

Diagnostic report for West Suffolk and Mid Suffolk and Babergh legal services



My ideal legal team would be engaged and involved. I want them to be truly partnered with the business” – Charlie Adan

“I want our lawyers to participate in management discussions at a strategic level. They are there principally as senior officers – their technical knowledge often is of secondary importance” Ian Gallin

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Project overview

Why did you ask for this report?

Suffolk has been exploring the potential to create a shared legal service across the 7 district and borough councils. You feel that the shared service would have the following key attributes:

- Staff would remain employed by their current council for the time being
- Services would be provided/operated via Section 113 Agreements
- Councils would retain their Monitoring Officer role and function in-house, with the flexibility to move the function into the new shared service in the future
- You have a longer term ambition to explore trading options

Following an initial report last December, which outlined options for the service, the Chief Executives met to agree the way forward.

Following that meeting, West Suffolk (WS) and Mid Suffolk and Babergh (BMS) Councils agreed to establish a “prototype” using a s.113 model, “to test the validity of the fundamental proposition of a shared legal service”.

This report has been prepared at your request to establish a baseline diagnostic from which to move forward.

What are your objectives for the shared service?

You want to add value and improve the legal service of all four councils.

Both Chief Executives believe that the delivery of their legal services can be improved if they are combined, both in terms of the range of legal advice provided, and more generally in terms of their becoming integrated with the client teams they serve. Tightening finances, changes to legislation and devolution means that management teams are operating in an increasingly fast paced, commercial and ambiguous environment. Legal services departments and individual lawyers must be able to respond to these changes.

You want to reduce your reliance on external lawyers (or at least rationalise their costs). While you recognise that obtaining external advice is sometimes necessary, you recognise that jointly procuring external help, sharing advice, pooling knowledge and partnering more effectively with outside lawyers will be beneficial.

You want to exploit economies of scale and make efficiency savings.

You want to be more pro-active in reducing costs and making savings by combining your legal services, and also build in some resilience, as the legal teams are individually quite small. You recognise that the lack of a functioning practice management system and certain outdated working practices are inhibiting productivity.

You want to improve your brand as an employer. You recognise that small legal departments provide limited opportunities for career progression that inhibits your ability to recruit and retain staff. It is essential that you exploit all opportunities to be an attractive option for legal talent, which includes updating your working practices, deepening and extending your range of legal specialisms and expertise, and building a legal “brand” to sell to potential recruits, including “centres of excellence” for legal specialisms

Interviews

I conducted face-to-face interviews with the Chief Executives of WS and BMS. I also talked to key members of the senior management team for the four authorities and other senior officers. I talked to the lawyers and administrative staff. I have also engaged with the case management project team at Ipswich Borough Council.

Analysis

In addition to interviews, I looked at the analysis and data gathered by the previous project manager. Some quantitative data was available on staffing costs for example and some work was carried in to assess client demand, but it was not possible to carry out detailed analysis on current or historic demand and staff performance partly because of gaps in the data but also because of the lack of a functioning practice management system that would provide objective evidence of caseloads, “billable” hours, resourcing bottlenecks, demand/trend analysis and the like.

I have also referred to the findings of the Local Government Association and other consultancy bodies that identify best practice in terms of optimising shared services in government.

I referred to the Local Government Lawyer’s February 2016 Report “The Legal Department of the Future” for market and trend analysis, and I also reviewed the InLoGov publication “The 21st Century Public Lawyer” and the feedback from the combined team away day at which this was discussed.

Executive Summary

As you know, entering into a shared legal service has the potential to drive undoubted benefits such as improved resilience, reduced procurement costs, creation of centres of excellence, career progression potential, enhanced recruitment potential and potentially trading opportunities.

West has been working well as a shared service across St Edmundsbury and Forest Heath for the past 18 months, and while not as “embedded” within client teams as West, BMS have also succeeded in building a combined team.

At West, clients have noticed a cultural change within the team towards more “business” focused advice, and the trajectory is said by management to be upwards.

