
Meeting	Contract Monitoring Overview and Scrutiny Committee
Date	13 January 2013
Subject	Year 1 Performance of HB Public Law
Report of	Commercial & Customer Services Director
Summary of Report	This report covers the performance of HB Public law during the first year of operation under the Inter Authority Agreement with Harrow

Officer Contributors	Claire Symonds, Commercial & Customer Services Director Marcus Jordon, Contract Manager
Status (public or exempt)	Public
Wards Affected	All
Key Decision	No
Reason for urgency / exemption from call-in	Not Applicable
Function of	Contract Monitoring Overview and Scrutiny Committee
Enclosures	Appendix A - Service levels Appendix B - HBPL performance against KPI's Appendix C - Risks
Contact for Further Information:	Claire Symonds, Commercial & Customer Services Director, Claire.symonds@barnet.gov.uk

1. RECOMMENDATION

- 1.1 That the Committee consider the information in this report and make comments and recommendations as appropriate.**

2. RELEVANT PREVIOUS DECISIONS

- 2.1 Council, 16 April 2013, (item 4.3) – approved recommendations from the Constitution Ethics and Probity Committee, which included the establishment of a Contract Monitoring Overview and Scrutiny Committee with responsibility for scrutinising the performance of the main externalised contracts. The Contract Monitoring Overview and Scrutiny Committee has requested this review as part of the agreed Forward Work Programme.

3. CORPORATE PRIORITIES AND POLICY CONSIDERATIONS

- 3.1 The three priority outcomes set out in the 2013/16 Corporate Plan are:
- Promote responsible growth, development and success across the borough
 - Support families and individuals that need it – promoting independence, learning and wellbeing
 - Improve the satisfaction of residents and businesses with the London Borough of Barnet as a place to live, work and study
- 3.2 All the commercial partnerships are intended to contribute to one or more of these priorities.

4. RISK MANAGEMENT ISSUES

- 4.1 Risk monitoring is an essential component of robust contract management. The risk log is reviewed routinely by the contract manager and reported to the partnership governance board. Risks with a rating above 12 are reported to the Delivery Board, the Lead Commissioner, and the Strategic Commissioning Board and the lead Cabinet Member. They are also reported to this Committee.

5. EQUALITIES AND DIVERSITY ISSUES

- 5.1 The Inter Authority Agreement (IAA) obligates the joint legal service to comply with the Equalities policy of Harrow.

6. USE OF RESOURCES IMPLICATIONS (Finance, Procurement, Performance & Value for Money, Staffing, IT, Property, Sustainability)

- 6.1 The indications are that the joint legal service (JLS) is providing good value for money and the base charge for core hours is certainly very competitive. As of the end of Q2 2013, The Council is forecasting an overspend on HB Public Law of £0.294m due to the cost of additional hours purchased in quarter 1 and

a shortfall on income recovery such as Section 106 agreements . Further costs will also fall on the service areas which will be in addition to the overspend indicated above. This is largely due to increased usage particularly in the Childrens' area. This is dealt with in section 9.14 below.

7. LEGAL ISSUES

- 7.1 The relationship is governed by the terms of the Inter Authority Agreement.
- 7.2 In the unlikely event that the Council required independent legal advice with respect to the Inter Authority Agreement with Harrow, advice would be sourced from an appropriately qualified independent legal advisor

8. CONSTITUTIONAL POWERS (Relevant section from the Constitution, Key/Non-Key Decision)

- 8.1 The roles and terms of reference of all scrutiny Committees are contained within Part 2, Article 6 of the Constitution; and in the Overview and Scrutiny Procedure Rules (Part 4 of the Constitution). The Contract Monitoring Overview and Scrutiny Committee is responsible for scrutinising reports from the Commissioning Group, Delivery Units and Lead Commissioners detailing the performance against targets that are included within the Corporate Plan and otherwise relating to the services provided by the Customer & Support Group, Development & Regulatory Services, The Barnet Group Ltd, HB Public Law and NSL (external Delivery Units) NSL and other major contracts, and to be able to challenge external providers.

