

CABINET

17 JANUARY 2017

SHARED LEGAL SERVICE BETWEEN GRAVESHAM BOROUGH COUNCIL AND MEDWAY COUNCIL

Portfolio Holder: Councillor Adrian Gulvin, Resources
Report from: Perry Holmes, Chief Legal Officer
Author: Jan Guyler, Head of Legal Services

Summary

This report sets out proposals for Medway Council to assume responsibility for the discharge of Gravesham Borough Council's Legal Services functions. This is permitted under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.

In addition, the Cabinet is asked to delegate authority to Medway's Chief Legal Officer to assume responsibility for the management and delivery of Legal Services for both Medway and Gravesham and, to enter into the necessary agreement with Gravesham.

Following Cabinet, this report will be submitted to Full Council on 26 January 2017.

1. Budget and Policy Framework

- 1.1 The function of Legal Services is an executive function within the portfolio of the Cabinet Member for Resources. Medway Council's Constitution provides that a decision to establish joint arrangements with one or more local authorities to exercise executive functions is a matter for the Leader (Article 10.2 (b)), whilst the decision to accept such a delegation of a function from another local authority is reserved to full Council (Article 10.4(c)).

2. Background

- 2.1 Medway Council are currently discussing proposed arrangements to establish a shared legal services with Gravesham Borough Council. At the meeting of Gravesham's Cabinet on 6 June 2016, Members of the Cabinet agreed to the progress of a full evaluation of a fully shared

Legal Services Team with Medway Council. A copy of the report to Gravesham's Cabinet is attached as Appendix A. Gravesham's Cabinet will consider a further report on 9 January 2017 seeking Cabinet's agreement to delegate Gravesham Borough Council's Legal Services functions to Medway Council.

- 2.2. Therefore, this report will set out the necessary actions which are required for the proposed shared service to take effect.

3. Advice and analysis

- 3.1 A project group has been established to implement the shared working arrangements, comprising officers from Legal Services, Finance, Human Resources and ICT. This matter is scheduled to be considered by Cabinet on 17 January 2017. Subject to Cabinet on 17 January 2017 recommending to full Council to accept the delegation of the Legal Services function from Gravesham Borough Council and subject to full Council on 26 January 2017 accepting that delegation, Gravesham's Legal Services staff are scheduled to transfer under TUPE regulations to Medway Council on 1 April 2017.
- 3.2 The proposed shared service will take the form of a delegation of an executive function from Gravesham's Cabinet to Medway's full Council. This report recommends that Medway's Cabinet recommends to full Council to accept this delegation and further delegate these functions to the Chief Legal Officer, who will take on the responsibility of delivering Legal Services functions for both authorities. The Chief Legal Officer will continue to deliver Medway's functions and if requested report on the progress of the shared service to the Business Support Overview & Scrutiny Committee and will also deliver Gravesham's functions and report if requested to Gravesham's senior management in a format and frequency to be agreed in the legal agreement between the two authorities.
- 3.3 A Business Case has been prepared by officers from Gravesham and Medway to provide further information regarding the work of the two separate Legal Services including current costs, staff transfers, potential savings and other benefits from establishing a shared Legal Service such as increased resilience and potential to provide Legal Services to external bodies and bring in an income for Medway Council. A copy of the Business Case is attached as Appendix B. This may be subject to further change but will be finalised before the matter is considered at Full Council.
- 3.4 In summary, Gravesham have two vacant posts that will not be recruited to and some further posts at Gravesham Borough Council will not form part of the TUPE transfer making a saving which will be shared between the two authorities on a proportionate basis, to be formally agreed in the legal agreement between the two authorities. All other Gravesham staff members will transfer to the employment of Medway Council under TUPE. It is proposed to review the new structure after transfer.

- 3.5 Any current capacity within the Medway Council legal team will be utilised to back fill for the two vacant posts in the Gravesham team. Medway Council are already providing assistance to Gravesham to cover their Planning legal work and other ad hoc matters on the basis of 2 days a week in the interim while a shared Legal Service is established. Gravesham Borough Council are paying for this at market rate. It is anticipated that the shared service would provide resilience and greater expertise within the team. This would reduce the need to instruct external solicitors or barristers and reduce costs further. It could also provide opportunities and the capacity to trade legal services to other public bodies to create an income for Medway Council.
- 3.6 Capacity, workloads, worktypes and expertise within the shared legal team will be thoroughly reviewed and consideration given to the need for a restructure if resources need to be reorganised to meet client demands or make further savings.

4. Options

- 4.1 **Option 1: Do Nothing.** Each local authority can retain it's own separate Legal Services teams undertaking work for their own client departments only. This has the advantage of consistency for staff and client departments but does not allow resilience or reduced costs that could be achieved by sharing resources. Both Council's are carrying vacancies and using locums to provide additional support which is not sustainable.
- 4.2 **Option 2: Establish a Shared Legal Service with Gravesham Borough Council.** Gravesham's existing staff members would transfer to the employment of Medway Council under TUPE Regulations providing greater resilience and expertise in the team and reduce costs due to economies of scale. Further costs may be possible through a future restructure, if considered necessary.
- 4.3 **Option 3: Restructure before establishing the Shared Legal Service to reduce the team sizes.** This would immediately reduce staffing costs but would significantly reduce capacity within the team and could impact on the service provided to client departments in both local authorities. This risks needing to employ locum lawyers or instruct external solicitors to create further capacity to meet demand, which is significantly more expensive than permanent staff. This also risks reputational damage if either local authority is unable to meet deadlines. This option is not considered feasible as both teams are operating at high capacity and any reduction in numbers would not enable the service standards to be maintained.

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Either party chooses to terminate the delegation.	Medway Council permanently takes on the responsibility for and costs of providing Gravesham's Legal Services functions. Either party may choose to end the shared service or the arrangement fails, leaving Medway with additional costs and Gravesham with no legal service.	Gravesham's formal delegation and decision to share services approved by their Cabinet. A formal legal agreement will be made to include exit arrangements with appropriate notice periods for seeking to vary or terminate the services.
Failure to deliver effective service	The proposed service is a reduction on existing resources and a new way of working; it may fail to deliver an effective shared legal service for Medway and/or Gravesham Councils.	A formal legal agreement will be made to include required outputs and how performance will be measured, monitored and reported.
Staff grievance	Changes to staff terms and conditions may not be introduced appropriately	HR staff from both Councils are involved in the project and are leading on this work-stream.

6. Consultation

- 6.1 As Legal Services are "back-office" functions, this change will not impact on the public and so has not been subject to public consultation.
- 6.2 Both Councils will commence formal consultation with staff and trade unions in January 2017 to discuss the proposals outlined in the report. Any future review of staffing will be undertaken in accordance with Medway Council's Organisational Change Policy and Procedure and in line with this the Council will seek to minimise the need for compulsory redundancies wherever possible.
- 6.3 The Business Support Overview and Scrutiny Committee considered this report on 5 January 2017 and its comments will be submitted to Cabinet in an addendum report.

7. Financial Implications

- 7.1 From 1 April 2017 the Legal Services staff in post at Gravesham will transfer to Medway Council's payroll and be paid from Medway's salaries budgets. Based solely on salaries paid, this is anticipated to save in the region of £200,000 which will be split between the two authorities on a proportionate basis, to be formally agreed in the legal agreement between the two authorities. Further detailed analysis will be undertaken by the council's Finance Team to determine the exact savings that might be achieved, factoring in other non-salary budgets.
- 7.4 In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective. The list below provides a suggestion of the costs that need to be considered, but is not deemed to be exhaustive.
- 7.4.1 IT costs of setting up access to other's systems, plus potentially new IT equipment to enable better facilities for staff.
- 7.4.2 Property and facilities costs – there may be a need to acquire additional desks and chairs, etc. to ensure that all officers can be accommodated in any one site.
- 7.4.3 It is not anticipated that there will be any redundancy costs at this stage as all officers will be transferred across to Medway Council.

8. Legal Implications

- 8.1 Section 101(1) of the Local Government Act 1972 allows local authorities to delegate non-executive functions to other local authorities. The Local Authority (Arrangement for the Discharge of Functions)(England) Regulation 2012 made under section 9EA of the Local Government Act 2000 allows local authorities to delegate executive functions to other local authorities. Under the Local Government Act 2000, the default position is that a function is an executive function unless specific provision provides that they are non-executive. The Local Authority (Functions and Responsibilities)(England) Regulations 2000 sets out the specific functions that are non-executive. As these Regulations do not specify that legal functions are non-executive, they will be executive functions for the purpose of a delegation.
- 8.2 Gravesham's Cabinet will consider whether to make a delegation of their Legal Services functions to Medway Council. The delegation must be accepted by Medway's Full Council, and once accepted, Medway will become statutorily responsible for Gravesham's legal services functions as though it were its own functions.
- 8.3 The delegation of Gravesham's legal services functions to Medway will be documented through a legally binding contract, which both parties must agree and sign. The delegation agreement will cover, but is not limited to:

- Governance and staffing arrangements
 - Cost sharing
 - Liability, indemnity and insurance
 - Data protection and information governance
 - Exit provisions
- 8.4 The delegation agreement will fall outside the scope of the Public Contracts Regulations 2015 so there is no requirement for Gravesham to tender these services. The delegation agreement will implement a co-operation between Gravesham and Medway with the aim of ensuring that Medway provides public services they have to perform with a view to achieving objectives they have in common. The delegation will also give Medway an exclusive right by law to provide the services to Gravesham. Such administrative arrangements are expressly exempted from the EU procurement regime (Regulations 11 and 12 (7) of the Public Contracts Regulations 2015).
- 8.5 A structured shared service managed by the Chief Legal Officer is able to take advantage of support staff and facilities at Gravesham Borough Council through the powers in:
- Section 113 of the Local Government Act 1972 which allows local authorities to place officers at the disposal of other local authorities; and
 - The Local Authorities (Goods and Services) Act 1970 which allows local authorities to make arrangements with each other for the provision of goods, administrative, professional or technical services and vehicle, plant or apparatus.

