

Local Government



**A PURPOSE-LED PROFESSIONAL SERVICES
BUSINESS WITH LAW AT THE CORE**



Market-leading team

Pinsent Masons has a core team of ten partners dedicated exclusively to the Local Government sector. This team is supported by 50+ partners and lawyers throughout the firm who support local government clients with their strategic projects.

We have worked with public sector clients over the last 30 years to deliver both strategic and transformational projects as well as transactional and operational requirements. Recognised in the industry for the innovative technologies and approaches we develop, we can help local government clients and in-house legal teams to keep projects and budgets on track, manage multi-stakeholder relationships and support agile working. We have delivered many regionally and nationally high-profile projects, including under intense media scrutiny, and are down-to-earth, practical and decisive. Our lawyers are equipped with the tools they need to work efficiently and securely with local authorities sector and we understand the range of priorities you will be seeking to meet.

Cutting edge concepts

We are at the forefront of cutting edge work for local government often being the 'first port of call' to develop new concepts.

Our market leading 'Structured Solutions' team is nationally recognised for its expertise in finding positive legal solutions for the delivery of services and assets for and by local authorities where traditional funding is limited. Successes for this concept have included joint ventures, Local Housing Companies, shared services and other new service delivery models.

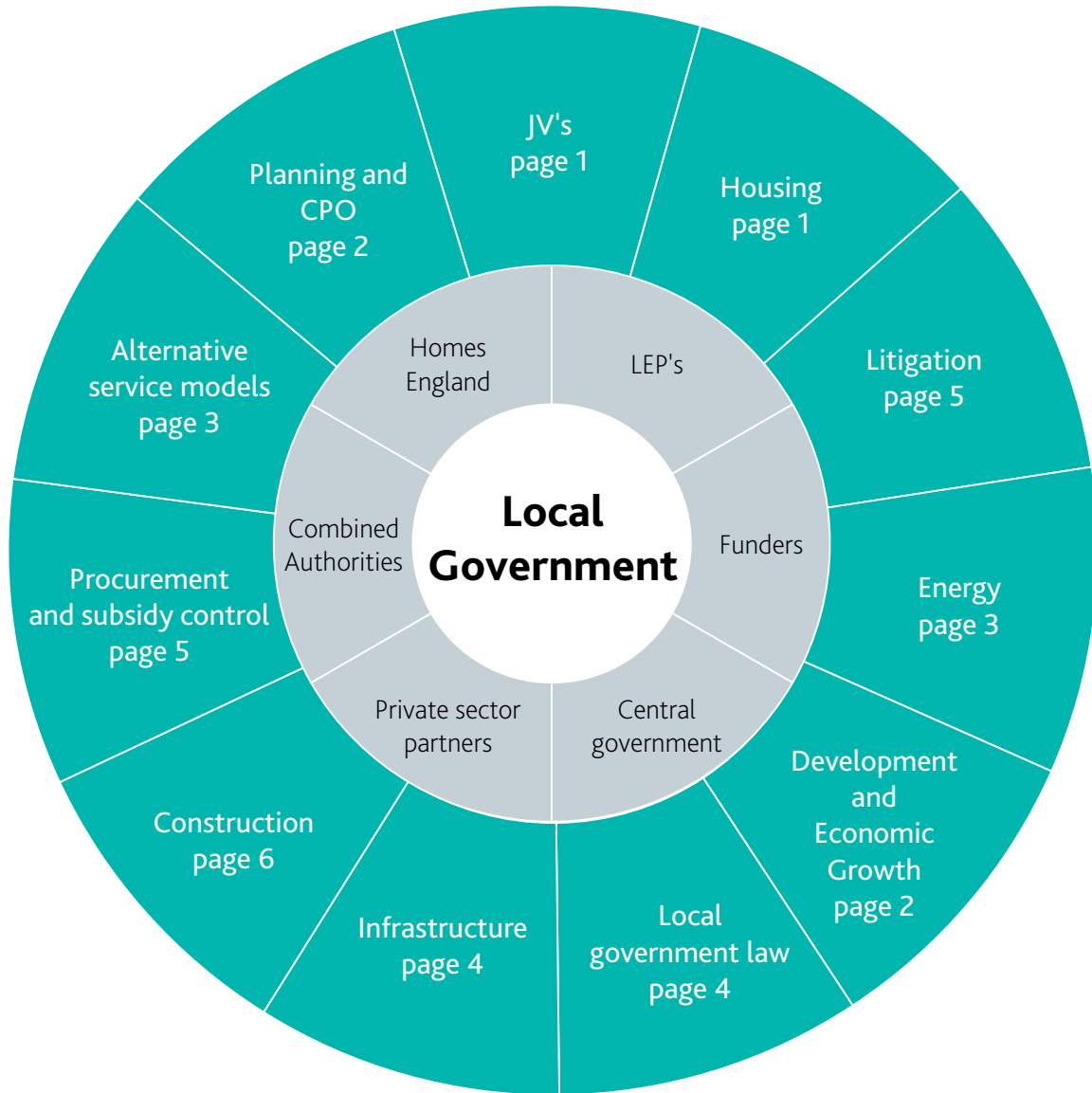
We are renowned for our work in transformation through PPP:

- New public sector investment models
- Regeneration and development projects
- Joint ventures

We undertake a significant amount of work in:

- Procurement and UK subsidy control law
- Construction (including litigation and arbitration)
- Commercial litigation
- Shared services
- Alternative service models including mutuals
- Local government law
- Charities and trusts
- Employment and pensions
- Information and data protection law.

Key areas of expertise



JV's

Our market leading Structured Solutions team designs and delivers effective structured solutions to local authority asset management, and surplus asset investment and development opportunities – from developing an outline proposal to working up a fully realised delivery model, including the formation or establishment of property vehicles, corporate entities and joint ventures with the private sector. We have also used property assets as an important funding tool for the delivery of infrastructure.

Recent examples include:

- **London Borough of Wandsworth** – acting for the Council on its Winstanley and York Road estate renewal project beside Clapham Junction station, in joint venture partnership with Taylor Wimpey, which will see over 2000 new homes delivered over c10 years.
- **Westminster City Council** – we have worked with the Council for over 10 years structuring and delivering affordable housing schemes across the borough, both with private sector partners and also through its wholly owned group of companies Westminster Builds.
- **London Borough of Brent** – advising Brent LBC on their South Kilburn regeneration scheme to include the redevelopment of existing residential tower blocks through the use of the council's CPO powers in addition to the strategic acquisition of freeholder/leasehold interests allowing for a complex decant and re-housing programme.

Housing

We design and develop effective solutions for the redevelopment of local authority housing estates and housing land, with or without the private sector. We also design vehicles for private rental and affordable housing schemes or where the local authority is "self developing" either for private rental and/or affordable housing. We have an in-depth technical knowledge of the local authority housing regulatory regime especially regarding how the Housing Revenue Account regime works, what general consents are available, and how you can navigate your way through the rules.

We have expertise in landlord and tenant legislation relevant to estate redevelopment (especially around strategies for obtaining vacant possession and decant) and compulsory purchase of dwellings sold under the Right to Buy. We are also one of the principal corporate advisers to Homes England.

Recent examples include:

- **London Borough of Harrow** – advising the Council since 2018 on its £2.5bn regeneration project including the development of three core sites in Harrow, in a corporate joint venture with Wates Group. The project aims to deliver wider regeneration and growth in the borough, as well as delivering wider economic benefits and supporting housing delivery. The venture is expected to deliver up to 100,000 sqft of mixed use development and 1500 new homes, as well as community facilities and commercial workspace.
- **Manchester City Council** – advising the City in respect of the £1bn+ Northern Gateway investment partnership with Far East Consortium. This innovative partnership structure involves a joint venture arrangement that balances the Council's need for strategic control against the investor's requirement for generating returns.
- **Basingstoke and Hampshire** – advising the proposed LLP JV vehicle in the development of the Manydown scheme comprising approx 3000 homes with associated infrastructure and community facilities.



Development and Economic Growth

Local authority development (other than housing) tends to fall into two broad categories: (1) market driven (eg. retail, office, town centre) usually where the local authority either owns all or part of the site; and (2) more “interventionist” development, particularly where there is a whole or partial market failure. The latter often involves other regulatory considerations such as compliance with powers, UK subsidy control and a rigorous risk assessment.