9. BACKGROUND INFORMATION

- 9.1 HB public Law (HBPL) was established in September 2012 through an inter authority agreement (IAA) with Harrow. Under the IAA the legal services of Harrow and Barnet were combined. All Barnet legal staff were transferred to Harrow under TUPE arrangements (the pension fund deficit in respect of those transferring remains with Barnet).
- 9.2 The joint legal service is based in Harrow. The IAA has an initial term of 5 years with an option to extend for a further 5 years. The objectives of the parties in establishing the service included –
- Gaining an improved quality of service.
 - Obtaining greater clarity as to legal costs
 - Gain a more resilient service
 - To reduce costs through more efficient working, reduced management and accommodation costs and outsourcing less work to third parties, both barristers and solicitors, as a result of having a larger skill base.
 - To explore the possibility of raising income from additional sources, especially selling excess capacity to other organisations.
- 9.3 **How the IAA works** - At the beginning of each financial year, Barnet and Harrow commit to buy an agreed number of “core hours” for the year. The intention is that subject to other third party external work that HBPL may budget for, the core hours will fund the service for the year. The core hours are then given a monthly profile across the council for the year and each month

they are then available on a “use it or lose it” basis. This enables core hours to be priced at cost as it provides guaranteed income to HBPL.

- 9.4 Hours required in excess of core hours are then charged at £90 per hour to reflect the fact that additional legal resources may need to be bought in at short notice and may therefore be more expensive. After costs of staff and equipment are taken out of this £90, the remainder goes into a surplus which is shared between the two councils at the end of the year according to usage.
- 9.5 The IAA that set out the minimum standards relating to the service to be provided by HBPL, details are set out in Appendix A. These primarily relate to response times. A management agreement is also in place between Barnet and HBPL which builds upon the service levels required. If as a result of Barnet significantly reducing the hours required from one year to the next there is a need for redundancies within HBPL, the redundancy costs fall to Barnet, however, at present the work is increasing.
- 9.6 **Management of HBPL** - The legal service is located in Harrow and managed on a day to day basis by Harrow.
The Council manages the service through –
- A strategic monitoring board that meets quarterly and reviews strategy and operational matters of the practice. The Board consists of the Barnet Chief Executive, Harrow’s Head of Paid Service, Both Council’s Monitoring Officers, the Head of Legal Practice and the HBPL contract manager.
 - The Barnet HBPL contract manager manages the contract on a day to day basis from a Barnet perspective and is part of the Commercial Team. Regular meetings are held between the Contract Manager and the Head of Legal.
 - Service Level Agreements exist with Delivery Units/Delivery Units manage their commissions for legal advice and also the budgetary impact. Client liaison meetings are conducted regularly.
 - Quarterly performance reporting, HBPL complete the quarterly reports on key performance indicators Barnet risks are recorded on the central JCAD risk management system and comply with the Council’s risk management policy.
 - Legal budgets have historically been managed centrally by Barnet. They have now been devolved to the delivery units so each unit is responsible for any overspend arising in their area. This will encourage closer monitoring of legal costs and usage by the users.
 - Quarterly contingency updates are given to finance.
- 9.7 **Performance-** The transfer of the Council staff to Harrow has been relatively seamless with no interruption or deterioration in service. Feedback from legal staff has also been very positive about the new offices.
- 9.8 Client satisfaction forms are sent out when a matter is closed. In the 12 months to 31/08/13 the percentage of responses received marking the service as satisfactory or better was 92.84, with 26% giving and excellent response. It is also worth noting that in the 5 months to 31/08/13 the corresponding figure were 100% satisfactory or better and 51% excellent. This would appear to support the view that the service has improved and/or all the integration issues have been sorted out in the first six months of service. Full details are set out in table 1 below.