9. Recommendations

- 9.1 The Cabinet is asked to consider the comments of the Business Support Overview and Scrutiny Committee
- 9.2 The Cabinet is asked to recommend to the Leader of the Council that option two set out in paragraph 4.2 above is agreed whereby Medway Council shall assume responsibility for the discharge of Gravesham Borough Council's Legal Services functions as permitted under the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.
- 9.3 The Cabinet is asked to recommend to Full Council to accept the delegation by Gravesham Borough Council of its Legal Services functions to Medway Council.
- 9.4 The Cabinet is asked to agree to delegate authority to the Chief Legal Officer of Medway Council to enter into a legally binding contract

between both local authorities setting out the detail of the arrangements for a fully shared Legal Services.

- 9.5 The Cabinet is asked to agree to delegate authority to Medway's Chief Legal Officer to assume responsibility for the management and delivery of legal services for Gravesham Borough Council jointly with the services provided for Medway Council and for this to be reflected in the Council's Scheme of Delegation.

Recommendation for the Leader of the Council:

- 9.5 The Leader of the Council is asked to agree to assume responsibility for the discharge of Gravesham Borough Council's Legal Services functions as permitted under the Local Authorities (Arrangements for the Discharge of Functions)(England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.

10. Suggested reasons for decision

- 10.1 It is anticipated that option 2 will bring the following benefits:

10.1.1 Cashable savings for both Authorities.

10.1.2 Added resilience across the two authorities. There will be a larger pool of officers covering both authorities providing additional resilience to cover sickness absence/vacancies or increased workload should this be required.

10.1.2 Availability of specialist skills across both authorities leading to increased efficiency; potential for a reduced requirement for external support from contractors, etc.

10.1.3 Sharing of best practice in the delivery of Legal Services.

10.1.4 Expansion of knowledge base of individuals.

Appendices

Appendix A – Gravesham Borough Council Cabinet report of June 2016

Appendix B – Draft Business Case

Appendix C – Legal Staffing Structure (June 2016)

Appendix D – Examples of Shared Services

Appendix E – Gravesham Borough Council Cabinet report of January 2017

Background Papers:

None

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Gravesham Borough Council

Report to: Cabinet

Date: 06 June 2016

Reporting officer: Stuart Bobby, Director (Corporate Services) and Michelle Batstone, Corporate Change Manager

Subject: Proposed development of a fully shared Legal Service with Medway Council

Purpose and summary of report:

To provide Members with an update on the initial discussions that have taken place with Medway Council with regards to Legal Services and to seek approval for the progression of a full evaluation of a potential shared service between Medway Council and Gravesham Borough Council for the delivery of Legal Services.

Recommendations:

Members are requested to agree to the progression of a full evaluation of a fully shared Legal Service Team with Medway Council, with an update report back to Members in due course.

1. Introduction and background

- 1.1 On 1 December 2016, Medway Council and Gravesham Borough Council entered into a shared service arrangement for the delivery of Audit and Counter Fraud Services. Since this date, responsibility for housing benefit fraud has been transferred to the DWP's Single Fraud Investigation Service and the shared service restructured, with effect from 1 March 2016.
- 1.2 Building on the success of this shared service, discussions have commenced into the potential of exploring the opportunity for shared services in other areas of council business the service area of Legal Services has been identified as an area for further exploration.

- 1.3 The table below provides some basic contextual information about the two authorities to aid discussions:

	Gravesham Borough Council	Medway Council
Population served	102,800	271,000
No. employees	c.500	c.3,000 (excl. schools)

2. Legal Services

- 2.1 The most recent conversations with Medway Council have focussed on the Legal Services function. These discussions have been bought about by the recent and impending departure of key personnel within the GBC Legal Services team and as such, the opportunity has been taken to explore other potential delivery models rather than recruit straight to the relevant post.
- 2.2 Initial discussions have already taken place between Medway Council's Chief Legal Officer, the Director (Corporate Services), the Director (Communities) and the Assistant Director (Governance & Law) at Gravesham and agreement has been reached for officers from Medway Council to provide officer support two days per week to help 'backfill' the current/impending vacant posts at Gravesham.
- 2.3 It is proposed that officers from both Medway Council and Gravesham Borough Council work together to undertake a full evaluation of both authority Legal Services with a view to bringing a report back to Members on the viability of this option for further discussion.
- 2.4 The table below provides some headline comparison information in relation to the Legal Services teams at Gravesham and Medway (as they currently stand):

	Gravesham Borough Council	Medway Council
No. Posts	11 posts (of which one is vacant)	40 posts including two apprentices (of which six are vacant)
No. FTE	9.0 FTE 1.0 – Assistant Director 0.5 – Information Officer (FOI) 7.5 – Legal Services Team	40 FTE 1.0 – Head of Legal Services 21.0 – People Team 10.0 – Place Team 6.0 – Legal Support 2.0 – Legal Apprentice

	Gravesham Borough Council	Medway Council
Vacant posts	1 vacant post: 1 x Legal Team (there will be an additional vacancy in the legal team due to one officer's impending departure.	6 vacant posts: 4 x People Team 1 x Place Team 1 x Apprentice
Overall Staffing Budget	£440,347	£1,486,956

NB: The overall staffing budget provided above is the pure salary budget for each authority so as to avoid any confusion given the different ways in which overheads and recharges are dealt with by the two authorities.

- 2.5 The Legal Services team at Medway Council is split into two teams – the People Team and the Place Team. Structure charts for both authorities are included at appendix two.
- 2.6 The People Team is mainly responsible for activities associated with social care and in particular children's social care. The team has recently been expanded to recognise the increased number of children in the care system.
- 2.7 The Place Team at Medway Council is responsible for general legal services issues such as conveyancing, providing legal advice etc. and represents a direct comparison with the GBC Legal Services team.
- 2.8 Appendix three to the report provides details of authorities who have already implemented shared working in this area.

3. Next Steps

- 3.1 If Members are supportive of the further evaluation of this proposal, it is proposed that the core project group that brought in the Audit and Counter Fraud shared service, be reconvened with a view to exploring a shared service for Legal Services.
- 3.2 Whilst there is no definitive timescale for this project at this stage, it is intended to progress this work as quickly as possible. A follow-up report will be brought back to Members in due course to set out the findings from the evaluation and to present, where applicable, a way forward.

4. BACKGROUND PAPERS

- 4.1 There are no background papers pertaining to this report.

IMPLICATIONS		APPENDIX 1
Legal	There are no legal implications resulting from this report.	
Finance and Value for Money	There is the potential for savings to be made through a shared service. At this stage, it is not possible to estimate the savings as no detailed analysis has been undertaken. This will be forthcoming should Members support the move to further exploration of a shared service in this area.	
Risk Assessment	There is a need to consider the council's structure, given the impending departure of one senior officer within the Legal Services team to ensure that the council can continue to provide legal support and advice to the authority as a whole. The implementation of 'resilience' arrangement will mitigate this risk whilst a long-term shared service arrangement is explored.	
Equality Impact Assessment	Screening for Equality Impacts	
	Question	
	<p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer.</p> <p>No</p>	
	<p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer.</p> <p>No</p>	
<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.</i>		
Corporate Plan	<p>The information set out in this report contributes to objective four – a sound and self-sufficient council. Specifically, it links to the following commitments:</p> <ul style="list-style-type: none"> • Deliver on opportunities for the sharing and selling of council services. • Continuously review and adapt how we deliver our services to achieve financial efficiencies and improved performance. 	
Crime and Disorder	There are no crime and disorder implications resulting from this report.	
Digital and website implications	There are digital and website implications resulting from this report.	
Safeguarding children and vulnerable adults	There are no safeguarding children and vulnerable adults resulting from this report.	

Shared Services Business Case

Legal Services

DRAFT

Author: *Mike Hayley, Assistant Director (Governance & Law) at Gravesham Borough Council and Jan Guylar, Head of Legal Services at Medway Council*

Date: *January 2017*

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1. Introduction and Strategic Requirements of the Service

1.1 Scope for shared service/joint working arrangements

Gravesham Borough Council currently operates a small Legal Services team which has recently been reduced due to officers within the team seeking employment elsewhere. The Legal Services team at Medway Council is considerably larger and split into two sections; the People Team and the Place team.

The vacancies at Gravesham have resulted in the opportunity to explore an alternative way of providing the Legal Services at Gravesham, and the exploration of a full shared service with Medway Council.

In addition, the two councils have recently started to share an Information Governance Manger on a 50:50 basis as part of a shared management arrangement. This arrangement was implemented from 1 August 2016 but will be included as part of the full shared service for Legal Service, should it be pursued further.

1.2 Potential stakeholders/partners

Gravesham Borough Council and Medway Council (employees and Members).

1.3 Current service provision arrangements of potential stakeholders/partners

The current services are operated in-house and at Gravesham Borough Council the Legal Services department reports to the Director (Communities) and at Medway Council the Legal Services department reports to the Chief Legal Officer.

As mentioned above, the Legal Services team at Medway Council is split into two sections; the People team who largely deal with social care and child welfare issues and the Place team that deal with property and other legal matters. For the purposes of this business case and the shared service, the services relating to the People team have been excluded from the analysis.

1.4 Contribution to key council objectives

The Legal Services teams of both authorities are key services and support the delivery of all of the council's objectives in ensuring that they meet all statutory and legal requirements.