By merging West and BMS, acting decisively to restructure the staff cohort into specialist teams, investing in team building work to build a culture of sharing, trust and customer service, and developing a vibrant “brand” and mission to which staff can relate, you stand an excellent chance of creating a single unit that is much, much stronger and more effective than the sum of its parts.

It is also essential to implement an electronic case management system if you wish to drive productivity gains and maximize efficiency.

In order to build an effective shared service, I recommend you take the following action:

- **Move quickly to restructure your combined staff cohort.** While a staged approach is sometimes preferable when merging a service in order to build trust and a shared culture over time, I recommend you move quickly and decisively in order to minimise disruption and uncertainty for staff and clients.
- **Continue to push for a speedy resolution of outstanding issues on the procurement of a case management system.** It is essential that senior stakeholders assist in this project, and be prepared to invest in the resources needed to install and embed the CMS, including investing in a CMS manager (shared across all 7 councils) who can support staff to change their embedded and inefficient working practices, and ensure that the specification builds in time for the supplier to train staff and help design workflows. IT issues in particular are key to a successful implementation (in particular stable internet access) and we must ensure that any IT issues are resolved quickly and satisfactorily.
- **Invest in formal customer engagement and customer service training for legal staff.** I would advise that we invest in some specialist training in customer service techniques in a legal

environment.

- **Help lawyers become business problem solvers rather than legal problem solvers.** Some of the lawyers need to move out of their comfortable role as technical specialists and become genuine business problem solvers. To do this, they need to gain altitude and perspective on the wider business issues facing the sector and their clients, and should be supported in understanding how they can be pro-active in achieving this.
- **The need for pace and a shared culture of trust.** In order to overcome some of the drift encountered when the previous 7 way collaboration failed, and to engage staff in building trust and a shared culture, we need to invest in workshops and away days, both formal and informal. These will help staff bond around their mutual problems and issues, and show them how they can model leadership behaviours that inspire others. They need to let go of the past, build confidence in their skills and develop the positive mindset that is essential for the project to succeed; West have evidenced how this can work successfully in a shared services context.
- **Build a brand.** In my experience, investing time and creative thinking to build a brand (a name for the shared service, a logo, a presence on social media as well as more traditional PR (all of which can be done in-house)) will be invaluable in building a sense of excitement and boosting morale.

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Summary assessment of current situation, diagnostic and recommendations

Client and staff feedback

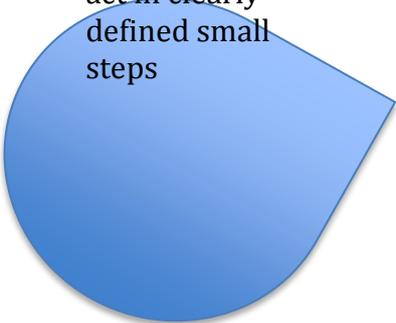
<p>Lawyer feedback</p>	<p>Positive</p> <p>Feels that legal staff work well as a team, although aware that this is maybe not the perception of management.</p> <p>Team is like a “big family”.</p> <p>Neutral</p> <p>Staff would like to do higher profile work, but maybe there’s a lack of confidence in their own abilities.</p> <p>Difficult to get instructions out of clients.</p> <p>Existing case management system was not a success because it was web based and kept crashing because of internet issues so work was lost</p> <p>Negative</p> <p>Very little integration of the two teams.</p> <p>“I need mentoring but I just muddle through. Seniors are “too busy” to help.”</p>
<p>Client feedback</p>	<p>Positive</p> <p>“Legal people used to give “yes/no binary answers”, now I find them invaluable”. Been a gradual cultural</p>

