

# Being part of the picture

As local authorities continue to strengthen and share their in-house legal teams, private practice firms are focusing on maximising their offering in areas where their skills remain vital. **Jenny Ramage** reports

**WITH THE GOVERNMENT** continually seeking to drive down costs in the public sector, the challenge for local authorities is to become sleeker, more efficient bodies engaging in cross-organisational working and sharing of services – and that includes in-house legal services. For their external legal advisers, the challenge is to remain indispensable in local government work.

“Last year we were beginning to worry about the effect of the likely reduction in funds available to local authorities into the future; now it is very real,” says Richard Barlow, a partner specialising in local authority work in Browne Jacobson’s Nottingham office. “Authorities are now having to look at substantial reductions in funding; particularly from 2011 which is when the new comprehensive spending review period will kick in.”

What this means is an even greater push for cooperation between neighbouring authorities. The ‘clustering’ of local authority legal services is a trend that continues – the idea is to bring work back in house and create economies of scale to do work for other local authorities before they have to resort to the private sector law firms (see ‘Friends forever’, *Solicitors Journal* 153/4, 3 February 2009). Several London authorities have combined to create the London Boroughs Legal Alliance. Five Tyne and Wear authorities have joined forces. Northumberland and Durham have brought their legal teams together into one. Meanwhile, Birmingham is pushing to expand the number of authorities signing up to take advantage of its shared services.

“Local authorities are gaining expertise and

additional resources,” says Chris Hugill, consultant and head of regeneration in Ward Hadaway’s Newcastle office. “If you’ve got an expansion of legal departments and clustering, then local authorities are going to be able to deal with more work in house. That’s the potential impact. Local authorities are tooled up.” The reduction in staff in the private sector due to the recession has also led to key gaps being filled in house, he adds. “It’s a trend all firms will have noted.”

## Panels and projects

The fear among many firms is that shared services will take work out of the market. So, where might private practice law firms fit into this new picture? “The ordinary local authority is still going to have to discharge its functions and as a result will still have operational legal needs,” says Barlow, “the question is how are those needs going to be serviced?”

The answer for many firms with a core focus on local authority work will be to win places on the new ‘super panels’ of external legal advisers set up to service local authority clusters. As these panels are likely to reduce the overall number of firms servicing local authorities, competition between firms is fierce. “To continue to be successful in this area,” says Hugill, “law firms need to be on a number of panels, and they need to maintain expertise. I suspect that firms that have been less focused on the sector will be squeezed out.”

Browne Jacobson has won a place on six panels so far, but Richard Barlow says that while it is highly desirable to be on one or more panels, “it is not the end of the world if you’re

not”. The panels are entirely non-exclusive, so there is no obligation for any member to utilise these framework providers. “One local authority we know spent more last year on outsourced legal fees off their panel than on it,” he says.

But, he continues, it will more than likely be in very discrete specialist areas that they choose to go off panel, such as projects and PFI. “This is why we are strengthening our projects practice, as we recognise that we need to have as wide an offering as possible for our local authority clients.”

Despite the recent blip in the economy, Chris Hugill predicts that there will still be major projects going forwards. “This is an area where local authorities will continue to look to external advisers. Potential spending cuts and reorganisations have slowed things down, but that will change as the economy picks up.”

Barlow sees similar opportunities in projects work. “Last year we were predicting that local authorities could still be the prime supporters of regeneration and business recovery, and our view is that will continue so far as they are able to,” he says. “Authorities will still want to promote their flagship projects, so, whatever government we have after May, we think that remains the case. It is one area in which local authorities regularly need to seek external advice because of the combination of expertise and capacity in relation to major projects.”

This is something his firm has been preparing for: it has, over the last few months, strengthened its capacity in projects and in procurement. “This is all part of our plan to



ensure we have the best possible offering for significant projects," he says.

### The market for specialism

Hugill is also focusing on the opportunities. "You've got to look at what work in what areas needs assistance," he continues. "This will tend to be a specialism that the in-house legal team doesn't cover, or where a firm's private sector knowledge is of great advantage." Such expertise, he suggests, could be in corporate work, such as advising on a joint venture with the private sector. At other times it could be commercial work generally, such as entering into specialist agreements with suppliers or handling intellectual property or technology issues. Employment, meanwhile, "is always an area for advice, because the work can be very sensitive and sometimes it's more appropriate for that work to be dealt with from outside".

Barlow's firm, meanwhile, has secured more work from its local authority clients in education and social care in particular. "These standout specialisms differentiate us,

private business. "Those types of issue are sometimes difficult for local authorities to be able to deal with in house, either by reference to their existing skill set or arising out of potential conflicts of interest. So that regulatory and investigatory field is one that seems to be growing," says Merson. His team includes solicitors who have previously worked in house. "They have the nose for working within what is often a highly politicised environment, and they have the requisite knowledge and skillset," he says.

With infrastructure funding also a growing issue, Merson continues, local authorities will have to look at way they structure their community infrastructure levy. "There will be a lot of work on consulting on and developing levels of charging rates. Local authorities will need ongoing advice, certainly in relation to IPC procedures and decisions which may be subject to considerable challenge."

Peter Hill, a senior solicitor at TPP Law and former in-house solicitor at the London Borough of Redbridge, has a similar kind of

authorities. In conjunction with that is the emergence of new third sector bodies – social enterprises – and we see that these will be fostered by the government."

Whatever your specialism, David Merson's view is that existing clients are the greatest source of business – but keeping hold of them will take a great deal of commitment from firms. "Local authorities are still going to be looking to the private sector to cover the big projects which they cannot always resource. There is always a great deal of pressure on costs – and this is understandable – but the expectation is that quality is maintained and that creates increased pressures and tensions. This in turn means we have to work doubly hard at maintaining the client relationships we have."

### Innovative thinking

"With the unprecedented level of pressure on local authorities to make efficiency savings, they are now going to have to tackle some of the most challenging areas of their work, and this will require more innovative solutions," says Barlow. Private practice law firms, he says, will fit into the equation "by understanding the context, and providing advice on the innovative solutions which need to be adopted to deliver better, and more cost effective services".

"All local government lawyers need to be very aware of the wider policy agenda to ensure that they align themselves, their skills and their offering with the issues their clients are encountering both now and into the future," he adds.

It will be interesting, over the coming year, to see how local authorities are really going to use super panels, and indeed the extent to which they will continue to use non-panel law firms. Local authorities will continue to explore how they can use clustering to the best advantage; but clearly private practice law firms will want to continue to feed into that as best they can.

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## "Existing clients are the greatest source of business – but keeping hold of them will take a great deal of commitment"

because they are not traditional areas of expertise for private practice firms. We therefore compete successfully on specialism and are winning a substantial share of that market place." He admits that the specialist areas local authorities need to outsource may change over time, "but having lawyers with those disciplines has proved to be of tremendous value over the last year".

David Merson, head of planning and environmental in the London office of Steeles Law, points to a continuing trend with regards probity matters, where there are complaints against the way local authorities have dealt with matters – either at officer or committee level. Complaints are also made against members in relation to their conduct and their

strategy. "Our aim is to remain active in each of the key areas identified, and to expand those," he says. Whether that is really going to be possible in the current climate remains to be seen. But he says the firm's prospects for education projects are good, with the government's BSF and academies programmes being rolled out apace. In procurement too he thinks "there will be scope for re-thinking, and new projects will provide opportunities for legal work. This is still potentially a growth area for the firm."

The firm's focus on the third sector could also bring opportunities, Hill explains. "There will be more collaborations between local authorities and the third sector, and between different third sector organisations with each other in order to provide services to local