1.5 Statutory Obligations

All councils have a statutory requirement to appoint a Monitoring Officer, pursuant to section 5 of the Local Government and Housing Act 1989. This post typically sits within the Legal Services departments of local authorities; at Gravesham Borough Council this post is held by the Assistant Director (Governance & Law) and at Medway Council this post is held by the Chief Legal Officer.

The Monitoring Officer is available for Members and Officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.

2. Strategic and Operational Benefits of Joint Working

2.1 Strategic Benefits

Benefit	Measure
Improved service resilience in times of need, i.e. staff shortages due to vacant posts or staff sickness	Sustain and/or improve performance delivery of the service.
Cashable savings – through the restructuring and amalgamation of teams a reduction in staff numbers <i>could</i> be achieved whilst maintaining high levels of performance.	Value of savings Reduce number of FTE
Reduction in the need to employ external services to provide legal services/advice.	Reduced expenditure
Provides future opportunity for the service to be expanded in order to take on works from other public bodies.	Income generation
Reduce duplication by providing one set of training to all staff.	Reduce costs, VfM
Greater opportunity for the Managers to utilise staff resources more efficiently (opportunity for staff to 'specialise' more effectively).	Improved efficiency Sustain and/or improve performance on key PI's
Improved service to the customer.	Improved customer satisfaction.

3. Constraints and Dependencies

3.1 Constraints to the project progressing

- **Organisational Constraints**

- Agreement between the two councils on the viability of a shared service arrangement.
- Agreement between the two councils on the scope/type of shared service arrangement.
- Agreement by the Members at the two councils for the progression of a shared service arrangement.
- Legal requirements/obligations that may need to be met by progressing any particular option.
- Potential requirement for a specific Monitoring Officer to remain onsite at both local authorities.

- **Resource Constraints**

- Potential resistance from team members to change.
- Cultural difference – both in terms of organisational set-up and demographic.
- Staff currently located at Gravesend and Medway may be required to travel to a different office.
- HR issues; staff are currently on different terms and conditions.

- **Time Constraints**

- No specific time constraints; the proposed implementation date is 01 April 2017.

3.2 Dependencies for the project progressing

- Access to each authority's back office IT systems at both sites.
- Ensuring there is no adverse impact on customers (internal and external) at either authority/
- Good communication of the changes that are being made at both authorities to all customers/potential customers.
- Good communication of project milestones, targets and issues that may affect viability/timing of the achievement of this project to all key project officers, senior managers involved and officers within existing teams at both authorities.

4. Legal and Constitutional/Governance Issues

- 4.1** The partnership/joint-working arrangement will be made pursuant to section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.
- 4.2** At Gravesham Borough Council, a report will be presented to the Cabinet in order to receive formal authority to progress with the implementation of the shared service and to also formally delegate responsibility for Legal Services to Medway Council.
- 4.3** At Medway Council, the constitution provides that the decision to accept a delegation of a function from another local authority is reserved to a full Council meeting (Article 10(C) of the constitution).
- 4.4** As previously set out, each local authority has a statutory requirement to appoint a Monitoring Officer. This role cannot be delegated to another local authority although a Monitoring Officer can be appointed by one or more local authority i.e. the Monitoring Officer appointed by Medway Council can also be designated as the Monitoring Officer for Gravesham Borough Council by the Full Council (at Gravesham).

5. Equalities Impact Assessment

- 5.1** It is anticipated that there will be no impact on customers of the service (both internal and external) in terms of equalities with the development of the shared service. Whilst the officers at each site will not remain constant i.e. officers will work at both sites, they will remain contactable no matter which site they are based at.
- 5.2** Any equalities issues affecting any officers who will form part of the new shared service will be taken into account in the implementation phase, prior to any TUPE transfer commencing. A formal consultation will be undertaken with all officers affected by the change prior to its implementation and any equalities issued will be identified at this stage.

6. Risks

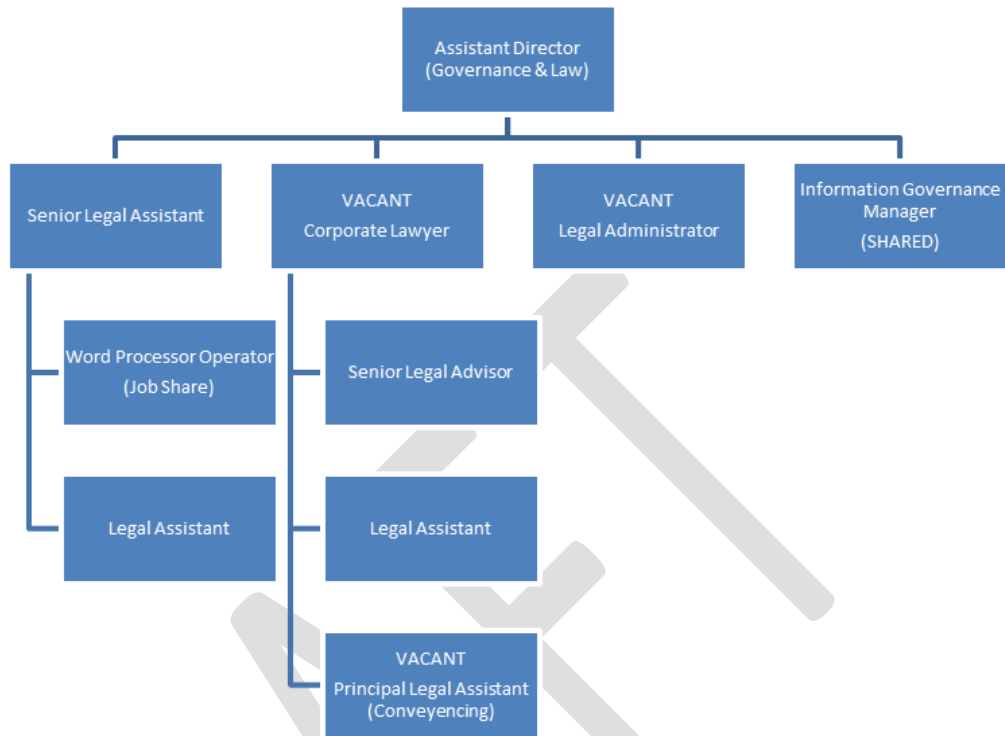
6.1 'Do Nothing' Risks – if there is no change to existing arrangements

Risk identified	Action to mitigate risk
Limited resilience to cover periods of high volumes of work, staff turnover or sickness.	Pursue options for joint working or work more closely together.
Limited budget savings and VfM efficiencies.	Select option that will maximise savings & VfM
Potential for increased costs as a result of the need to employ external consultants/locums to undertake works on behalf of the authority.	Pursue options for joint working or work more closely together to provide necessary skills.
Performance levels – limited opportunities to further improve and performance may even drop at times of high workload or sickness.	Pursue options for joint working or work more closely together.
Possibility of being unable to adapt to changes quickly enough due to capacity issues.	Pursue options for joint working or work more closely together.

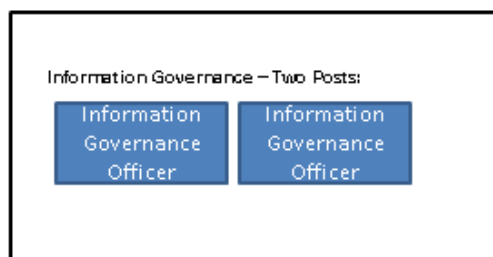
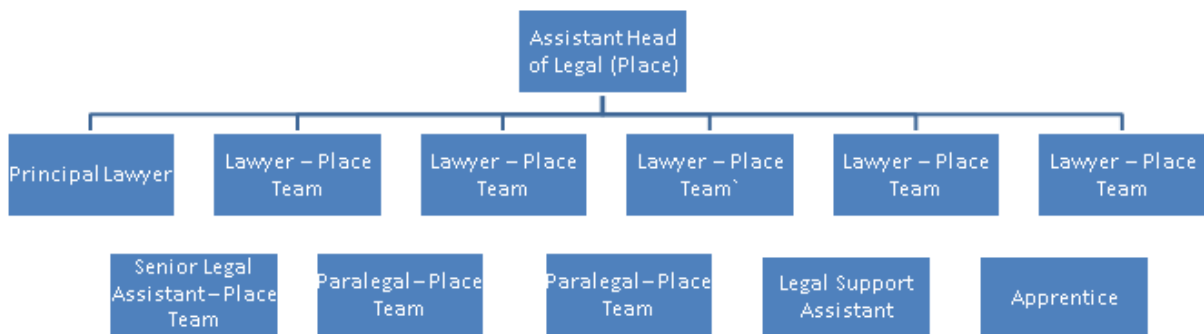
7. Existing Working Arrangements

7.1 Departmental Structures

Gravesham Borough Council -



Medway Council (Place Team) –



NOTE: It should be noted that the roles of Information Governance officers at Medway have recently moved from the Customer Services Team to the Legal Services Team.

7.2 Summary of arrangements –

As above, for the purpose of comparing like with like, only the costs associated with the Place Team at Medway Council are identified above, along with the Information Governance roles at Medway Council.

	Gravesham	Medway
Salary costs (excluding oncosts) 2016-17	Total: £340,690.85	Total: £426,244.64 NB: the costs of the Head of Legal have been split across the People Team, the Place Team and the Legal Practice Manager Team equally for the purposes of this analysis.
Staff numbers (FTE)	Total: 9.53 FTE	Total: 13.93 FTE NB: the post of the Head of Legal have been split across the People Team, the Place Team and the Legal Practice Manager Team equally for the purposes of this analysis.
Staff numbers (actual)	11 (including three vacant posts)	15
Scope of Service	<p>In summary, the work of the two teams covers very similar activities:</p> <ul style="list-style-type: none"> • Licensing – advice to officers and Members. • Planning – prosecutions relating to non-compliance, village green development advice, s.106 etc. • Housing (council and private housing) – right to buys, anti-social behaviour action, prosecution of landlords, research and advice to officers and Members. • Property Services – sale/purchase of properties, owned land enquiries, property leases etc. • Information Governance (freedom of information and data protection) 	
Current IT systems in use	<ul style="list-style-type: none"> • Case Management – IKEN 	<ul style="list-style-type: none"> • Case Management – currently TPS but moving to IKEN in December 2016.