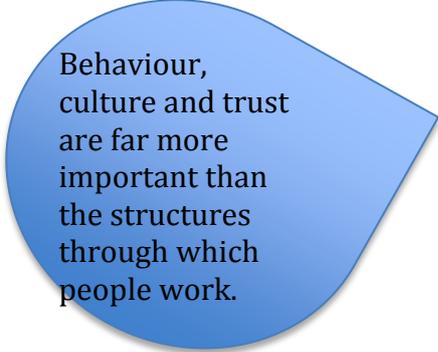
	<p>shift. What's great about the lawyers here is the speed of response. "Our lawyers turn things around in 24 hours. "</p> <p>Legal team is fantastic. They have embraced the journey. [named] could stand in for any senior officer in a negotiation session. They understand risk issues.</p> <p>"Never walked away from the legal department unhappy. Always been brilliant. "</p> <p>(named) can get a programme of work rolling and engage with it. Not worked perfectly but quality of communication is good and he values the relationship.</p> <p>Neutral</p> <p>Some lawyers are excellent (named), but team is too small. Concerned about their capacity to handle workload which is increasing.</p> <p>Wants support services like legal embedded within client teams, and not limited by their technical backgrounds but adding value.</p> <p>Feels that legal have struggled a bit but broadly feels supported by them.</p> <p>Key issues: being more commercial and getting additional resource.</p> <p>(named) is knowledgeable and approachable. Turnaround times can be issue with some of the work, as is a lack of knowledge and expertise.</p> <p>Time is of the essence with some projects – will legal be able to cope?</p> <p>Need to strengthen business partnership model.</p>
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	<p>All services are thinking more commercially and increasingly our interactions with the legal team will need to reflect that. The commercial way of thinking will permeate throughout the organisation. Even technical officers will need to grapple with the commercial agenda, and need help from legal to do that.</p> <p>Negative</p> <p>Some “get it”, but need to improve.</p> <p>No management or oversight of external legal spend – need to commission this advice centrally so it isn’t considered in a silo. We often get the same advice on different projects.</p> <p>Legal support has been difficult lately. Not adequately resourced in his view. Need for a speedy response. We can lose opportunities otherwise in a commercial setting. Inefficient to be starting from scratch all the time with a new fee earner.</p> <p>Sometimes legal need “chivvying”.</p> <p>Team needs someone with experience of commercial work, start-ups and partnerships. And need it quickly.</p>
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Academic research on shared services

Paper	Relevant conclusions
<p data-bbox="331 1718 421 1749">Local</p> 	<ul style="list-style-type: none"> <li data-bbox="890 1718 1340 1792">• Rapid implementation helps build momentum for change

<p>Government Association: Services shared: costs shared? An analysis of the financial and non-financial benefits of local authority shared services</p>	
<p>AT Kearney: Shared services in Government. Turning private-sector lessons into public-sector best practice</p> 	<ul style="list-style-type: none"> • The higher standards set by private-sector companies have raised both citizen expectations and political stakes • Important not to move too far too fast • Setting realistic goals, managing expectations and closely involving internal customers in the design, implementation and ongoing management of a shared service are also key to achieving and even surpassing planned results
<p>AT Kierney: Shared services in government 2: building a platform for better public services at lower cost</p> 	<ul style="list-style-type: none"> • Think big and act in small, clearly defined and quick steps • Resources to manage the required levels of stakeholder management are significantly underestimated • Creating a shared service always means there will be stakeholders who are potentially losing power, influence and control. Specific tactics will be needed for these individuals • Communications planning needs to emphasize the building of trust and the management of expectations

