

**Scrutiny Overview Report
For the Corporate Adult Services and Social Inclusion Select Committee
(CASSI)**

Legal Services Overview

The Legal Services Team has the following key objectives:-

- To ensure that the Council develops and implements appropriate strategies, policies and practices which enable it to meet corporate and service objectives that are lawful, ethical and accord with good governance arrangements.
- To assist the Council's Monitoring Officer in discharging the statutory functions and duties of that office to secure compliance with the law and to promote high standards of conduct, ethics and probity.
- To deliver an effective legal service which fulfils and implements the Council's corporate objectives and service priorities, including Building Schools for the Future, Equal Pay & Employment, New Executive Arrangements, Standards, Safeguarding Children and Adults, Partnerships, EU Procurement, Shared Services, Joint Arrangements, Housing Stock Transfer, Integrated Health & Social Care Facility, Personalisation, Licensing, Prosecutions, EIT reviews and a whole range of Regeneration and Highway Improvement Projects.
- To deliver the Local Land Charges Service. This is the property search service that many people use as part of a HIP (Home Information Pack) when buying or selling property.

Summary of Achievements in 2009/10

During 2009/10 Legal Services worked with officers and project teams within CESC, DANS and Resources to successfully deliver a range of key objectives including:-

- Approval of the Outline Business Case for BSF
- Engagement with Sponsors to establish two Academies, Thornaby and North Stockton, and concluding statutory process to close the existing affected schools
- A number of TUPE transfers both internally and externally as a result of service reorganisations
- Completed the bespoke Early Contractor Involvement Works contract for Billingham Forum
- Negotiated the project agreements for the upgrade of the Tees White Water Course
- Renegotiated the contracts for Residential and Nursing Care Homes with a range of service providers
- Provided training on Procurement Processes and EU Procurement law.
- Redrafted the Councils Contract Procedure Rules.
- Advised and completed a high number of Education Admission Appeal hearings, particularly for primary places
- Completed the Compulsory Purchase Order for Thornaby Town Centre
- Successfully prosecuted in respect of Billingham House
- Secured the safe removal of HM Kellington, including successfully defeating a Judicial Review
- Successfully pursued Judicial Review proceedings in the High Court on a point of law concerning statutory time limits on taxi licensing appeals. The

reported case is of national importance and has been included in training by the Institute of Licensing.

- Responded to Judicial Review proceedings in a complex case involving the provision of residential accommodation
- Successfully obtained the Secretary of State decision in the Councils favour concerning an ordinary residence claim that involves high care costs which will as a result transfer to another Local Authority.
- Provided legal support at the LDF (Local Development Framework) Examination in Public
- Built capacity within the Child Protection Team to minimise risk as a result of the increase in the number of child protection cases.
- Continued to develop a legal case management system and reviewed information management and security.
- Investigated and reported on a number of Code of Conduct complaints and assisted the Monitoring Officer in raising Standards.
- Developed and implemented a new charging and access system for Local Land Charges searches which resulted in a number of compliments on the Local Land Charges service.
- Successfully appealed an Employment Tribunal decision to the Employment Appeal Tribunal in respect of a disability discrimination claim involving the appropriate comparator test
- Commended in the Municipal Journal Achievement Awards 2009 in the category of "Legal Achievement of the Year" for its work on the Xentrall partnership
- Achieved Customer Excellence Accreditation.

What has proved more difficult/not been achieved?

The Legal Services Team has delivered on all of its objectives. However, there are a few difficult issues to resolve that are worthy of mention:-

- Whilst the Council was successful at an Employment Appeals Tribunal in respect of a disability discrimination claim, the Claimant has further appealed to the Court of Appeal and is being backed by the Equality & Human Rights Commission. The appeal is due to be heard in April 2010. The point of appeal concerns the relevant "comparator" when determining whether the claimant was discriminated against on the grounds of his disability.
- Child protection cases have continued to increase and it has not been possible to recruit and retain a temporary Assistant Solicitor to cover for maternity leave. As a result, an agency worker has been employed at a higher cost. Due to the high risks associated with child protection and vulnerable adults cases, capacity within the team is still an issue and will be addressed through the MTFP and reported as a budget pressure.
- The number of official local authority property searches remains low in comparison to the number of personal searches. Personal Search Agents are also seeking ways of obtaining property search information from Local Authorities at no cost by making an Environmental Information Requests. Whilst this option has not yet been pursued at Stockton there is a potential risk of loss of income and additional costs associated with making information freely available.
- The closure of the Parkview care home has resulted in a claim to the European Court of Human Rights by relatives acting on behalf of a former resident. The claim is being handled by lawyers acting on behalf of the government on whom the claim is served.

Emerging Issues

- The Local Government Association is seeking to work with Local Authorities and Personal Search Agents to find an amicable solution to the access and charging arrangements for property search information. Some Personal Search Agents are reluctant to pay an access fee as permitted by the Local Authorities (England) (Charges for Property Searches) Regulations 2008 since the Information Commissioners Office has indicated that property information is environmental information and as such it can be inspected free of charge under the Environmental Information Regulations 2004. Unless agreement can be reached on access and charging arrangements the Council remains at risk of a challenge when applying a charge for access to the Local Land Charges Register and other property information.
- HMCS (Her Majesty's Courts Service) has introduced GCSx a secure email facility for family cases which will enable court orders and correspondence between legal services and the family court to be sent electronically, thereby improving the security and communication on child protection matters.
- Local Authorities have been given new powers under the Forced Marriages (Civil Protection) Act 2009 to obtain a protection order to prevent a forced marriage. Legal services have already used the new powers to issue proceedings in respect of a child.

Legal Services continue to be engaged in a number of major projects and the priorities for the future include:-

- Housing Stock Transfer
- BSF
- Integrated Health and Social Care Facility (LIFT / PFI)
- Tees Valley Major Bus Network Scheme
- Swainby Road and Victoria Housing Regeneration Project
- EIT reviews e.g. Fair Access to Care
- North Shore Development
- Mandale Phase 2 Compulsory Purchase Order
- Hardwick Compulsory Purchase Order
- Bridge Road/Riverside Compulsory Purchase Order
- Thornaby Town Hall Development Agreement
- Further development of the Local Development Framework
- Parkfield Regeneration Project
- Information Governance
- My Place
- Safeguarding Children and Adults
- SMI project