	Gravesham	Medway
Externally provided services	From 2017-18, the council has a budgetary provision of £56,250 for external litigation expenses	<p>Counsel Fees – rarely used by Place Team as most hearings are covered in house. Fees in 2015-16 totalled £104,422 and included three planning public inquiries and advice on complex contract and housing matters and representation at court when in-house advocates not available</p> <p>External Solicitors - have not instructed external solicitors for some time. One ongoing instruction is to Bond Dickinson for Rochester Riverside Development although it is anticipated that this level of work could now be covered in house.</p> <p>Legal research (per annum): - Lexis Nexis (£23,719 + VAT) - PLC (£15,125 + VAT)</p> <p>Training: - CLT Subscription (£650 pa)</p>

In addition to the service above, Medway Council also have a number of external services/groups they no longer use but would like to reintroduce:

- Lawyers in Local Government (£500 per annum)
- Lexcel (£3,000 per annum)
- CIPFA Benchmarking (£600 per annum)

8. Cost/Benefit Evaluation of Options and Recommendation

8.1 Three options were considered in developing the business case:

8.1.1 Do nothing – remain as is

Both council's currently have vacancies and/or are paying locums to provide services the council is currently unable to provide. This is not maintainable in the long-run and as such, an alternative delivery model for Legal Services across both sites is required.

8.1.2 Merge the teams – a shared service

Put in place a shared team to operate across both authorities. To provide added resilience and potentially skills across both sites and to realise a financial saving for both authorities.

8.1.3 Reduce staff to achieve financial savings

As previously detailed both authorities are actually employing locums to support current workloads. As such, this is not a long-term solution for either authority if service levels want to be maintained.

- 8.2** On the basis of the options above, the potential for a shared service was explored further whereby all Gravesham Borough Council officers will TUPE transfer to Medway Council to form part of the Legal Services (Place) team at Medway. This option presents added resilience across the two authorities but also presents financial savings across both sites. If staff transferred and all vacancies were removed from the structures, estimated salary savings across the two sites would be in the region of £200,000. A detailed analysis will be undertaken by the Finance teams across the two authorities in order to determine other savings that could be achieved through more streamlined ways of working.
- 8.3** Gravesham Borough Council could delegate its legal function to Medway Council by one of two ways:
- 8.3.1** By entering into a statutory arrangement under s113 of the Local Government Act 1972 whereby Medway Council and Gravesham Borough Council would share the legal staff and the legal staff of one authority can be treated as the staff of another for the purpose of their statutory functions as opposed to a commercial arrangement whereby one authority provides professional services to another. Both teams can deliver legal services for both Councils. All existing legal staff would continue to be employed by their original employer and the two legal teams for the two local authorities would work in parallel. Both teams would continue to be a cost to both Local Authority's but the arrangement could be terminated at any time as provided by what the parties agree. Section 113 of the Local Government Act 1972 allows a local authority to enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided for by the agreement, of officers employed by the former. Officers placed at the disposal of the "borrowing" authority are treated as an officer of that authority for the purposes of all their statutory functions whilst remaining an employee of the "lending authority" for employment law purposes. Before entering into an arrangement under s113 the affected staff must be consulted. The nature of s113 means that no direct EU procurement issues arise in relation to the propose agreements. Section 113 is being utilised for interim arrangements with Gravesham until a more definitive contractual arrangement can be put into place.
- 8.3.2** Section 101 of the Local Government Act 1972 can be used to delegate functions from Gravesham Borough Council to Medway Council to create a single shared legal team under a single authority, Medway Council. Gravesham Borough Council may arrange for the discharge of any of their functions by any other Local Authority (S101(1) Local Government Act 1972). This method would result in Gravesham delegating it's legal services function to Medway completely with Gravesham's staff, who would be TUPE transferred across to Medway so that all legal staff are employed by Medway Council and thereafter Medway Council will provide a legal service to Gravesham Borough Council.
- 8.4** This business case recommends the use of s101 of the Local Government Act 1972 to TUPE all Gravesham Borough Council legal staff to Medway Council Legal Services to create a single team within Medway Council. Both local authorities will enter into an agreement setting out the arrangements.
- 8.5** It should be noted that once the TUPE transfer of staff has been completed and officers have been operating in the new structure for a number of months, a review of the overall staffing structure may be undertaken in order to ensure that all officers are on the same terms and conditions but also to ensure that officers are in the correct posts in order to maximise their expertise across the shared working arrangement.

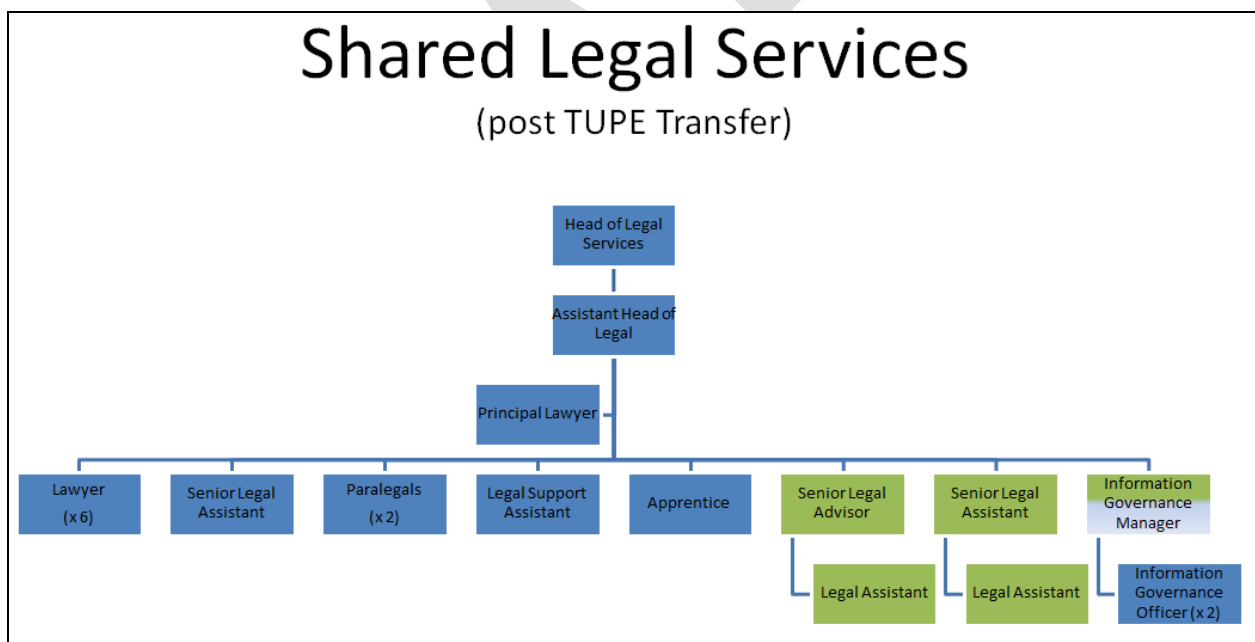
9. High-level options

9.1 Option 1 – TUPE transfer of all Gravesham Borough Council staff to Medway council

Project	Responsible Lead	Other Stakeholders	Implementation options
To TUPE transfer current GBC Legal officers to Medway Council to form one shared pool of officers.	Mike Hayley, Assistant Director (Governance & Law) at Gravesham BC Jan Guyler, Head of Legal Services at Medway Council	All members of the Legal Services teams at both authorities (the Medway Council Place Team)	Proposed implementation date of 01 April 2017.

Following the TUPE transfer of staff to Medway Council, it is anticipated that a full review of the structure of the Legal Services Team will take place. This will enable all officers to develop their joint-working practices and for a structure to be developed which truly meets the needs of both local authorities, if it is deemed necessary.

Proposed structure following TUPE transfer:



The structure chart above shows the current Medway Council staff in blue and the current Gravesham staff in green; the Information Governance Manager is currently a shared post, although the officer is currently employed by Gravesham Borough Council.

Key points to note in the proposed TUPE transfer structure:

- The Assistant Director (Governance & Law) and the two Word Processor Operatives at Gravesham Borough Council will not form part of the TUPE transfer. One of the Word Processor operatives will be redeployed to the council's Customer Services Team and the other two officers will leave the council as part of a settlement agreement (to be funded solely by Gravesham Borough Council from savings generated through the shared service).

Monitoring Officer Role

At Medway Council, the Monitoring Officer role is held by the Chief Legal Officer, with the Head of Legal Services acting as the Deputy Monitoring Officer. It is proposed that this approach be replicated at Gravesham Borough Council; Gravesham can designate the Chief Legal Officer at Medway Council as its Monitoring Officer with the Head of Legal Services designated as the Deputy Monitoring Officer.

The Deputy Monitoring Officer will be onsite at Gravesham Borough council two days per week (potentially Tuesday and Thursday) and will be supported by other senior Legal Officers from the shared service for the remaining three days. This means that there will be a senior legal presence at Gravesham Borough council five days per week.

Staff salary analysis

NB: all of the salaries shown below have been costed at top of scale and, at this stage do not include oncosts such as pension, national insurance etc, to enable a true comparison to be calculated.