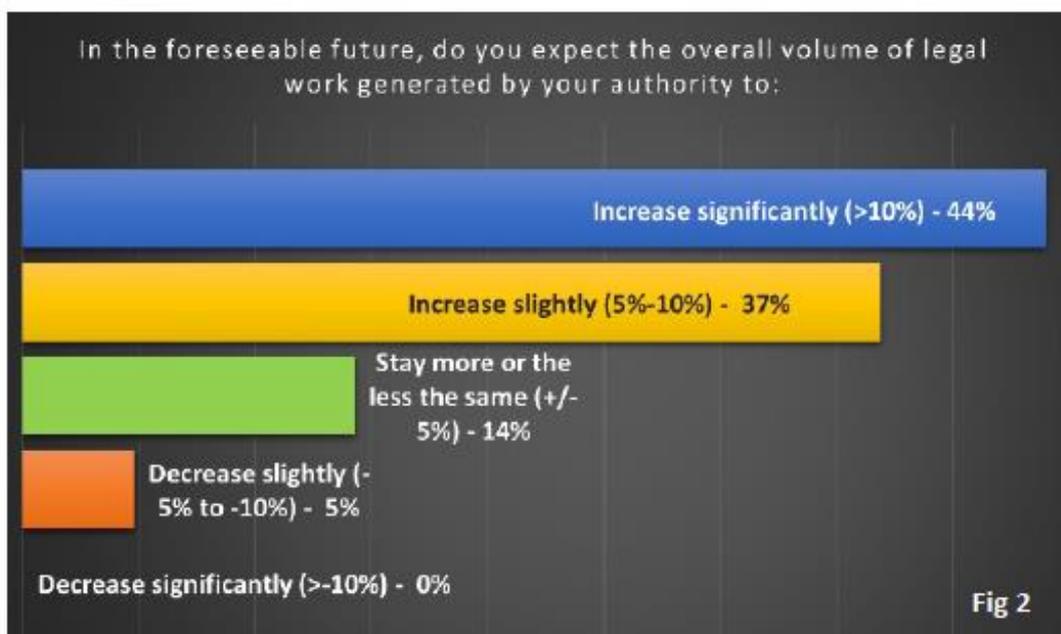
<p>University of Birmingham InLoGov: Building better collaboration. Improving collaborative behaviours in local government</p> 	<ul style="list-style-type: none"> • Best practice involves districts taking a role where they may put in more resource or effort than they might gain from a project • Behaviour, culture and trust are far more important to success than the structures through which people work • Collaboration is voluntary thus prone to procrastination. • Collaboration is driven by people with very particular skills

Demand for legal work

Overwhelmingly, staff and clients say that their demand for legal work will increase in the future, in some cases substantially.

There is a mismatch emerging between the expertise of your current cohort of legal staff, and the expertise urgently required by the business, notably in the area of property, commercial contracts, governance/corporate issues (eg understanding the impact of devolution, how to start a spin-out company)), procurement and corporate structures.

These findings are confirmed by recent research by the publication Local Government Lawyer who polled a significant pool of local government heads of legal on the level of demand for legal work:



Increases in productivity brought about by improved working practices and the case management system together with retraining should help to address increases in demand.

The legal teams, particularly at BMS, are operating along fairly “traditional” lines, with lawyers carrying out legal work according to demands made on them by clients from time to time.

There’s scope to deconstruct the process of allocation of legal work in terms of time and priority, so that you ensure that relatively low value legal work (like FOI and routine enforcement matters) are not prioritised at the expense of more pressing client problems which are of more value to the authorities overall; for example, at West, some administrative legal work has been passed to the admin team.

Observations on level of staff engagement

Being “business ready”

Some of the lawyers need to step out of the boundaries of their legal roles and gain perspective on the issues facing their clients. This requires them to step towards problems and take a proactive approach, rather than waiting for formal “instructions”. It also requires a degree of curiosity.

Today’s local government clients demand that lawyers work alongside them to help resolve ambiguous issues, be creative and innovative in solving legal problems, say “yes” rather than “no”, and pro-actively help them find new ways to solve their problems. One way to achieve this is by using the “business partner” model that West have already embraced.

The legal sector in general has become much more aware of the need to deliver not just excellent legal advice, but excellent levels of responsiveness and customer service, and this runs parallel to a general heightened awareness of the importance of the “customer experience”.

It’s important that we reflect these broader changes in our shared legal service, and I suggest that we provide the team with some coaching in this respect so that that understand what this means in terms of their day to day working practices.

Levels of Engagement.

It is essential that senior members of staff are enthusiastic and committed not least so that they can coach and mentor junior members of staff and the trainees. They also need to act as leaders so that they can actively help to implement the improvements needed to drive productivity and support their clients better.

In short, it will be important to incorporate strong leadership posts into the new structure so that staff can be mentored to develop better working practices, client engagement, and encouraged to learn new skills. These changes are essential to obtain real and lasting transformation.