Market-driven development can also include development relevant to local authority functions for example a leisure development (which could also involve for example, cross subsidy from housing).

“Intervention” development or regeneration tends to address more difficult sites where viability is challenging. This may involve the consideration of best value for land disposal and compliance with procurement and UK subsidy control law.

Recent examples include:

- **London Borough of Southwark** – we advised the Council on the creation of a new £2bn destination and town centre in joint venture with British Land.
- **Birmingham City Council** – we are advising the Council in relation to the procurement of a developer for its 71 hectare employment site at Peddimore, Sutton Coldfield. A focus on advanced manufacturing and industrial uses, combined with high quality design and landscaping, will combine to create a strategic development for the benefit of the region, yielding up to 10,000 new jobs.
- **Sunderland and South Tyneside Councils** – on the procurement of a development partner for the International Advanced Manufacturing Park, a 100Ha site adjacent to Nissan’s plant in Sunderland which will see the creation of up to 5200 new jobs.

Planning and CPO

Our UK Planning & Environment team, with over 70 specialist lawyers, are thought leaders and game changers in the market. We advise on major development projects and over 30 nationally significant infrastructure projects. Our cutting edge interpretation of new infrastructure, development planning and environment legislation helps clients influence policy and legislative outcomes. Our planning advice to local government covers development plans, planning applications, appeals and inquiries, planning and highways agreements, enforcement and Community Infrastructure Levy. Our compulsory purchase work includes site assembly for infrastructure, housing and other regeneration and public purposes including market-driven commercial elements of regeneration projects.

We also have a unique expertise promoting and/or petitioning against Private Bills for major infrastructure due to our Role A Parliamentary Agent within the team. We also advise on Transport and Works Act orders for local authority sponsored light rail schemes.

Recent examples include:

- **Leeds City Council** – two transformational city centre retail schemes – Land Securities’ Trinity and Hammerson’s Victoria. On both, we advised on compulsory purchase, road closures and planning/highway agreements. We are also advising on East Leeds Orbital Road, a new 7km dual carriageway to deliver 5,000 new homes in the City Region’s largest housing allocation.
- **Somerset Councils** – advising Sedgemoor District Council, West Somerset District Council and Somerset County Council on EDF’s nuclear new build at Hinkley Point C, one of Europe’s largest construction projects. We advised on all aspects of the project, including negotiating planning agreements which will deliver c£100 million of mitigation.
- **Transport for London** – Silvertown Tunnel Development Consent Order (DCO). included advice on sensitive and novel issues such as the assessment of air quality impacts; introduction of road user charges to fund the tunnel; and extensive environmental monitoring and mitigation arrangements. We advised on the interface between the DCO and procurement of the project including the provisions of the Project Agreement between TfL and the contractor.

Energy

With its roots in waste PPP for local authorities, our energy team advises on energy from waste, decentralised energy schemes (CHP) (primarily for new local authority or other developments, both housing and commercial) and local authority renewable energy schemes and Energy Services Companies (ESCOs).

We focus on two broad areas, first, local authority energy efficiency and energy performance contracting and secondly, local authority energy generation.

Our work includes energy generation from renewable sources, ESCo energy solutions, energy performance contracting, Green Deal and Eco and collective energy switching.

We also have a market leading team focusing on the consenting and the delivery of innovative energy solutions including WSPD.

Recent examples include:

- **Ebbfleet Development Corporation** – innovative structure where the Government cashflows the funding of energy infrastructure across the new Ebbfleet Garden City, recovering costs from developers based on the connections required for their developments in due course. Our team has now helped bring forward over 1GW of capacity to infrastructure projects in the UK and have advised HM Treasury (IPA) on electrical infrastructure in support of many projects.
- **Greater Manchester Authorities** – led by Oldham MBC and Manchester City Council in relation to a joint venture with the Green Investment Bank for the delivery of Green projects.
- **Lincolnshire County Council** – advised the Council on the procurement of an EfW facility, which is the first such project to be funded entirely under the Prudential Borrowing regime. We developed the contract documentation and helped formulate the financial and procurement strategy.

Alternative Service Models

Developing alternative service delivery models for local authorities covers both general support and back office services and function-related activities (such as adult social care, leisure and education).