Gravesham BC Current Structure Staffing Budget:	£345,792.90	(43%)
Medway Council Current Structure Staffing Budget: (Place Team and Information Governance only)	£464,213.46	(57%)
<i>Overall cost of both teams (at top of scale)</i>	<i>£810,006.36</i>	

The TUPE transfer of staff (as outlined above) would result in an overall cost of both teams of £605,916.56 resulting in an overall saving of £204,089.80. Based on the proportion of costs as detailed above, the estimated savings are as follows:

Gravesham BC Estimated Savings:	£87,126.23
Medway Council Estimated Savings:	£119,963.57

NB: the saving related to Gravesham Borough Council does not currently take account of a payment to Medway Council for a proportion of the Chief Legal Officer's time in respect of undertaking the Monitoring Officer role at GBC. This will be an initial payment of £10,000 per annum, with further details included within a report to Full Council.

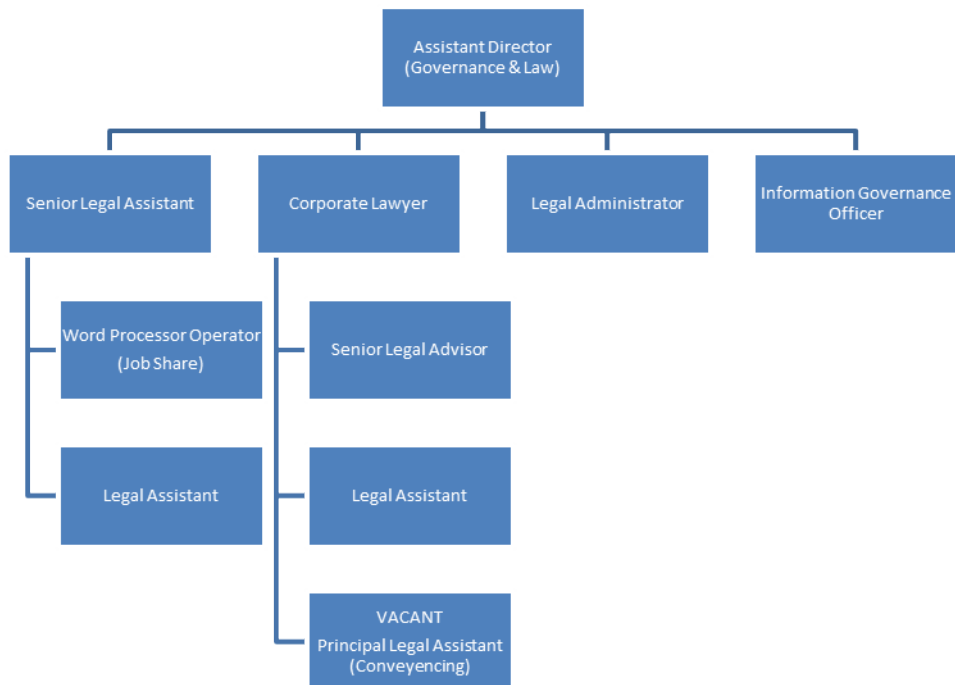
Investment/set-up costs

In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective. The list below provides a suggestion of the costs that need to be considered; but is not deemed to be exhaustive:

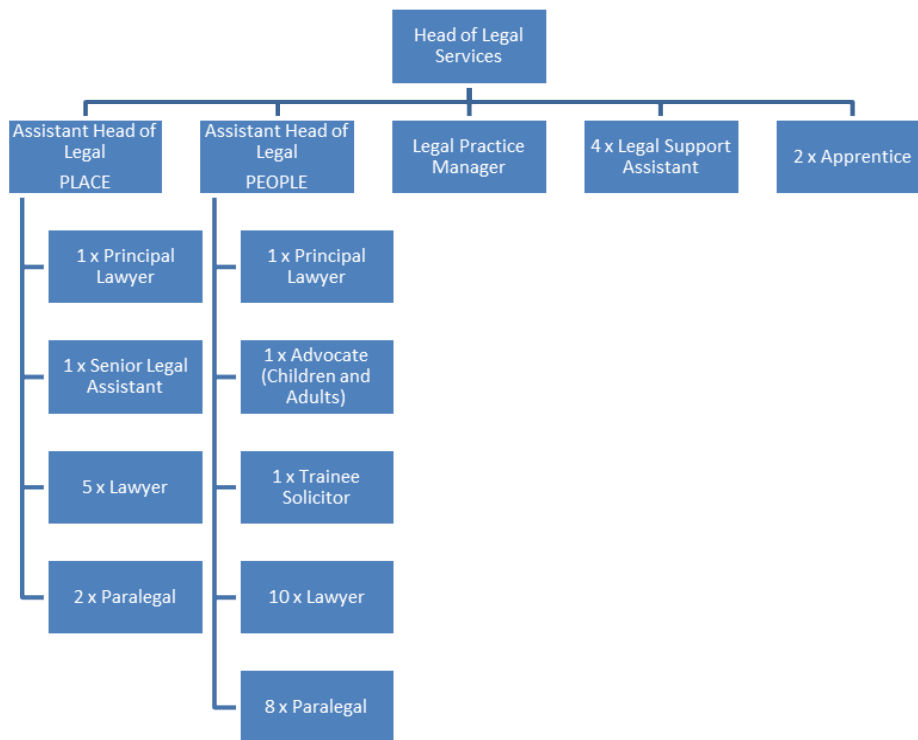
- IT costs of setting up access to other's systems, plus potentially new IT equipment to enable better facilities for all staff. Estimated costs of establishing the new shared service (and associated equipment costs) is £35,000 and will be shared between the two authorities.
- Property and facilities costs – there may be a need to acquire additional desks and chairs etc. to ensure that all officers can be accommodated in any one site.
- It is not anticipated that there will be any further settlement costs beyond those mentioned above.

Staffing Structures - Legal Services

Gravesham Borough Council -



Medway Council –



Examples of Legal Shared Services across the country

Shared Service	Authorities involved	Summary
Association of West Yorkshire Authorities – Legal Services	Kirklees Metropolitan Borough Council, Calderdale Metropolitan Borough Council, Wakefield Metropolitan Borough Council, City of Bradford Council, Leeds City Council.	The Association of West Yorkshire Authorities has agreed to start sharing services across a wide range of areas including, Human Resources, Legal Services, Regulatory Services and Transport. Savings of £1.6m are expected from legal services.
Stafford and Cannock Shared Service	Stafford Borough Council, Cannock Chase District Council	Sharing a range of back office services using the lead authority model. Stafford BC is leading on the provision of ICT, Legal and HR. Cannock Chase DC is leading on Finance, Revenues and Benefits, Audit, Risk and Resilience and Procurement.
Joint Legal Services	North Warwickshire Borough Council, Blaby District Council, North West Leicestershire District Council and Hinckley & Bosworth Borough Council.	Joint Legal Services Project between Blaby District Council, North west Leicestershire District Councils and Hinckley Borough Council and Bosworth Borough Council.
Legal Services	Newcastle under Lyme Borough Council Staffordshire County Council	Agreement for both authorities to share resources where needed and also to offer support where needed in delivery of the function. Estimated savings of £50,000 expected from the arrangement which is in development.
Joint Legal Service	Cherwell District Council; South Northamptonshire District Council; Stratford-on-Avon District Council	Joint Legal Service between Cherwell, South Northamptonshire and Stratford-on-Avon District Councils. The primary purpose of the joint team is to increase resilience (including in the Land Charges function), improve the quality and broaden the range of services provided, increase income earning opportunities and reduce external legal expenditure across the three Councils. Estimated savings have been in the region of £49,150

Shared Service	Authorities involved	Summary
Mid Kent Services	Maidstone Borough Council Swale Borough Council Tunbridge Wells Borough Council	Mid Kent Services is a group of back office services jointly owned and delivered by Maidstone, Swale and Tunbridge Wells Borough Councils who form the Mid Kent Improvement Partnership. The services have been developed to save money, increase resilience and develop best practice across the mid Kent area. Mid Kent Services includes Mid Kent Audit, Mid Kent HR, Mid Kent ICT, Mid Kent Legal Services, and Mid Kent Revenues and Benefits. Estimated overall savings have been in the region of £2,100,000.
Shared Legal Service	Merton London Borough, Royal Borough of Kingston upon Thames, Royal Borough of Richmond upon Thames and Sutton London Borough.	The shared legal service is intended to save £600,000 between the four London Boroughs over the next four years while providing each borough with a substantially increased pool of legal expertise and reducing the need to instruct outside lawyers.
Legal Services Lincolnshire	Lincolnshire County Council, Boston Borough Council, East Lindsey District Council, North Kesteven District Council, South Holland District Council, West Lindsey District Council	Single Lincolnshire Legal Service comprised of lawyers and supporting administrative staff. It provides increased capacity within the service, improved quality of service, efficiency savings through the reduction in external legal spend and rationalisation of processes, generation of income for the councils, improved recruitment and retention and career development opportunities for staff. Estimated savings are in the region of £1,246,000.
Harborough and Melton Shared Legal Services	Harborough District Council, Melton Borough Council	Harborough District and Melton Borough Council are sharing legal services. Estimated savings are in the region of £71,000.

Classification: Public

Key Decision: No

Gravesham Borough Council

Report to: Cabinet

Date: 09 January 2017

Reporting officer: Melanie Norris, Director (Communities) and Stuart Bobby, Director (Corporate Services)

Subject: Development of a Legal Shared Service

Purpose and summary of report:

To update Members on work that has been completed in exploring the opportunity for a joint Legal Service with Medway Council and to seek approval for progression of this arrangement.