Table 1

CLIENT SATISFACTION Responses Received 01/04/13 to 31/08/13	
Number of forms sent	607
Number of forms received	125
Number of unanswered not graded forms	5
Analysis Taken From	120
Number of Excellent Responses	62
Number of Good Responses	37
Number of Satisfactory Responses	21
Number of Poor Responses	0
Excellent/Good/Satisfied Total	120
Number Dissatisfied	0
Percentage Satisfied or better	100%
CLIENT SATISFACTION Responses Received 01/09/12 to 31/08/13	
Number of forms sent	916
Number of forms received	381
Number of unanswered not graded forms	14
Analysis Taken From	377
Number of Excellent Responses	99
Number of Good Responses	61
Number of Satisfactory Responses	190
Excellent/Good/Satisfied Total	350
Number Dissatisfied	17
Percentage Satisfied or better	93%

- 9.9 Since September 2012 HBPL have received 72 recorded unsolicited compliments from clients these include –

Internal (Barnet) 12/04/2013 *"This is an Excellent outcome, Well done to you and others who worked on the case."*

Internal Harrow, libraries project August 2013 *"The legal team were stars."*

Internal (Barnet) Hendon FC/Jewish Girls School 12/04/2013 *"Thank you, for your briefing and for your excellent work on this difficult case."*

- 9.10 The IAA includes performance indicators that are monitored by the Strategic Monitoring Board. The indicators are also monitored in the quarterly performance reports which reflect the targets set out in the Management Agreement. Details of the performance in Q2 are set out in Appendix 2.
- 9.11 HBPL continue to increase the amount of work that they perform in house. This means that Barnet benefit from their low rate rather than paying the much higher rates of external barristers and solicitors. In the year 2012/13 HBPL believe that the amount spent on Barristers decreased from £610,685 in the previous year to £500,507 (an 18% reduction).

- 9.12 Savings have been made in the areas of employment tribunal work, prosecutions, property, regeneration and planning through doing additional work. The HBPL team has been strengthened in the area of property and regeneration to enable it to provide a better service and do more of the work that was previously given to third parties.
- 9.13 HBPL have obtained accreditations from both Investors in People and Lexel (the law society quality management body). The latest Lexcel accreditation inspection has just taken place and no non compliances were found. It is possible to pass with minor non compliances and we are told that it is very unusual for an inspection to find no non compliances. HBPL have recently been short listed for the Local Government Cronicle Public / Public partnership of the year.
- 9.14 **Financials** – Details of the hours used by HBPL are provided on a monthly basis. These hours are then circulated to the delivery units by the contract manager so that they can be checked to ensure that the hours are in line with expectations and raise questions if they are not. The cost per hour charged by HBPL reduced by c. 3% On 1st April 2013, although it has since increased by just under 1% to reflect pay increases. This still represents a saving of some 2% year on year against what was already a very competitive rate.
- 9.15 In the current year the hours are exceeding the budget level by some 2,800 hours. This is in part because too few hours were budgeted and in part due to increased usage – particularly in the areas of child protection work and regeneration. HBPL are actively working with Barnet to try to reduce the number of hours where it is practical to do so. Examples of this include carrying out training and giving a list of frequently asked questions in the adults area so that staff feel more able to make decisions with consulting lawyers. In the children’s area work will be done to improve the quality of reports provided to HBPL so that lawyers can spend less time correcting them. HBPL are also supporting the regeneration team and taking on work that would previously have been outsourced.
- 9.16 2013 was the first full year of operation of HBPL and budgeting was always going to be difficult because of poor records relating to total legal spend. In addition the volume of legal work in any year will always fluctuate either because of changing legislative demands or because it is simply not possible to predict with certainty what the legal demands in any year will be.
- 9.17 The budget for 2014/15 will be closely reviewed as it is important to purchase the right number of hours from HBPL at the beginning of the year in order to get the best value. If too few hours are purchased, then a premium is paid for extra hours used. On the other hand, if too many hours are purchased then any hours not used in a month are lost under the use it or lose it principle.
- 9.18 At the end of each financial year the IAA provides that HBPL will pay a “gain share” to Barnet and Harrow if any profit is made. For the 7 months ending 31/03/13 a surplus of £21,199 was paid to Barnet.
- 9.19 **Issues-** The IAA was put in place at a time when the in-house Barnet legal service was generally regarded as poor. Legal costs were not controlled as well as they could have been as services were not accountable for legal