Our work includes contractual and joint venture models for public and private provision, including incremental models and frameworks. A significant part of our work concentrates on corporate entities for service delivery whether wholly owned, joint venture, not for profit or employee mutual. The latter builds on our work for the Cabinet Office on the mutualisation agenda.

Recent examples include:

- **London Borough of Lambeth** – in relation to co-operative models for local authority housing, regeneration and energy.
- **HM Treasury** – we were part of the team that wrote the HM Treasury PUK guidance on public sector joint ventures and partnering arrangements.



Transport Infrastructure

We provide advice to a wide range of stakeholders including to landowners, developers, investors and funders, regeneration partnerships, in addition to consenting advice to local and national transport authorities. We are distinguished from our competitors by size, specialist knowledge and UK-wide reach.

We are market leaders in advising those promoting or affected by Major Transport and Infrastructure schemes across the whole range of consenting mechanisms, ranging from Development Consent Orders (DCOs), Hybrid Bills to other means such as Transport and Works Act Orders (TWAOs) and Compulsory Purchase Orders (CPOs).

Recent examples include:

- Acting for the **West Midlands Passenger Transport Executive** (Centro) in connection with two extensions to the Midland Metro tramway system.
- Advised the **London Borough of Southwark** on the Thames Tideway Tunnel and the related Development Consent Order and NM Rothschild on the Bank Station Capacity Upgrade scheme and the related TWA Order.
- **National Highways** – we advised on the A303 Stonehenge Tunnel DCO. National Highways' flagship RIS 2 proposals for the A303 tunnel and related highway works through the Stonehenge World Heritage Site, including on the successful DCO application and the subsequent judicial review. The DCO application was the most controversial and complex to date for the projects in National Highways' Complex Infrastructure Programme, with an unprecedented number of examination submissions required around the impacts on this most sensitive and internationally designated location.
- We have advised **Transport for London** on a range of major infrastructure projects including the £1bn extension of the London Underground Northern Line from Kennington to Battersea via Nine Elms and the HS2 Phase 1 Bill.
- Advising **Luton Borough Council** on the promotion of a DCO for the upgrade of Junction 10a of the M1.

Local Government Law

Our cutting edge work in designing structured solutions for local authorities requires both an innovative and proactive approach to local authority powers. Our work covers both general (eg. formation of enterprises) and specific (eg. function related activities for example social care and housing). We also cover requirements for ministerial consents especially in relation to land disposals.

Our work also includes advising on the reasonableness, rationality and procedural propriety of local authority decisions and examining compliance with fiduciary duties and limitations on the delegation of powers.

As public to public joint working, partnerships, income generation and shared services are becoming increasingly important, new solutions are required to challenges from powers and delegations.

Recent examples include:

- **Royal Borough of Kensington and Chelsea, Colchester Borough Council** and numerous other local authorities, on powers to create wholly owned subsidiaries for investment in and development of housing and commercial property.
- **London Borough of Croydon** in relation to the £1.5bn Whitgift Retail Centre redevelopment in collaboration with Westfield and Hammerson – we have advised on issues including best consideration, subsidy control, procurement, appropriation of land, well-being benefits, planning, conservation area and environmental issues, road closure, blight claims, powers of entry, settlements with objectors, statutory compensation and indemnification of the local authority by the developer, rights to light, equalities impacts, Freedom of Information and Environmental Information requests, procedural and constitutional issues and drafting reports.
- **East Midlands Development Corporation** - advised the East Midlands local authorities on their proposals to establish a locally led development corporation to drive transformational growth. This included liaising with HM Government regarding pre-existing development corporation models and possibilities for a future framework, advising on the planning and consenting strategy in respect of the relevant sites, considering the interface with the proposed East Midlands Freeport and developing the optimum governance model based on the existing development corporation precedents.

Procurement and UK Subsidy Control

Public procurement and subsidy control legislation continue to be an important day-to-day subject for local authorities and is a challenging area in the era of new investment and service models. Ensuring continuing compliance with procurement legislation is an important part of our work for Local Government. We advise on whether procurement legislation is applicable, what procurement choices and procedures are suitable, whether Teckal exemptions can be relied upon, selection and evaluation criteria, ensuring ongoing compliance with procurement processes and procedures and the likelihood of any challenge arising.