Recommendations:

1. Members are requested to agree to the progression of a fully shared Legal Services Team with Medway Council.
2. Members are requested to give delegated authority to the Director (Communities), in consultation with the Director (Corporate Services) and the Assistant Director (Governance & Law) to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place.
3. Members are requested to approve the additional budget of £20,000 to support the implementation of the shared service.
4. Members are requested to give delegated authority to Medway Council to provide the Legal Services function on behalf of Gravesham Borough Council, through a shared service arrangement.

1. Introduction

- 1.1 At the meeting of the Cabinet on 06 June 2016, Members of the Cabinet agreed to the progression of a full evaluation of a fully shared Legal Services Team with Medway Council.
- 1.2 Over recent months, officers from both Gravesham and Medway have met several times to discuss this proposal and it is felt that opportunities exist to put in place a full shared service across the two authorities.

2. Proposal for future arrangements

- 2.1 A business case has been prepared by officers from Gravesham Borough Council and Medway Council to provide the more detailed analysis that has taken place across the two authorities. This is attached at appendix two to the report.

- 2.2 In summary, three options were considered:
- 2.2.1 **Option 1 - Do nothing** – keep the services running as they are. It was felt very early on that this is not an option for either council. Both council's are carrying vacancies and using locums to provide additional support which is not sustainable.
 - 2.2.2 **Option 2 – Merge the two teams** – implement a shared service. It was felt that this option provides the best solution; added resilience across the two sites plus financial savings for both authorities.
 - 2.2.3 **Option 3 – Reduce the team sizes** – achieve financial savings through a reduced team. It was felt that this option was not feasible; both teams are operating at full capacity and as such, reducing the team numbers would not enable the service standards to be maintained.
- 2.3 It is therefore recommended that option two is pursued, with the implementation of a fully shared service across the two authorities. This will involve the TUPE transfer of officers from Gravesham Borough Council to Medway Council, with all relevant vacancies being removed from both structures.
- 2.4 It is proposed that the shared service be implemented from the start of the next financial year – 1 April 2017.
- 2.5 Detailed financial analysis needs to take place in order to fully understand the financial benefits of such an arrangement for both authorities, but it should be noted that this arrangement would also present a number of non-financial benefits:
- 2.5.1 Added resilience across the two authorities. There will be a larger pool of officers covering both authorities providing additional resilience to cover sickness absence/vacancies or increased workload should this be required.
 - 2.5.2 Availability of specialist skills across both authorities leading to increased efficiency; potential for a reduced requirement for external support from contractors etc.
 - 2.5.3 Sharing of best practice in the delivery of Legal Services.
 - 2.5.4 Expansion of knowledge base of individual officers.
- 2.6 It should be noted that the TUPE transfer process will not involve all current staff within the Legal Services team at Gravesham Borough Council. The Assistant Director (Governance & Law) and one of the Word processing Operatives will leave the council through a settlement agreement with the costs of these settlement agreements being recouped from the savings made on the shared service arrangement during the first year of its operation. The remaining Word Processing Operative will be redeployed to the council's Customer Services team.

3. Monitoring Officer Role

- 3.1 The departure of the Assistant Director (Governance and Law) will lead to the need to fill the vacant statutory position of the councils Monitoring Officer as required by The Local Government and Housing Act 1989.

- 3.2 In accordance with the council's Constitution (Annex 1, Article 1.1), designation of this position is by way of a decision of Full Council.
- 3.3 In line with the proposals set out within section two of the report, it is suggested that Gravesham Borough Council look to adopt a shared Monitoring Officer with Medway Council. This will result in a senior Legal presence being on-site at Gravesham five days per week; it may not necessarily be the Monitoring Officer or Deputy Monitoring Officer onsite every day but there will be an experienced senior officer to assist in any day-to-day issues that may arise.
- 3.4 As the designation of the Council's Monitoring Officer role is a function reserved to Full Council, this element of the shared service will be the subject of a separate report to Full Council on 21 February.

4. Next Steps

- 4.1 If Members are supportive of the proposal set out in this report, it is proposed that formal consultation commence immediately with a view to bringing the shared service arrangement into effect from 01 April 2017.
- 4.2 There will be a need to set aside a budget to support the implementation of the shared service such as ensuring that the IT systems are set up correctly to allow access across both sites. It is therefore suggested that a budget of £20,000 be allocated to the project, funded from savings within the Legal Services budget. As such, there will be no impact on the Medium-Term Financial Plan through this expenditure as funds will be vired for this purpose.
- 4.3 Given the timescale for implementing this arrangement, Members are requested to approve the proposal set out in this report and, subject to this, give delegated authority to the Director (Communities), in consultation with the Director (Corporate Services) and the Assistant Director (Governance & Law), to take the necessary practical, financial and legal actions required to enable the arrangement to be put in place.

5. BACKGROUND PAPERS

- 5.1 Background papers pertaining to this report are held by the Director (Corporate Services).

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

<p>Legal</p>	<p>The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) is a law designed to protect the rights of employees when a business transfers from one owner to another. These will need to be taken into consideration as the arrangement progresses as it is anticipated that the employment of GBC officers will transfer to Medway Council.</p> <p>Any resulting partnership arrangement will be made pursuant to Section 101 of the Local Government Act 1972, which allows a local authority to may arrange for the discharge of any of their functions by any other Local Authority and Section 113 which allows the authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.</p>
<p>Finance and Value for Money</p>	<p>As set out in section two of the report, there is the potential for both authorities to benefit financially from this arrangement although a more detailed financial analysis is required. Estimated salary savings are in the region of £200,000 to be split across the two authorities, with any settlement costs to be met from these savings in the first year of the arrangement. The exact nature of the split of savings is to be finalised as part of the formal legal agreement although the recharges will be reviewed following the first year once a true reflection of caseload for each authority is captured.</p> <p>There will also be a need to set aside a budget for the implementation of the shared service, to take account of expenses incurred in relation to IT systems and ensuring relevant access across the two authorities. A budget of £20,000 will, subject to Member approval, be allocated using existing budgets.</p>
<p>Risk Assessment</p>	<p>The risks associated with this arrangement are considered to be 'low' at this time and are detailed within the business case. It should be noted however that risks will be reviewed regularly throughout the implementation of this arrangement to ensure they are identified and, where required, managed/mitigated as necessary.</p>
<p>Equality Impact Assessment</p>	<p>Screening for Equality Impacts</p> <p>Question</p> <p>a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community? If yes, please explain answer. No</p> <p>b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality? If yes, please explain answer. No</p>

	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>
Corporate Plan	The information set out in this report contributes to objective four – a sound and self-sufficient council. Specifically, it links to the following commitments: <ul style="list-style-type: none"> • Deliver on opportunities for the sharing and selling of council services. • Continuously review and adapt how we deliver our services to achieve financial efficiencies and improved performance.
Crime and Disorder	There are no specific crime and disorder implications resulting from this report.
Digital and website implications	There are digital and website implications resulting from this report.
Safeguarding children and vulnerable adults	There are no safeguarding children and vulnerable adults resulting from this report.



Shared Services Business Case

Legal Services

DRAFT

Author: *Mike Hayley, Assistant Director (Governance & Law) at Gravesham Borough Council and Jan Guyler, Head of Legal Services at Medway Council*

Date: *January 2017*

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1. Introduction and Strategic Requirements of the Service

1.1 Scope for shared service/joint working arrangements

Gravesham Borough Council currently operates a small Legal Services team which has recently been reduced due to officers within the team seeking employment elsewhere. The Legal Services team at Medway Council is considerably larger and split into two sections; the People Team and the Place team.

The vacancies at Gravesham have resulted in the opportunity to explore an alternative way of providing the Legal Services at Gravesham, and the exploration of a full shared service with Medway Council.

In addition, the two councils have recently started to share an Information Governance Manger on a 50:50 basis as part of a shared management arrangement. This arrangement was implemented from 1 August 2016 but will be included as part of the full shared service for Legal Service, should it be pursued further.

1.2 Potential stakeholders/partners

Gravesham Borough Council and Medway Council (employees and Members).

1.3 Current service provision arrangements of potential stakeholders/partners

The current services are operated in-house and at Gravesham Borough Council the Legal Services department reports to the Director (Communities) and at Medway Council the Legal Services department reports to the Chief Legal Officer.

As mentioned above, the Legal Services team at Medway Council is split into two sections; the People team who largely deal with social care and child welfare issues and the Place team that deal with property and other legal matters. For the purposes of this business case and the shared service, the services relating to the People team have been excluded from the analysis.

1.4 Contribution to key council objectives

The Legal Services teams of both authorities are key services and support the delivery of all of the council's objectives in ensuring that they meet all statutory and legal requirements.

1.5 Statutory Obligations

All councils have a statutory requirement to appoint a Monitoring Officer, pursuant to section 5 of the Local Government and Housing Act 1989. This post typically sits within the Legal Services departments of local authorities; at Gravesham Borough Council this post is held by the Assistant Director (Governance & Law) and at Medway Council this post is held by the Chief Legal Officer.

The Monitoring Officer is available for Members and Officers to consult on any issues relating to the Council's legal powers, possible maladministration, impropriety and probity issues, or general advice on the constitutional arrangements.

2. Strategic and Operational Benefits of Joint Working

2.1 Strategic Benefits

Benefit	Measure
Improved service resilience in times of need, i.e. staff shortages due to vacant posts or staff sickness	Sustain and/or improve performance delivery of the service.
Cashable savings – through the restructuring and amalgamation of teams a reduction in staff numbers <i>could</i> be achieved whilst maintaining high levels of performance.	Value of savings Reduce number of FTE
Reduction in the need to employ external services to provide legal services/advice.	Reduced expenditure
Provides future opportunity for the service to be expanded in order to take on works from other public bodies.	Income generation
Reduce duplication by providing one set of training to all staff.	Reduce costs, VfM
Greater opportunity for the Managers to utilise staff resources more efficiently (opportunity for staff to 'specialise' more effectively).	Improved efficiency Sustain and/or improve performance on key PI's
Improved service to the customer.	Improved customer satisfaction.

