

**POLICE AND CRIME COMMISSIONER (PCC) FOR LINCOLNSHIRE
REQUEST FOR DECISION**

REF: 018/2014

DATE: 6 August 2014

SUBJECT	EAST MIDLANDS POLICE LEGAL SERVICE
REPORT BY	DEPUTY CHIEF CONSTABLE
CONTACT OFFICER	Craig Sutherland, East Midlands Police Legal Services Tel 0300 122 5044
EXECUTIVE SUMMARY AND PURPOSE OF REPORT	
<p>Derbyshire, Northamptonshire, Leicestershire and Nottinghamshire collaborate on legal services. The purpose of the collaborative venture known as the East Midlands Police Legal Service ('EMPLS') is to provide or obtain advice and representation for the Chief Constables and Police & Crime Commissioners on all matters that fall outside the remit of the CPS.</p> <p>Lincolnshire Police have an in-house legal team which is supported by external solicitors and barristers. Lincolnshire OPCC outsourced most of their legal needs from an external firm.</p> <p>Lincolnshire Force/OPCC has been invited to join the EMPLS collaboration with a contribution of 20% of the first year and thereafter for the budget contribution to be reviewed on a yearly basis. It is proposed that the existing Lincolnshire staff remain as Lincolnshire staff and are seconded to EMPLS and physically located in the existing office accommodation at Nettleham.</p> <p>It is proposed that the EMPLS operating model is retained and EMPLS acts as legal advisor for the Chief Constable and Commissioner of Lincolnshire. In the event of a conflict between the interests of the Chief Constable and the Commissioner, EMPLS can arrange for independent legal advice to be obtained for the Commissioner.</p> <p>By joining the collaboration, the Chief Constable and Commissioner of Lincolnshire will gain access to a team of specialist lawyers providing greater resilience than is currently available to Lincolnshire. In addition, by joining EMPLS it is felt that the legal spend of Lincolnshire can be brought more into line with the collaboration average, which would realise savings of around £200,000 a year.</p> <p>A Collaboration Agreement in relation to Legal Services was endorsed and signed by the Chief Constable and Commissioner for Lincolnshire in June 2014.</p>	
RECOMMENDATION	<i>That the business case in support of the participation by Lincolnshire Police in the regional Legal Services collaboration be published.</i>

POLICE AND CRIME COMMISSIONER FOR LINCOLNSHIRE

I hereby approve the recommendation above, having considered the content of this report.

Signature:



Date:

06/08/14

A. NON-CONFIDENTIAL FACTS AND ADVICE TO THE PCC

A1. INTRODUCTION AND BACKGROUND

1. The business model favoured by EMPLS is structured to maximise the in-house capacity in preference to the use of external solicitors and barristers. The ability of Lincolnshire to reduce its legal expenditure has been hampered by its relatively small size. The breadth and depth of legal work that an OPCC or Force requires is significant. Each will require amongst other things legal advice and representation in areas of civil litigation (public liability; employer's liability; road traffic accidents and human rights); employment law (advice and representation in tribunals); civil orders in the magistrates court (football banning orders; proceeds of crime; sex offenders; anti-social behaviour; police property; representation in liquor licensing matters (council hearings and courts on appeal); civil matters in the Crown Court (firearms licensing; appeals from civil orders in the magistrates court; and other areas such as applications to remove driver disqualification or intervention in family proceedings); police discipline; commercial (contracts; procurement; property; collaboration; and joint ventures); disclosure; Coronial inquest; judicial reviews; medical appeals and legal advice in the context of an operational setting.
2. The above provides a flavour of the range of work that a lawyer to a Force or OPCC can be called upon to deliver. It is also trite that a solicitor for a chief constable or PCC works largely to the demands and requirements of others: A court sets the timetable of a matter or the client Force/OPCC requires advice to a set timeframe. The range and complexity of work combined with the frequent conflicts in demand has meant that it has not been cost effective for Lincolnshire to retain an in-house presence of a size and range of skills sufficient to deal with all matters in-house. Consequently, Lincolnshire has outsourced work.
3. Outsourcing may have been necessary but it has proved to be an expensive option with barristers and solicitors charging Lincolnshire hourly rates typically between £100 to £200 per hour. Although Lincolnshire Police and OPCC have a similar need for legal advice and representation as the other Forces/OPCCs, the high use of external counsel and solicitors compares has meant that over the years Lincolnshire has compared unfavourably to the costs of the other Forces. Excluding exceptional costs such as those experienced in setting up the G4S contract, the disconnect in adjusted legal expenditure of Lincolnshire can be best illustrated in the following table which combines the in-house and external legal expenditure on representing and advising each Force.

Force	Adjusted costs 2012/13	Officers	Cost Per Officer
Derbyshire	£264,879	1,972	£150
Nottinghamshire	£309,107	2,250	£137
Lincolnshire	£452,117	1,170	£1338

4. The need to outsource due to a lack of resilience and specialist lawyers are part of the reason behind what would appear to be a comparatively high legal expenditure but in order to more fully understand the reason behind Lincolnshire's high legal costs, the author has sought details of new files opened by Lincolnshire over a period of time. Unfortunately, a proper comparison of Lincolnshire's data over the years is difficult due to a change Lincolnshire introduced in the recording of files in 2012/13. From that date, Lincolnshire recorded not only the number of files received but also substantive advice matters. A further difficulty is that the figures only relate to the matters passing through the legal office, where there is work that is outsourced via the OPCC or some other source, such as a Division/Department or the insurers, this is not captured. The caveats noted, Lincolnshire had 305 new matters in 2012/13.
5. In terms of comparing Lincolnshire's figures with EMPLS, there is unfortunately, no standard recording procedure for lawyers. Consequently, particularly when there is an element of subjective identification as to what is a substantive advice matter, there will be a different approach to recording matters between Lincolnshire and EMPLS. Nevertheless, it is possible to call up details of the total files and substantive advice matters (1253) opened by EMPLS in the last 12 months for comparison purposes: of the 1,558 matters recorded in the East Midlands, Lincolnshire's share amounts to nearly 20%.
6. Although this runs counter intuitive to the assumption that you would gain from reference to the grant fund formula, there are other measurements such as the population size and the number of detainees processed through custody which taken with the generally accepted view that Lincolnshire's grant is particularly challenging, that may explain why the level of work in Lincolnshire is not in line with the grant fund formula.

