



Report of the Chief Officer (Legal, Licensing and Registration)

Corporate Governance and Audit Committee

Date: 14th February 2011

Subject: Reporting Arrangements for Significant Legal Cases Involving the Council

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

1. Executive Summary

- 1.1 Members wish to consider the reporting arrangements in respect of significant legal cases involving the Council and make recommendations in respect of such arrangements.

2. Purpose of This Report

- 2.1 To advise the committee of current arrangements for advising management of significant legal cases involving the Council and to discuss how the process could be improved.

3. Background Information

- 3.1 This Report should be read in light of the information contained in the Report to the Committee dated 15 December 2010 entitled 'Information relating to significant legal cases', and in conjunction with the Report entitled : Reporting Arrangements for Significant Claims Against the Council before the Committee today.
- 3.2 The Report at agenda item 12 entitled: Reporting Arrangements for Significant Claims Against the Council deals specifically with claims made against the Council and which are for the most part dealt with by the Insurance Section of the Finance Department and which are met from the Insurance Fund. Those cases in which legal proceedings are commenced are handled by the in-house legal team.
- 3.3 This Report provides information of other legal cases in which the Council is involved, either as claimant or defendant.

4. The Issues

- 4.1 The issues which the Committee is considering are:
- i/ which members should be informed about legal cases involving the Council?
 - ii/ what information should they be given?
 - iii/ when should they be provided with information?
 - iv/ who should provide it to them?
- 4.2 Members will note that in the Report dated 14 December 2010 the following Options were suggested:
- 3.1 *A Council the size of Leeds will, at any one time been involved in a number of matters that are, or are likely to become the subject of legal action. The management of such cases is the responsibility of the relevant Director who will effectively act as the 'client'. Legal advice and support is available as required by the Director.*
 - 3.2 *Directors will come to their own arrangements for briefing executive members, and keeping them informed about such cases. and their development. Those arrangements will usually take the form of a briefing direct by the Director or one of their senior colleagues. Those briefings provide an ideal opportunity for the executive member to be informed of any threatened or actual court cases about which it is considered that the executive member ought to be aware of.*
 - 3.3 *Where legal services receive formal instructions in respect of cases, which they consider to be 'high-risk' they are monitored by the service. Each month each section within legal services produces a performance management report for consideration by the management Team. That report contains detail of 'high-risk' cases. The definition is that a 'high-risk' case is one that "on receipt of instructions and as the case progresses is one where the outcome could be an award against the Council in excess of £250,000 or there could be significant reputational damage to the Council, and such an outcome is likely. Cases that should be deemed as high risk at the conclusion of the case are those where the outcome is likely to result in significant reputational damage to the Council or a complaint has been made or is likely to be made by any person concerning the handling of the case".*
- 4.3 Members expressed some concern about the appropriateness of the options proposed, particularly feeling that such an arrangement might mean that there may be significant cases which Members would wish to know about which fell outside of the definition.
- 4.4 It was agreed that some further information would be provided about the volume of work handled by legal services so that the option previously proposed could be evaluated in light of that information.
- 4.5 Appendix 1 to this Report shows the number of cases open as at January 2011 and the cases opened in each of the three months up to January 2011.

5. Implications for Council Policy and Governance

- 5.1 It is important for the good governance of the Council that the relevant members are aware of significant legal cases involving the council.

6. Legal and Resource Implications

- 6.1 The provision of Reports is an administrative task which will take some resource if those Reports are not currently provided. Making best use of current arrangements will be cost-effective.

7.0 Proposals

- 7.1 The issues which the Committee is considering are:
- i/ which members should be informed about legal cases involving the Council?
As a general rule the Executive Members need to be apprised of the significant cases in their portfolio area. What amounts to a significant case can be difficult to define and it is sometimes a matter of judgment. Experience shows that a similar decision can, in one case, conclude the matter whilst in another it can lead to adverse publicity for the Council. It is suggested that the definition currently used (as outlined in section 3.3 under paragraph 4.2 of this report) is robust and provides a useful starting point. Members with an interest in a constituent's case can, and often do, make direct contact with legal services and are provided with information about the progress of a case.

ii/ what information should they be given?

It is suggested that a brief outline would be sufficient, giving members the opportunity to seek further information in any particular case. The information passed, will often be highly confidential as it will relate either to the Council's position in litigation or consist of confidentially commercial information. Appendix 2 could be used as a template. Members enquiring about a specific case can be given such information as the constituent agrees to being released.

iii/ when should they be provided with information?

It is suggested that a regular monthly report supplemented by additional information at key stages of the case should be provided. Information can be provided to individual members on request.

iv/ who should provide it to them?

Executive Members will have in place arrangements for receiving appropriate briefings from Directors and other senior officers. Directors, or their nominees should be kept informed of the developments of significant cases by legal services. Legal services can provide information to members direct when consent of the claimant has been obtained.

8. Recommendations

That the Committee consider and amend the proposals set out in paragraph 7 above as they consider appropriate and recommend a regime for future reporting arrangements of significant legal cases.

Background Documents Used

None