3. Constraints and Dependencies

3.1 Constraints to the project progressing

- **Organisational Constraints**

- Agreement between the two councils on the viability of a shared service arrangement.
- Agreement between the two councils on the scope/type of shared service arrangement.
- Agreement by the Members at the two councils for the progression of a shared service arrangement.
- Legal requirements/obligations that may need to be met by progressing any particular option.
- Potential requirement for a specific Monitoring Officer to remain onsite at both local authorities.

- **Resource Constraints**
 - Potential resistance from team members to change.
 - Cultural difference – both in terms of organisational set-up and demographic.
 - Staff currently located at Gravesend and Medway may be required to travel to a different office.
 - HR issues; staff are currently on different terms and conditions.
- **Time Constraints**
 - No specific time constraints; the proposed implementation date is 01 April 2017.

3.2 Dependencies for the project progressing

- Access to each authority's back office IT systems at both sites.
- Ensuring there is no adverse impact on customers (internal and external) at either authority/
- Good communication of the changes that are being made at both authorities to all customers/potential customers.
- Good communication of project milestones, targets and issues that may affect viability/timing of the achievement of this project to all key project officers, senior managers involved and officers within existing teams at both authorities.

4. Legal and Constitutional/Governance Issues

- 4.1** The partnership/joint-working arrangement will be made pursuant to section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.
- 4.2** At Gravesham Borough Council, a report will be presented to the Cabinet in order to receive formal authority to progress with the implementation of the shared service and to also formally delegate responsibility for Legal Services to Medway Council.
- 4.3** At Medway Council, the constitution provides that the decision to accept a delegation of a function from another local authority is reserved to a full Council meeting (Article 10(C) of the constitution).
- 4.4** As previously set out, each local authority has a statutory requirement to appoint a Monitoring Officer. This role cannot be delegated to another local authority although a Monitoring Officer can be appointed by one or more local authority i.e. the Monitoring Officer appointed by Medway Council can also be designated as the Monitoring Officer for Gravesham Borough Council by the Full Council (at Gravesham).

5. Equalities Impact Assessment

- 5.1 It is anticipated that there will be no impact on customers of the service (both internal and external) in terms of equalities with the development of the shared service. Whilst the officers at each site will not remain constant i.e. officers will work at both sites, they will remain contactable no matter which site they are based at.
- 5.2 Any equalities issues affecting any officers who will form part of the new shared service will be taken into account in the implementation phase, prior to any TUPE transfer commencing. A formal consultation will be undertaken with all officers affected by the change prior to its implementation and any equalities issues will be identified at this stage.

6. Risks

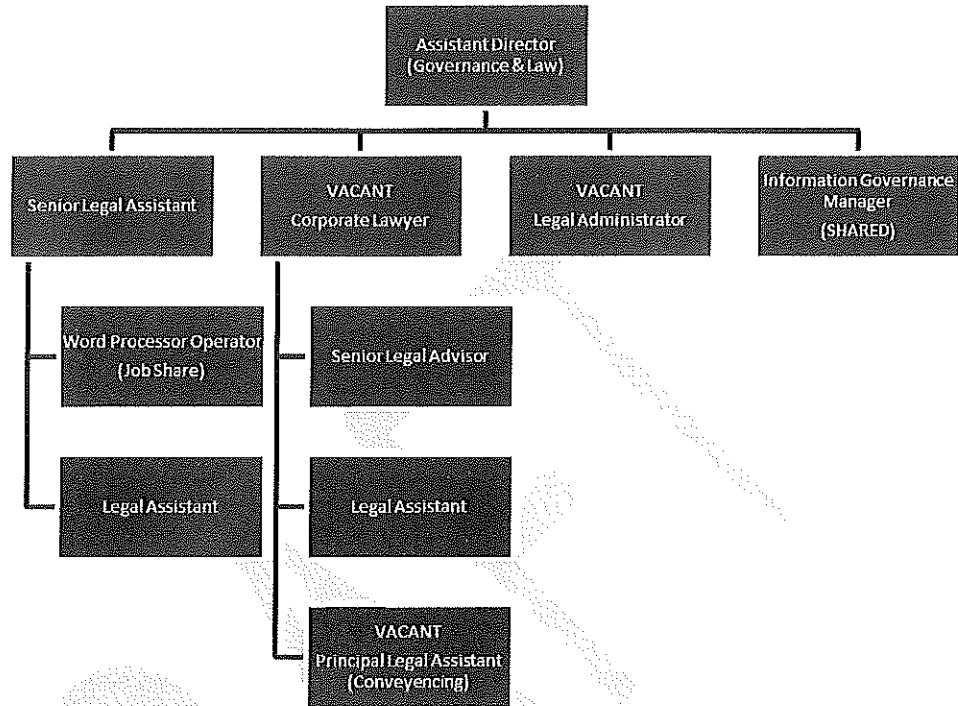
6.1 'Do Nothing' Risks – if there is no change to existing arrangements

Risk identified	Action to mitigate risk
Limited resilience to cover periods of high volumes of work, staff turnover or sickness.	Pursue options for joint working or work more closely together.
Limited budget savings and VfM efficiencies.	Select option that will maximise savings & VfM
Potential for increased costs as a result of the need to employ external consultants/locums to undertake works on behalf of the authority.	Pursue options for joint working or work more closely together to provide necessary skills.
Performance levels – limited opportunities to further improve and performance may even drop at times of high workload or sickness.	Pursue options for joint working or work more closely together.
Possibility of being unable to adapt to changes quickly enough due to capacity issues.	Pursue options for joint working or work more closely together.

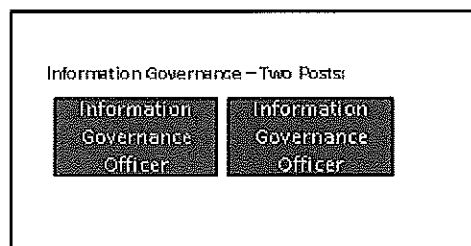
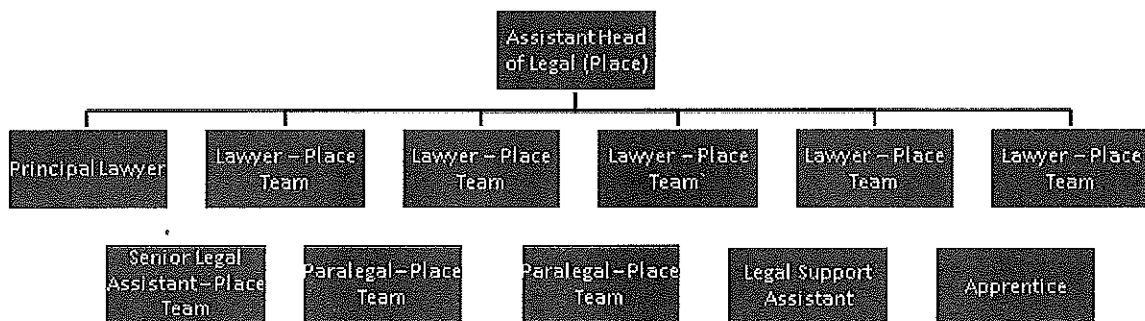
7. Existing Working Arrangements

7.1 Departmental Structures

Gravesham Borough Council -



Medway Council (Place Team) -



NOTE: It should be noted that the roles of Information Governance officers at Medway have recently moved from the Customer Services Team to the Legal Services Team.

7.2 Summary of arrangements –

As above, for the purpose of comparing like with like, only the costs associated with the Place Team at Medway Council are identified above, along with the Information Governance roles at Medway Council.

	Gravesham	Medway
Salary costs (excluding oncosts) 2016-17	Total: £340,690.85	Total: £426,244.64 NB: the costs of the Head of Legal have been split across the People Team, the Place Team and the Legal Practice Manager Team equally for the purposes of this analysis.
Staff numbers (FTE)	Total: 9.53 FTE	Total: 13.93 FTE NB: the post of the Head of Legal have been split across the People Team, the Place Team and the Legal Practice Manager Team equally for the purposes of this analysis.
Staff numbers (actual)	11 (including three vacant posts)	15
Scope of Service	<p>In summary, the work of the two teams covers very similar activities:</p> <ul style="list-style-type: none"> • Licensing – advice to officers and Members. • Planning – prosecutions relating to non-compliance, village green development advice, s.106 etc. • Housing (council and private housing) – right to buys, anti-social behaviour action, prosecution of landlords, research and advice to officers and Members. • Property Services – sale/purchase of properties, owned land enquiries, property leases etc. • Information Governance (freedom of information and data protection) 	
Current IT systems in use	• Case Management – IKEN	• Case Management – currently TPS but moving to IKEN in December 2016.

	Gravesham	Medway
Externally provided services	From 2017-18, the council has a budgetary provision of £56,250 for external litigation expenses	<p>Counsel Fees – rarely used by Place Team as most hearings are covered in house. Fees in 2015-16 totalled £104,422 and included three planning public inquiries and advice on complex contract and housing matters and representation at court when in-house advocates not available</p> <p>External Solicitors - have not instructed external solicitors for some time. One ongoing instruction is to Bond Dickinson for Rochester Riverside Development although it is anticipated that this level of work could now be covered in house.</p> <p>Legal research (per annum): - Lexis Nexis (£23,719 + VAT) - PLC (£15,125 + VAT)</p> <p>Training: - CLT Subscription (£650 pa)</p>

In addition to the service above, Medway Council also have a number of external services/groups they no longer use but would like to reintroduce:

- Lawyers in Local Government (£500 per annum)
- Lexcel (£3,000 per annum)
- CIPFA Benchmarking (£600 per annum)

8. Cost/Benefit Evaluation of Options and Recommendation

8.1 Three options were considered in developing the business case:

8.1.1 Do nothing – remain as is

Both council's currently have vacancies and/or are paying locums to provide services the council is currently unable to provide. This is not maintainable in the long-run and as such, an alternative delivery model for Legal Services across both sites is required.

