

Legal Services

2014/15 overview of achievements, challenges and emerging issues

Legislative Framework

The Legal Services Team has the following key objectives:-

- To support the Council's Monitoring Officer and Deputy Monitoring Officers in discharging their statutory functions and duties to secure compliance with the law, prevent maladministration and to promote high standards of conduct, ethics and probity.

The role of the Monitoring Officer, and Deputies, derives from the Local Government and Housing Act 1989 ("the 1989 Act"); the Local Government Act 2000; the Local Government and Public Involvement in Health Act 2007 and the Localism Act 2011.

The 1989 Act requires local authorities to appoint a Monitoring Officer. Discretion as to when and how to exercise the duties of the post fall solely to the postholder. The Monitoring Officer has a broad role in ensuring the lawfulness and fairness of Council decision-making (that is decisions by Cabinet, Council and its Committees), ensuring compliance with codes and protocols (see the Council's Constitution), promoting good governance and high ethical standards and supporting the Standards Panel in connection with the determination of Complaints about Member conduct under the Council's local standards arrangements.

- To provide an effective legal service that delivers the Council's statutory functions and corporate objectives. Priorities for legal services continue to include safeguarding vulnerable adults and children; planning and development control; regeneration projects; academy conversions; litigation and enforcement; health and wellbeing; employment and equal pay; compulsory purchase orders; debt recovery and continuing support in implementing budget reductions and service reviews.

The legal basis for the legal service's activities is to be found principally in the legislation relevant to the functions and objectives in question (e.g. in terms of safeguarding vulnerable adults and children it is the Care Act 2014; the Mental Capacity Act 2005; the Mental Health Act 1983; the Children Act 1989 and the Children and Families Act 2014).

- To deliver the Local Land Charges Service. The main legislation in this context is the Local Land Charges Act 1975, and the Land Registration Act 2002. Changes to this legislation in the Infrastructure Act 2015 will enable the Land Registry to become the sole registering authority for Local Land Charges in England and Wales and the sole provider of search results.

Key Data

In 2014/15, some of the activities the Legal Service was involved with were as follows:-

- 22 member conduct complaints, involving a total of 32 Councillors (comprising 8 Town/Parish Councillors and 24 Borough Councillors).
- 70 or more highways and traffic orders
- 120 or so land and property transactions

- 50 Agreements or Contracts
- 18 Planning Committee Meetings
- 10 Tree Preservation Orders
- 6 Planning Obligations (Section 106 Agreements)
- 3 Compulsory Purchase Orders/general vesting declarations
- 4 Academy conversions
- 34 Childcare cases in Court in April 2014 with 72 new cases from April 2014 to March 2015; and a monthly average of cases in court of 34.25
- 117 prosecutions (69 of which concerned school effectiveness; 12 Trading Standards and 9 Food Safety matters)
- 13 Licensing Committee and 14 Licensing Sub-Committee meetings, together with advice and support for other Authorities' Licensing Committee meetings.
- 2190 land charges searches were received and 2076 search replies were despatched; with 1148 assisted searches and 82% of search replies were provided within 10 working days

Changing Demography

Changes in demography that impact on other Council services, such as adult social care services, indirectly affect Legal Services, for instance in relation to the increased need for legal advice and support in connection with adults safeguarding, particularly for instance as regards the Mental Capacity Act and Deprivation of Liberty Safeguards and adults social care procurement work.

In 2014/15, as an example, Adult Social Care Services has reported on the ageing population projections for 2025, which indicate that the population for those aged 65 years and over in Stockton Borough will see:-

- An increase of 25.2% (from 33,800 to 42,300); a greater rate of increase than for the North East and England overall.
- A 38% increase in dementia (from 2,245 to 3,092)
- Over half with a limiting long-term illness (from 17,630 to 22,396) and
- Over 3000 more needing some help with self-care (from 11,134 to 14,279)

Achievements

- Legal Services continued to deliver services within budget and supported the Council's MTFP budget review and service budget reduction requirements.
- Significant support was provided to the Monitoring Officer, by the service's two Deputy Monitoring Officers and other Legal Officers
- Provided material support for the implementation of Care Act social care reforms, in order to ensure a smooth transition and compliance with statutory requirements.
- Assisted CESC to respond appropriately to Mental Capacity and Deprivation of Liberty Safeguards issues.
- Major health and safety prosecution, resulting in largest fine secured by the Council in the criminal courts.
- Prosecuting environmental crime to reduce incidents of fly tipping and waste offences
- Completed the planning inquiries for the Ingleby Barwick/Low Lane residential development sites.
- Concluded the section 278 Highways Agreement for the Mount Leven Farm redevelopment
- Carried out the legal work for the Parkfield and Swainby Road Compulsory Purchase Orders.

- Legal work in relation to various regeneration projects, such as residential property and other land acquisitions on the Victoria Estate.
- Provided legal support for schools and academies, particularly in relation to schools admissions.
- Legal advice for the ongoing borough wide street lighting contract
- Facilitating Academy conversions.
- Protecting the Council's interests in relation to the national land charges litigation
- State aid advice in connection with (e.g.) highway works at Ingleby Barwick and at Teesside Park
- Legal support in connection with the Newport Bridge works
- Supporting the procurement process for the North Shore Innovation Centre
- Assisting with the establishment of ARCC
- Advice for Local Authorities shareholders regarding DTVA.

Challenges

- Continuing to provide effective and timely legal advice and support with reducing levels of resources.
- Helping to maintain the progress to date in meeting the requirements of the Care Act provisions.
- Providing the necessary advice and support in connection with the growing demands arising from Mental Capacity and Deprivation of Liberty Safeguards.
- Assisting with major development proposals for Wynyard; Harrowgate Lane/Yarm Back Lane; Northshore and Ingleby Barwick.
- Keeping abreast of the complexities of the ever changing planning legislation framework
- With NNDR, taking action to tackle business rates avoidance.
- Advice and support for the review and setting of Care Home fees
- Complex, commercial legal work, involving projects such as the North Shore hotel development; a potential new crematorium in Stockton and the proposed Ingleby Barwick leisure facility.

Emerging Issues

- The extent of the legal work involved in relation to Mental Capacity and Deprivation of Liberty Safeguards and further potential developments in relation to the legal framework.
- A growing demand for access to confidential social care records (principally from the Police), requiring legal involvement in relation to possible disclosure.
- Changing client demands regarding prosecution work (e.g. no longer prosecuting benefits offences and a continuing increase in prosecutions regarding consumer protection and fraud matters involving rogue traders)
- Supporting safeguarding and protecting vulnerable persons in connection with taxi and fast food outlet licences arising from the Rotherham report regarding child sexual exploitation.
- The developing area of work arising from public health procurement.
- A growing demand for specific state aid advice.
- The Big Picture Programme/Capital projects, involving high value, complex initiatives, joint ventures and procurements.
- Legal advice and support required in relation to Asset Review proposals.
- Risks in connection with charging for environmental information.
- The transition towards a new Council management structure.