

Report to the Council

Committee: Cabinet

Date: 25 September 2008

Subject: Corporate Support and ICT Services Portfolio

Portfolio Holder: Councillor Mitchell Cohen

Item: 7(e)

Recommending:

That the report of the Corporate Support and ICT Services Portfolio Holder be noted.

Lexcel Accreditation

I am pleased to report that following an external review of the Council's Legal service on 10 September the independent assessor is recommending to the Law Society that the service retain its Lexcel Accreditation for the third consecutive year.

Lexcel accreditation is a mark of quality awarded by the Law Society to legal practices, both private and public that can demonstrate that they conduct their practice in accordance with, or beyond, the Law Society's practice management standards. These standards are set at the very highest level.

Continuing the legal theme, this report highlights the range and complexity of matters dealt with by the Council's litigation specialists within the Legal service. It is of course only one aspect of the legal service. It does not include insurance matters handled by external solicitors employed by our Insurers or non payment of Council Tax.

The Council appears in the Magistrates' Courts, Crown Courts and County Court. All these Courts come within the administrative responsibility of Her Majesty's Court Service (HMCS). They deal, however, with different areas of the law as outlined briefly below.

Magistrates' and Crown Court matters

(Part of the criminal justice system. All criminal cases start in the magistrates' court and about 95% are concluded there. More serious cases and some appeals are heard in the Crown Court)

Since January 2007, 27 separate defendants have been convicted of various offences. A number of those defendants faced multiple charges arising from one set of facts. Details of those cases are regularly reported in the Council Bulletin and the high profile cases are usually reported in the local press.

Most people will not be surprised to know we prosecute those who defraud the Housing Benefit and/or Council Tax system or those who fail to comply with planning Enforcement Notices.

However the matters which can and do give rise to local authority prosecutions is much more diverse.

This Council has successfully prosecuted cases relating to Health & Safety, Food Hygiene, Dog Fouling, Tree Preservation Orders, Listed Buildings, Street Trading, Licensing, Unlawful eviction, Advertisements, Flytipping, Building Regulations, Dangerous Dogs and what is believed to be the first prosecution relating to High Hedges in the country.

In each case the Council seeks to recover its costs and, where appropriate, an order for compensation eg. for benefit overpayments.

All but the most complex cases or those where the rights of audience are restricted, are handled in-house.

County Court matters.

(Dealing with civil matters such as debt, landlord & Tenant matters, personal injury etc.)

The Council appears regularly in 7 local County courts, most frequently in Harlow, Ilford and Edmonton.

The bulk of these civil cases relate to Council housing possessions on the grounds of rent arrears. Usually the court awards possession suspended while the tenant pays current rent and an amount towards reducing the arrears. Possession is only sought if the terms of the court order are breached.

Less frequently, but where the evidence is sufficient, cases are pursued on the grounds of the tenant's unacceptable behaviour/use of the property.

Since January 2007 the section has dealt with 195 housing possession cases.

In addition outstanding debts due to the Council are pursued if necessary through the courts. These debts can arise from a variety of sources including, abandoned vehicles, bed and breakfast payments, building control fees, car leasing, commercial rents, former tenant arrears, hire charges, housing benefit overpayments, private sewers , and damage to street furniture.

Initially payment is sought by the relevant service area and then Finance. If the amount remains unpaid and no reasonable instalment repayments are agreed the case is referred to legal.

Currently there are 250 live cases which are handled by two legal officers. This involves sending the pre-action letter right through to attending court as advocate, as necessary. The same staff are also responsible for seeking to enforce the judgements obtained.).

High Court matters

Most High Court litigation involving the Council arises from planning matters; either seeking injunctions or defending or challenging a planning Inspector's decision.

However the Council has dealt with compulsory purchase orders, housing succession cases, homelessness, costs issues, contractual disputes and building control matters at High Court level.

Planning Inquiries

The legal team has input into a range of Planning Appeals – whether at written representation, Local Hearing or Planning Inquiry stage. This ranges from advising on the content of proofs of evidence, tactical advice, general legal advice and advocacy.

The in house staff deal with all but the most complex or contentious cases. In those instances specialist planning Counsel is instructed to present the Council's case.

In 2007, 14 cases were referred to legal. So far this year 7 have been referred. Not all cases result in Inquiries due to withdrawals. They include planning refusals, Enforcement Notices and Certificates of Lawful Development.

In 2007 8 Public Inquiries were held. So far this year 9 Public Inquiries have been held.

In response to Member requests, the legal team has introduced a procedure to these high profile cases which allows local Members to be involved at an earlier stage. Some Members will already have attended preliminary meetings with Counsel as a result of this and feedback so far has been positive.

In conclusion, the above information demonstrates that the legal section, although small in number, is operating to the highest practice management standards whilst dealing with a wide range of contentious issues, both in terms of subject matter and complexity.