8.1.2 Merge the teams – a shared service

Put in place a shared team to operate across both authorities. To provide added resilience and potentially skills across both sites and to realise a financial saving for both authorities.

8.1.3 Reduce staff to achieve financial savings

As previously detailed both authorities are actually employing locums to support current workloads. As such, this is not a long-term solution for either authority if service levels want to be maintained.

- 8.2** On the basis of the options above, the potential for a shared service was explored further whereby all Gravesham Borough Council officers will TUPE transfer to Medway Council to form part of the Legal Services (Place) team at Medway. This option presents added resilience across the two authorities but also presents financial savings across both sites. If staff transferred and all vacancies were removed from the structures, estimated salary savings across the two sites would be in the region of £200,000. A detailed analysis will be undertaken by the Finance teams across the two authorities in order to determine other savings that could be achieved through more streamlined ways of working.
- 8.3** Gravesham Borough Council could delegate its legal function to Medway Council by one of two ways:
- 8.3.1** By entering into a statutory arrangement under s113 of the Local Government Act 1972 whereby Medway Council and Gravesham Borough Council would share the legal staff and the legal staff of one authority can be treated as the staff of another for the purpose of their statutory functions as opposed to a commercial arrangement whereby one authority provides professional services to another. Both teams can deliver legal services for both Councils. All existing legal staff would continue to be employed by their original employer and the two legal teams for the two local authorities would work in parallel. Both teams would continue to be a cost to both Local Authority's but the arrangement could be terminated at any time as provided by what the parties agree. Section 113 of the Local Government Act 1972 allows a local authority to enter into an agreement with another local authority for the placing at the disposal of the latter for the purposes of their functions, on such terms as may be provided for by the agreement, of officers employed by the former. Officers placed at the disposal of the "borrowing" authority are treated as an officer of that authority for the purposes of all their statutory functions whilst remaining an employee of the "lending authority" for employment law purposes. Before entering into an arrangement under s113 the affected staff must be consulted. The nature of s113 means that no direct EU procurement issues arise in relation to the propose agreements. Section 113 is being utilised for interim arrangements with Gravesham until a more definitive contractual arrangement can be put into place.
- 8.3.2** Section 101 of the Local Government Act 1972 can be used to delegate functions from Gravesham Borough Council to Medway Council to create a single shared legal team under a single authority, Medway Council. Gravesham Borough Council may arrange for the discharge of any of their functions by any other Local Authority (S101(1) Local Government Act 1972). This method would result in Gravesham delegating it's legal services function to Medway completely with Gravesham's staff, who would be TUPE transferred across to Medway so that all legal staff are employed by Medway Council and thereafter Medway Council will provide a legal service to Gravesham Borough Council.
- 8.4** This business case recommends the use of s101 of the Local Government Act 1972 to TUPE all Gravesham Borough Council legal staff to Medway Council Legal Services to create a single team within Medway Council. Both local authorities will enter into an agreement setting out the arrangements.
- 8.5** It should be noted that once the TUPE transfer of staff has been completed and officers have been operating in the new structure for a number of months, a review of the overall staffing structure may be undertaken in order to ensure that all officers are on the same terms and conditions but also to ensure that officers are in the correct posts in order to maximise their expertise across the shared working arrangement.

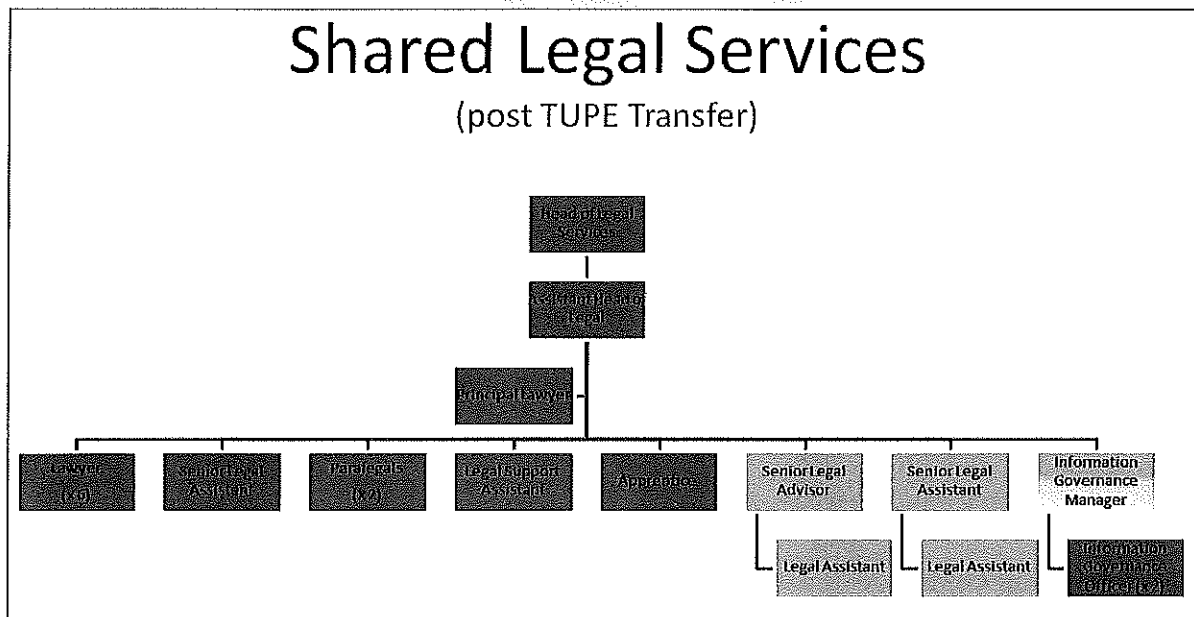
9. High-level options

9.1 Option 1 – TUPE transfer of all Gravesham Borough Council staff to Medway council

Project	Responsible Lead	Other Stakeholders	Implementation options
To TUPE transfer current GBC Legal officers to Medway Council to form one shared pool of officers.	Mike Hayley, Assistant Director (Governance & Law) at Gravesham BC Jan Guyler, Head of Legal Services at Medway Council	All members of the Legal Services teams at both authorities (the Medway Council Place Team)	Proposed implementation date of 01 April 2017.

Following the TUPE transfer of staff to Medway Council, it is anticipated that a full review of the structure of the Legal Services Team will take place. This will enable all officers to develop their joint-working practices and for a structure to be developed which truly meets the needs of both local authorities, if it is deemed necessary.

Proposed structure following TUPE transfer:



The structure chart above shows the current Medway Council staff in blue and the current Gravesham staff in green; the Information Governance Manager is currently a shared post, although the officer is currently employed by Gravesham Borough Council.

Key points to note in the proposed TUPE transfer structure:

- The Assistant Director (Governance & Law) and the two Word Processor Operatives at Gravesham Borough Council will not form part of the TUPE transfer. One of the Word Processor operatives will be redeployed to the council's Customer Services Team and the other two officers will leave the council as part of a settlement agreement (to be funded solely by Gravesham Borough Council from savings generated through the shared service).

Monitoring Officer Role

At Medway Council, the Monitoring Officer role is held by the Chief Legal Officer, with the Head of Legal Services acting as the Deputy Monitoring Officer. It is proposed that this approach be replicated at Gravesham Borough Council; Gravesham can designate the Chief Legal Officer at Medway Council as its Monitoring Officer with the Head of Legal Services designated as the Deputy Monitoring Officer.

The Deputy Monitoring Officer will be onsite at Gravesham Borough council two days per week (potentially Tuesday and Thursday) and will be supported by other senior Legal Officers from the shared service for the remaining three days. This means that there will be a senior legal presence at Gravesham Borough council five days per week.

Staff salary analysis

NB: all of the salaries shown below have been costed at top of scale and, at this stage do not include oncosts such as pension, national insurance etc, to enable a true comparison to be calculated.

Gravesham BC Current Structure Staffing Budget:	£345,792.90	(43%)
Medway Council Current Structure Staffing Budget: (Place Team and Information Governance only)	£464,213.46	(57%)
<i>Overall cost of both teams (at top of scale)</i>	<i>£810,006.36</i>	

The TUPE transfer of staff (as outlined above) would result in an overall cost of both teams of £605,916.56 resulting in an overall saving of £204,089.80. Based on the proportion of costs as detailed above, the estimated savings are as follows:

Gravesham BC Estimated Savings:	£87,126.23
Medway Council Estimated Savings:	£119,963.57

NB: the saving related to Gravesham Borough Council does not currently take account of a payment to Medway Council for a proportion of the Chief Legal Officer's time in respect of undertaking the Monitoring Officer role at GBC. This will be an initial payment of £10,000 per annum, with further details included within a report to Full Council.

Investment/set-up costs

In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective. The list below provides a suggestion of the costs that need to be considered; but is not deemed to be exhaustive:

- IT costs of setting up access to other's systems, plus potentially new IT equipment to enable better facilities for all staff. Estimated costs of establishing the new shared service (and associated equipment costs) is £35,000 and will be shared between the two authorities.
- Property and facilities costs – there may be a need to acquire additional desks and chairs etc. to ensure that all officers can be accommodated in any one site.
- It is not anticipated that there will be any further settlement costs beyond those mentioned above.