



Report of the Assistant Chief Executive (Corporate Governance)

Executive Board

Date: 16 April 2008

Subject: Access to Counsel's Opinions

Electoral Wards Affected:

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Eligible for Call In

Not Eligible for Call In
(Details contained in the report)

1. Purpose of Report

- 1.1 To respond to the recommendation of Scrutiny Board (Culture & Leisure) in regard to their inquiry into the decision by Executive Board to erect fencing at Wharfemeadows Park, Otley, specifically with regard to recommendation 2 of the Scrutiny Board's report in relation to the availability of Counsel's advice to the public.

2. Background Information

- 2.1 On 8 February 2008 Executive Board received a report from the Assistant Chief Executive (Corporate Governance) to assist Members in their consideration of the recommendations of Scrutiny Board (Culture & Leisure) in regard to their inquiry into the decision by Executive Board to erect fencing at Wharfemeadows Park, Otley.
- 2.2 Executive Board resolved that recommendations 1, 3 & 4 of the report by the Scrutiny Board (Culture & Leisure) be accepted and that the Assistant Chief Executive (Corporate Governance) report back on recommendation 2 of the Scrutiny Board's report in relation to the availability of Counsel's advice to the public.
- 2.3 Members were of the view that any requests for the disclosure of Counsel's advice to the public should be considered within a presumption of disclosure being made available, although they acknowledged that in certain circumstances, including the timing of disclosure, a decision to disclose to the public may prejudice the Council and therefore the Council Tax payers' interests.

2.4 In the light of the above, it is proposed that the Executive Board's response to recommendation 2 be as follows:

" Recommendation 2

In considering requests for external legal advice obtained by the Council to be made publicly available, the Council's Monitoring Officer:

- i) will apply a presumption in favour of disclosure;
- ii) will only reject a request where she is satisfied that, in all of the circumstances of the case, the public interest in disclosure is outweighed by the public interest in maintaining the confidentiality of the advice; and
- iii) will give full reasons for the rejection of any request.

3.0 Recommendations

3.1 Members are asked to consider the wording in paragraph 2.4 as the response to Recommendation 2