	Population (ONS mid 2011 figures)	Total No. of Police Officers	No. of Detainees through Custody
Derbyshire	1,019,500	1,972	23,328
Leicestershire	1,018,400	2,300	19,405
Lincolnshire	714,800	1,170	17,256
Northamptonshire	693,900	1,239	14,420
Nottinghamshire	1,090,600	2,250	31,349

7. In outline discussions on the possibility of Lincolnshire joining the collaboration, Mr Rhodes indicated his strong desire to retain an office in Nettleham. There are advantages in retaining an office in Nettleham as having staff in Lincolnshire will reduce travelling time to court and will ensure that there is easy access to legal staff. However, in any small collaborative team, inefficiencies are inevitable where the team is spread over multiple sites; work has a tendency to be allocated on the basis of geography rather than experience or expertise; the opportunities for greater efficiencies in working practices are diminished as distance negates against sharing best practices and the distribution and redistribution of work. The relative merits to one side, the extension of the collaboration has proceeded on the basis of Mr Rhodes' request and the assumption that the existing staff will remain at Nettleham. The costs of retaining the staff within Nettleham will be circa £150,000.
8. With a caseload running at approximately 20% of the new cases within the East Midlands; the historically high costs in Lincolnshire and the desire to retain the Nettleham office; combined with the costs associated with that office it is proposed

that Lincolnshire joins the EMPLS collaboration with an initial contribution of 20% to the budget with the level of future contributions reviewed annually by the Legal Services Management Board.

A2. LINKS TO POLICE AND CRIME PLAN AND PCC'S STRATEGIES/PRIORITIES

B. FINANCIAL CONSIDERATIONS

It is proposed that Lincolnshire join the collaboration based on a 20% contribution to the budget. A revised budget would look as follows:-

EMPLS IN-HOUSE BUDGET	% Share	Budget
Nottinghamshire	25.0%	310,000
Leicestershire	20.9%	259,160
Derbyshire	20.4%	252,960
Northamptonshire	13.7%	169,880
Lincolnshire	20.0%	248,000
	100%	1,240,000

Although a budgetary contribution of £248,000 is above the 12.8% contribution that would be expected under the traditional grant fund formula used by the region, the average expenditure of the Force/OPCC for the three years assessed under the business case has been approximately £450,000 excluding exceptional items such as the costs associated with the G4S outsourcing. The hope and expectation would be that the external legal fees would start to fall into line with the average costs across the region and future contributions will be reviewed on an annual basis.

C. LEGAL AND HUMAN RIGHTS CONSIDERATIONS

[This should include the legal powers the PCC has for making the decision]

Joining the collaboration will require the Commissioner and Chief Constable to enter into a Collaboration Agreement made pursuant to Section 22 of the Police Act 1996.

D. PERSONNEL AND EQUALITIES ISSUES

All Lincolnshire staff will remain employed by the Chief Constable in their existing suite of offices but day to day line management will be undertaken by EMPLS.

E. REVIEW ARRANGEMENTS

The Collaboration can be reviewed on an annual basis or such other period as may be determined by the Police and Crime Commissioners or Chief Constables.

F. RISK MANAGEMENT

Risk Management is undertaken in accordance with the terms of the collaboration through the Legal Services Management Board. The Lincolnshire DCC sits on the management board together with a representative of the OPCCs in the region.

G. PUBLIC ACCESS TO INFORMATION

Information in this form along with any supporting material is subject to the Freedom of Information Act 2000 and other legislation. Part 1 of this form will be made available on the PCC's website within one working day of approval. However, if release by that date would compromise the implementation of the decision being approved, publication may be deferred. An explanation for any deferment must be provided below, together with a date for publication.

Is the publication of this form to be deferred? No

If Yes, for what reason:

Until what date:

Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate part 2 form.

Is there a part 2 form? No

If Yes, for what reason:

ORIGINATING OFFICER DECLARATION

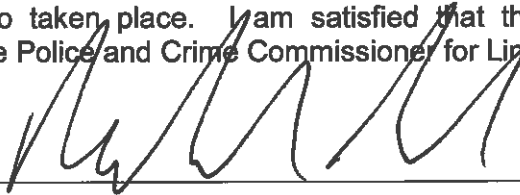
	Tick to confirm
Originating Officer: The Deputy Chief Constable recommends this proposal for the reasons outlined above.	✓
Financial advice: The PCC's Chief Finance Officer has been consulted on this proposal.	✓
The CC's Chief Finance Officer has been consulted on this proposal.	✓
Monitoring Officer: The PCC's Monitoring Officer has been consulted on this proposal	✓
Chief Constable: The Chief Constable has been consulted on this proposal	✓

OFFICER APPROVAL

Chief Executive

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. Consultation outlined above has also taken place. I am satisfied that this is an appropriate request to be submitted to the Police and Crime Commissioner for Lincolnshire.

Signature:



Date:

6/8/2014