Potential new structure

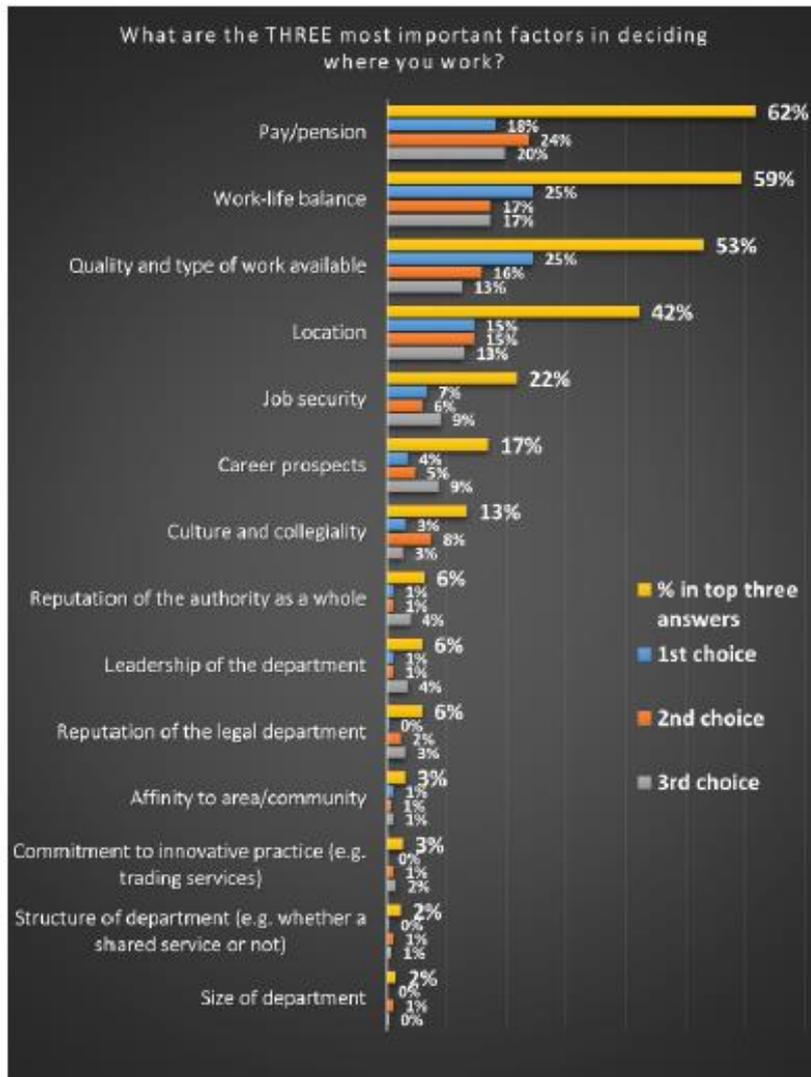
Design. I propose a design for a legal service based around four teams of legal specialisms (and team leaders), a single head of service and a practice manager (who would also manage the admin staff). This structure was agreed by broad consensus at the workshop on 11th May with staff.

The head of service (general counsel) would act as business partner for the CEX and management teams, and the team leaders of the various specialisms would equally be business partners to senior officers in both councils.

I am optimistic that an internal recruitment campaign would yield successful candidates for many if not all roles. It is likely however that we will need to look externally for a senior practice manager with relevant recent experience in installing a new CMS system, at least in the short term. In the longer term, a member of the existing staff cohort could fulfill the practice manager role. A lot will depend on whether you plan to trade services in the future.

Recruitment. In terms of recruitment, it will be important to set pay at a level that is appropriate for the market so that you can attract and retain staff when you restructure. This will also enable you to harmonise pay across the organisations. As important will be building a compelling employer brand and team structure that will enable staff to work on high profile and complex

matters. Candidates say that these two factors, as well as location, are important factors in deciding where and for whom to work.



The Legal Department of the Future

A case management system. You are currently engaged in procurement of a 7 way case management system for the County, a project that was running parallel with the broader shared service project.