expenditure which was met centrally. In addition the use of external lawyers was not always monitored as on some occasions delivery units would instruct lawyers directly. The issues that have arisen with HBPL need to be viewed against this context:

1. Whilst the hourly rate being charged by HBPL is clearly cheaper than the comparable service while it was being provided by Barnet, it is proving difficult to accurately measure VFM as –
 - There was a backlog of work within the Barnet legal department prior to the transfer (particularly in the areas of contracts, prosecutions and property) this is being dealt with by HBPL.
 - HBPL are doing a greater amount of work in house than Barnet did. More advocacy work is being done and more work is being done for regeneration.
 - The volume of legal work required by Barnet year on year varies through a number of factors including activity levels, legislation and council processes.
 - The Council does not have clear records of total legal spend on a year on year basis. The internal legal function was costed but external legal advice was paid for both by the legal service and also by individual departments, total legal spend was not accurately tracked.
 - Whilst it is relatively simple to measure areas such as responsiveness and client satisfaction it is difficult to ensure that the number of hours being charged on individual matters represents value for money. In recognition of this is intended to do some benchmarking to ensure that HBPL remains competitive in terms of both hourly rates and the number of hours charged on individual matters.
2. HBPL has two computer systems as a result of the two entities coming together. This makes it a little more complex to monitor hours and performance. It had been hoped to move to a single system by now but this has not yet happened. It is now hoped that the new system will go live in the New Year.
3. HBPL is not yet providing time estimates for all work, similar to a quote system. Estimates will help Barnet monitor hours used and to ask questions when hours are exceeded or indeed where fewer hours are used than forecast. It is recognised that in some areas this is easier to do others for example estimates would be far easier to provide for right to buy but very difficult in other areas such as child protection, employment and litigation.
4. A few costs have come through in the current year (c. £40k) that relate to mainly barristers fees incurred prior to HBPL going live in September 2012. These have not been budgeted for and therefore add to pressures on the budget. It is hoped that there will not be any more such costs given that any will now be more than 12 months old.
5. With Capita now controlling both CSG and RE there is a risk that they may decide to use HBPL less or not at all. The Council has encouraged Capita to use HBPL as it is a key performance indicator that they work

effectively with our partners. Where work diminishes for HBPL this will have obvious consequences for staff working at the shared service and impact on the costs payable by Barnet for any resulting redundancies. Strategically a change to the business model may impact the service on attracting additional local government partners in the future.

9.20 **Risk** - Risk relating to HBPL and its management are recorded on the Council's JCAD system. In addition HBPL maintain their own log of cases where there is perceived to be a greater than normal risk. This risk log provided to Barnet finance and is discussed at the monthly formal meeting between Head of HBPLaw and the contract manager. JCAD risks are set out in Appendix 3

9.21 **Conclusion** - This is the first year of operation of HB Public Law and as the report shows, there has been a smooth transition to the new service, governance arrangements have been put in place and customer satisfaction ratings have been high.

9.22 Units costs are cheaper, although the hours used are exceeding the budget level. HBPL are actively working with Barnet to try to reduce the number of hours where it is practical to do so

10. LIST OF BACKGROUND PAPERS

10.1 Appendix 1 Service levels

10.2 Appendix 2 HBPL performance against KPI's

10.3 Appendix 3 Risks

Cleared by Finance (Officers initials)	JH
Cleared by Legal (Officers initials)	JF