

13 September 2011

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 Schools Capital, Equal Pay & Employment, Standards, Safeguarding Children and Adults, Partnerships, EU Procurement, Shared Services, Joint Arrangements, Personalisation, Licensing, Prosecutions, EIT reviews and a range of Regeneration and Highway Improvement Projects.
- To deliver the Local Land Charges Service.

Summary of Achievements in 2010/2011

During 2010/11 Legal Services worked with officers and project teams within CESC, DANS and Resources to deliver the following services :-

- Successfully completed the Housing Stock Transfer by the required deadline, including identifying and reporting on the title of all housing stock, garages, sub-stations, wayleaves and other land and interests to be transferred, and completing the Transfer Agreement.
- Successfully completed the Mandale Phase 2 Compulsory Purchase Order to enable the regeneration of the Mandale Estate to continue
- Purchased properties in the Housing Regeneration Areas to enable the projects to continue
- Taken legal action to carry out works in default to demolish Billingham House to improve the amenity of the residents and businesses in the area
- Increased capacity in-house to provide cover for local land charges to maintain the level of service in the absence of the local land charges officer
- Completed the Traffic Regulation Orders necessary to implement the first phase of the Major Bus Scheme
- Increased capacity in-house to deal with Planning Enforcement
- Regularised HASSASSA charges and deferred payment agreements for CESC to protect the Council's ability to recover residential care fees
- Completed 2 Traffic Regulation Orders to implement large Resident Parking Zones.
- Successfully completed leases for North Shore Academy and Thornaby Academy
- Successfully assigned Thornaby Town Centre from Thornfield to BAE Investments Ltd
- Successfully enforced against controversial breach of planning control at Bishopgarth Cottages

- Advised in respect of the Council's involvement in the £35m Local Improvement Finance Trust (LIFT) for the delivery of an integrated health facility and extra care in Billingham including the complex contractual structures created by the Land Retained Agreement (LRA) and Lease Plus Agreement (LPA)
- Recovered over £200,000 in debts
- Agreed contracts in respect of the Green Car Leasing Scheme
- Agreed contracts in respect of Advice and information services
- Provided a course of procurement seminars in conjunction with Corporate Procurement
- Advised in respect of the Museum Service Review
- Implemented a HV&E Supplies Framework
- Completed £18.5million completion agreement for Billingham Forum
- Agreed terms for the major refurbishment of the Globe Theatre
- Completed funding agreement with the HCA for Parkfield and Swainby Road
- Completed funding agreement with the HCA and NSDP for Northshore
- Prepared a Judicial Review test case in the Administrative Court on the use of out of area hackney carriages being used for as private hire vehicles in areas remote from their licensable area. A case of national importance which is now quoted in national training and text books and has led to the Government setting up a Select Committee to consider the implications and whether the law should be changed.
- Continued involvement in the review of the Councils Transport Licensing Policy – including a challenge by way of appeal by Operators to the conditions attached to their Operators licence.
- Assistance provided to the Ministry of Justice in undertaking dry run selection exercises for posts of Judicial Office (District Judge (Crime)).
- Training delivered to members of the Licensing Committee and other members on licensing law and to education social work officers.
- Handled a large volume of prosecutions and appeals dealt with before the Magistrates and Crown Court.
- Advised and responded to a complex disability discrimination case which was ultimately decided by the Court of Appeal who gave a judgement on the correct test for disability discrimination.
- Managed further Equal Pay claims including liaison with other local authorities
- Successfully transferred staff, buildings and assets to 2 new academies
- Advised on the BSF process up to close of IPD1 and then the close of the BSF programme
- Dealt with an unprecedented number of education admission appeals successfully
- Advised and dealt with an increased number of Employee Appeals Panels, Employment Tribunal claims, and compromise agreements
- Advised on the successful transfer of staff from Tees Valley Regeneration to Tees Valley Unlimited including changes to terms and conditions
- Successfully defended an appeal against an enforced sale order under the new empty dwellings management legislation
- Built capacity within the Child Care Team by the employment of an additional full time Assistant Solicitor and part time legal assistant.
- Despite increasing numbers of child protection cases continued to deliver a good and valued service, including during adverse weather conditions at the end of 2010, and also including an out of hours advice service.
- Built capacity in the area of adults' social care, including adult protection
- Promoted diversity by participating in the National Mentoring Consortium in association with Northumbria University and having a representative on the council's BME group.
- Successfully challenged CLG to obtain the payment of LAA Performance Reward Grant of £1,885,551

What has proved more difficult/not been achieved?

The Legal Services Team has delivered all its objectives. However there are a number of difficult issues to resolve, namely:-

- Capacity of the team to maintain a high standard of service in relation to child protection proceedings due to the increase in cases issued into court.
- There is an ongoing national dispute between Local Authorities and personal search companies concerning access to property search information and the charges for property information. Whilst the access arrangements at Stockton appear to work well, the Council may be drawn into the proceedings at a later date. The proceedings include a claim for refunds of all charges from 2005 to current date.
- The demolition of Billingham House has been the subject of protracted Judicial Review proceedings in the High Court which has delayed demolition.
- The withdrawal of funding for BSF and an integrated Health PFI has resulted in a change of direction and the delivery of the projects using other delivery mechanisms.
- Initiatives with regard to Shared Services with the Tees Valley Authorities have not been taken forward.

Emerging Issues

Legal Services continue to be engaged in the delivery of a number of major projects but the main priority is to complete the Legal services EIT review and identify further efficiency savings. The review will concentrate on the in house legal service, external legal services and the Local Land Charges service.

Other priorities include safeguarding in both adults and children services and continuing to deliver regeneration projects.

The transformation of adult social care legislation with a proposal of a new safeguarding board for adults is likely to increase the need for legal services in this rather complex area of law in 2012.

The Schools Capital Programme and the potential for a PFI will place further demands on the in house team and emphasise the need to minimise spend on external legal services.

The proposed abolition of the current standards arrangements, including the mandatory code of conduct for members and the requirement to have a standards committee is being considered. It has been agreed that in advance of the Localism Bill becoming law, there will be a report to Cabinet regarding the options available to the Council for introducing a new local standards framework including the adoption of a voluntary code of conduct , once the Bill has been enacted.

The team have noticed an increased demand for legal advice from a number of service areas, particularly in areas where experienced long serving officers have retired from service or where reorganisations have taken place. It would appear that legal services are being called upon to bridge the gap whilst knowledge and experience is built up by other officers.

New duties in relation to the promotion of Equality and Equality Impact Assessments may result in the Councils decisions being challenged. This is likely to increase the reliance on legal advice during the decision making process to minimise the risks of challenge.

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