It is essential that certain key issues, principally around IT, be resolved so that we can be sure of a successful implementation

I have designed the specification to include pre-designed management information dashboards and workflows, and bake in sufficient capacity for training which will add to the cost of the project overall.

Working practices across the teams tend to be largely paper based, and time recording is not generally carried out. Admin staff are routinely typing letters,

emails and the like. By moving staff to a new CMS, supporting them to create and maintain cases, documents and correspondence electronically, admin staff time can be devoted to more meaningful, productive and rewarding tasks.

While I haven't audited the libraries across all four locations, certainly a lot of the legal resource seems to be book/paper based, and this is wasteful if such resources are available online. Certainly, cost savings can be made by combining resources across the shared services.

Building a brand. One of the determining factors that will help drive excitement and involvement with the new shared service will be building a new brand. This will include "soft" branding like naming the service, logo design etc, but I'd also recommend that we create content to share with clients and more widely, such as newsletters, legal updates and the like.

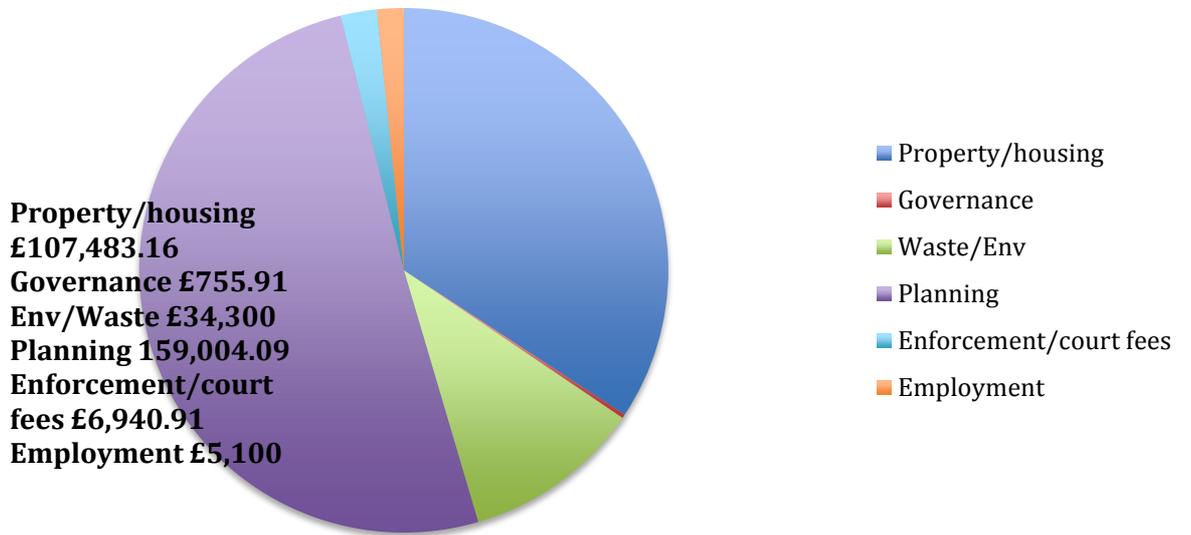
I'd also expect lawyers to be active on social media, and to produce some content for traditional PR (we can write some articles for the local and national press). It will also help build our reputation with clients who we'd like to see us as trusted advisors and knowledgeable experts.

You also should consider using online social platforms such as Facebook to build staff engagement