As local authorities increasingly use their powers to operate in the market, compliance with UK Subsidy Control law assumes greater importance. Our team can identify whether subsidy is potentially present in a transaction and, if so, mitigate this through application of legal solutions or exemptions. Importantly, they regularly advise on how UK subsidy control law can be used to positively support local government's ongoing development and regeneration agenda.

Recent examples include:

- **Manchester Northern Gateway** – Providing procurement advice and ongoing support to the Council of the City of Manchester in respect of a circa £1bn housing led investment to create approximately 10,000 new homes. This investment is the largest regeneration project ever run in Manchester.
- **Edinburgh University, City of Edinburgh Council, Scottish Enterprise, NHS Lothian** – the BioQuarter in Edinburgh has established itself as a flagship development within the Life Sciences sector. We are providing the partners with full end-to-end procurement support for its procurement. We provided strategic structuring advice, advised on pre-market engagement, developed the procurement documentation, provided training and advising on procurement issues throughout the process.
- **Cardiff Capital Region City Deal** – Providing subsidy control and procurement advice to the 10 constituent authorities of the City Deal in the first investment under the programme. We structured £37.9 million City Deal funding to establish a compound semiconductor foundry to act as the world-wide centre for the production of compound semi-conductors. The funding will lever £375m of private sector investment and create up to 2,000 highly skilled jobs.

Litigation

Advising on commercial disputes goes to the heart of what our litigation and regulatory team does. Our experienced commercial litigators advise on high value and complex cases for local authorities. We settle a significant number of cases, using our skills gained as mediators and/or as experienced negotiators. Nevertheless, where it is in the local authority's interests to do so we will take a case to trial.

Our national corporate defence and regulatory team has a multi-disciplinary background consisting of health and safety practitioners, criminal law specialists, ex local authority regulatory prosecutions and inquiries lawyers and a trading law consultant. They specialise in advising on regulatory prosecutions and health and safety, contentious environmental, trading standards, food safety and labelling matters.

Recent examples include:

- **Royal Borough of Kensington and Chelsea** - We acted for RBKC in 2022 in its successful, landmark High Court action to obtain disclosure of certain payments data from accommodation booking platform Airbnb in order to identify cases of illegal subletting of social housing. This ground-breaking ruling will pave the way for social landlords across England to combat this form of social housing tenancy fraud more effectively using civil fraud court procedures.
- We are advising a **London borough** in relation to an ongoing dispute with a major contractor. The contractor performed a range of planned and preventative maintenance works for our client throughout the borough, over a number of years. The dispute is in relation to payment for the works: our work includes construction adjudication and defamation advice.
- **Coventry City Council** – advice in relation to insolvency matters relative to Coventry City football club.

Construction

As the best in the industry, our advisory and disputes lawyers provide all the expertise local authorities need to sensibly procure their developments and then manage, avoid and resolve contractual and legal issues which arise on construction projects.

We have the world's largest team of specialist construction lawyers who advise on, engineering procurement and construction contracts, risk management and contract advice, construction litigation, adjudication and Dispute Review Boards and alternative dispute resolution.

Recent examples include:

- **Stockport Metropolitan Borough Council** – advising in relation to the transformation of an 18 acre derelict site into a modern 145,000 square foot industrial park, known as Aurora Stockport, as part of the Council's wider £900m investment programme.
- **London Borough of Hackney** – advising on the construction aspects of a borough-wide regeneration programme, which is one of London's largest schemes for building homes for social renting, shared ownership, and private sale and will see 2,760 homes delivered in the Borough.
- **Manchester City Council** – construction law advice on a strategic redevelopment programme at Water Street, Manchester, which will see 825 residential properties and a variety of mixed-use premises delivered at the site. Also advising in connection with the redevelopment programme at Pomona Wharf, Salford.
- **Manchester City Council** – advising in relation to the design and construction of 491 residential units, associated landscaping, car parking and commercial space at Wilburn Basin with a project value of circa £82m.
- **Liverpool City Council** – on the Kings Waterfront Arena and Conference Centre development.
- **A local authority** on the construction of a new Urban Village. This included the construction arrangements for the site wide infrastructure and roads. Because of market conditions relating to inflation, we advised a two stage tender: (1) NEC PSC contract for the pre-construction stage; (2) NEC option A contract for the infrastructure works.



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