and s113 of the Local Government Act 1972 and the Local Government (Arrangements for the Discharge of Functions) (England) Regulations 2012.

(c) That the Head of Legal, London Borough of Harrow be authorised to institute, defend or participate in any legal proceedings and sign documents on behalf of the Council.

(d) That authority be delegated to the Director of Finance Resources, following consultation with the Cabinet Member for Transformation and Performance, to execute an Inter Authority Agreement with London Borough of Harrow and take any other necessary actions to give effect to the proposals for a new shared Legal service detailed in the report.

5.2. It is anticipated that the inter authority agreement with London Borough of Harrow ('Harrow') will take effect from 01 June 2018 and the Council's legal team will transfer to Harrow by virtue of the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended, on the same date.

5.3. In order for Harrow to undertake the legal services function for the Council it is necessary to delegate to it the authority to do so under section 101 and 113 of the Local Government Act 1972 and the Local Government (Arrangements for the Discharge of Functions) (England) Regulations 2012. This report seeks approval to delegate the Borough Council legal service functions from 01 June 2018.

- 5.4. The recommendations seek authority to delegate to Harrow all functions to be included in the agreement to enable legal services to be delivered through HB Public Law, to include (but not limited to) the authority to institute, defend or participate in any legal proceedings, to authenticate any document necessary to any legal procedure or proceedings on behalf of the Council and to undertake land and property transactions and other associated functions.
- 5.5. The Council's constitution vests certain powers in what was the Head of Legal Services role which are presently being exercised under the new role of Service Lead Governance
- 5.6. The Council is therefore asked to agree that the constitution is amended to reflect the changes necessary to give effect to the shared services and for the Service Lead Governance to be authorised to make the changes required to reflect changes to posts and also to incorporate within it the delegations in this report.
- 5.7. The recommendations preserve the ability for the Council to undertake these functions itself through the Service Lead Governance in circumstances where legal services functions have been excluded from the agreement and/or it is not desirable for any reason for those functions to be discharged by Harrow.

6 **Comments of Other Committees**

- 6.1 The general need to change the descriptions of Officer roles in the Constitution has been discussed at the Member Panel on the Constitution.
- 6.2 Under paragraph 3 of Article 15 of the Constitution changes to the Constitution will only be approved by the Council after consideration of the proposal by the Monitoring Officer. This Report has been submitted to the Monitoring Officer and the proposed changes have been approved by him.

7 **Conclusion**

The recommendations outlined in this report will ensure that the Council's legal function can be undertaken by the London Borough of Harrow from 01 June 2018 in accordance with the decision of Cabinet of 19 March 2018.

8 **Background Papers**

The Council's Constitution and the Report to Cabinet on 19 March 2018 regarding the shared legal service with Harrow both of which are available on the Council's website.

9 **Appendices**

None