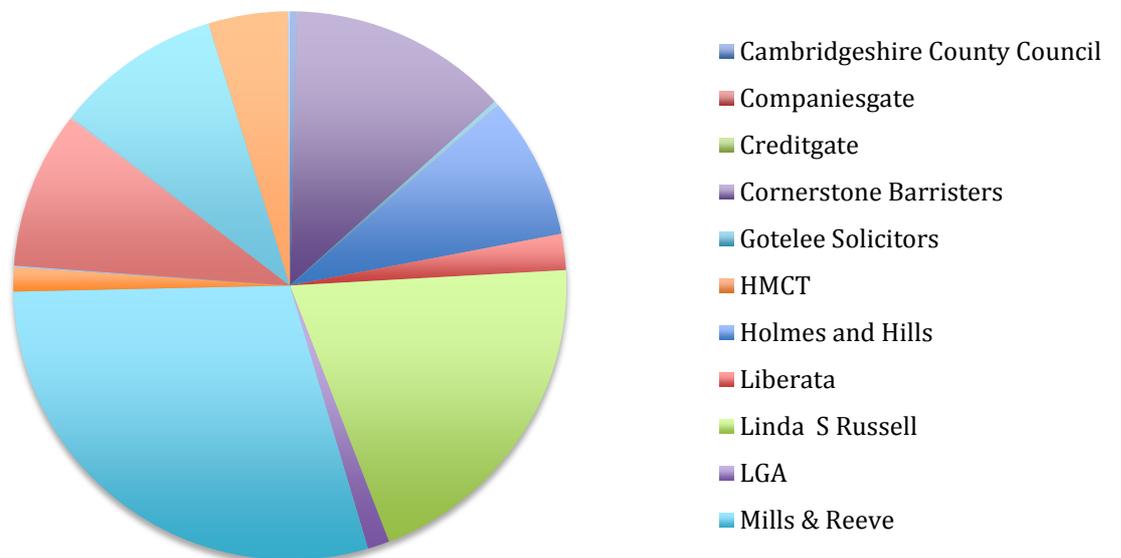
External spend.

Below is an analysis of reported legal spend during 2015/14 for both teams. Obviously there is scope to save money by jointly procuring, and by retaining a small legal panel (of solicitors and barristers) we can control costs better, build relationships and explore further potential for partnering (for example, procure coaching on client care). You will also need to set guidelines for instructing, and encourage staff to remain involved in cases that are externalised, as this provides valuable learning and experience in how to conduct more complex matters (some staff do remain involved, others less so).

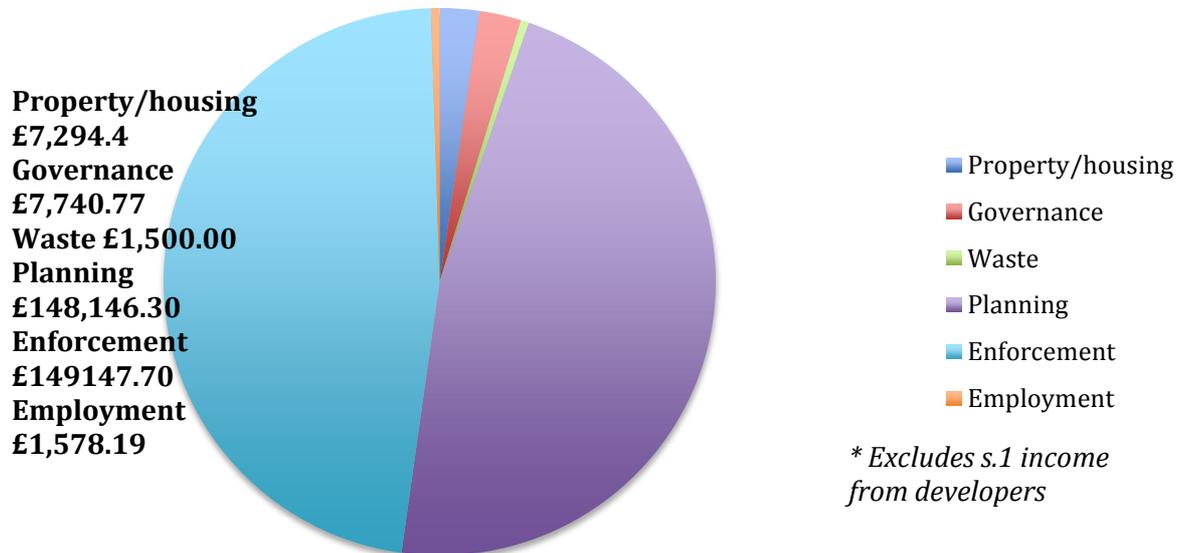
West - external spend per service area 2015 calendar year



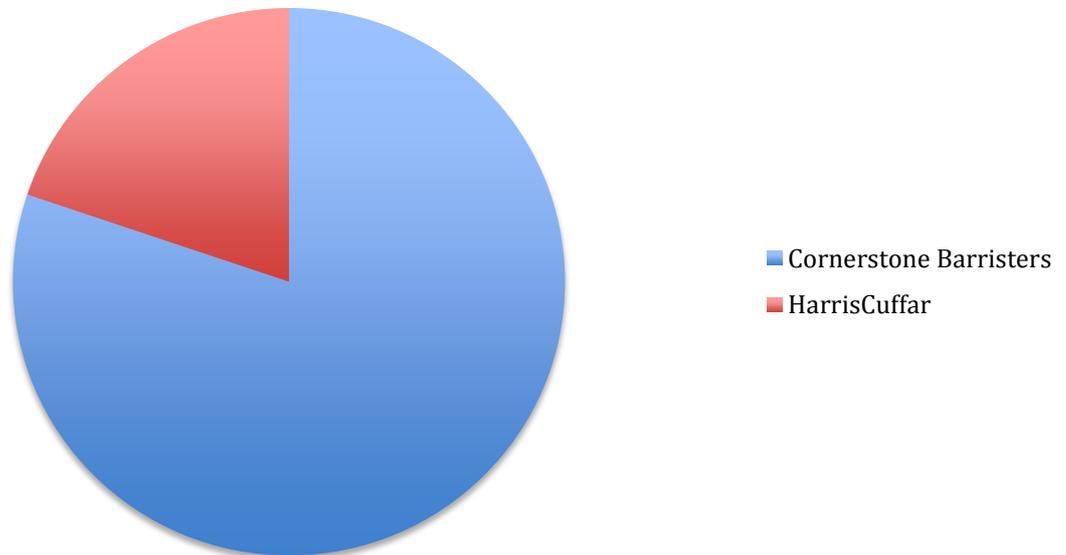
West - external costs 2015 calendar year by supplier



BMS - external spend per service area 2014/5 financial year



BMS - external costs 2015 financial year by two principal suppliers



I believe there is considerable scope to be creative in building the shared service in the future. For example, moving to a small panel of external advisors gives us scope to build partnerships where mutual secondments and sharing of expertise becomes routine.

Charging and trading.

While the potential for trading exists (and some clients have said that they are in the market for such services via spin-out companies), I think trading more widely won't be feasible until the CMS is in place and working well and productivity has improved to a level where you have capacity to service external clients. You shouldn't underestimate the time and resources required to market such services however; rather, I'd suggest you build on existing practice in billing for s106 agreements, leases etc. The Local Government Lawyer report suggests that the following are the services that heads of legal are most likely to procure externally in the future:

But what services do local authority clients actually want to buy? The areas where respondents say they would be most likely to use local authority providers are: employment matters (50%); litigation and enforcement (42%); procurement and contracts (38%); property and asset management (38%); planning (27%); adult social services (27%); and child protection (27%).

This differs from the five areas where

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The role of general counsel

In industry, the role of general counsel is that of a general business and strategic advisor with broad legal training and experience. They usually have knowledge of all key areas pertaining to the business (employment law, intellectual property, commercial matters, company law etc). I believe this role design is more suited to the 21st century public organisation than the traditional County Solicitor.

The general counsel will attend SLT meetings alongside senior business colleagues and the monitoring officer. His or her job is to understand the strategic direction of travel, new and emerging projects and general business developments so that he or she can allocate resources, brief staff and of course advise the business.

The role of team leaders and specialist lawyers

Team leaders will act as business partners to officer teams and also lead and mentor technical legal staff sitting below them. Specialist lawyers in the teams will research legal points, prepare documents and briefings, give advice, and administer transactions.

Timing issues and options

Academic research on sharing suggests that speed is important, but equally that trust and culture are more important than the structures through which people work. Restructuring, and the possibility of redundancy or a change of role for some may be disruptive in the short term.

