



POLICY AND RESOURCES SCRUTINY COMMITTEE

10.00 am THURSDAY, 31 MARCH 2016

COMMITTEE ROOMS 1/2 - PORT TALBOT CIVIC CENTRE

PART 1

1. To receive any declarations of interest from Members
2. To receive the Minutes of the Policy and Resources Scrutiny Committee held on 18 February 2016 (*Pages 5 - 14*)

To scrutinise information and monitoring issues being reported by:

Report of the Head of Legal Services

3. Judicial Review Update (*Pages 15 - 22*)
4. Legal Services Report Card 2015/2016 (*Pages 23 - 32*)
5. Licensing Department Report Card 2015/2016 (*Pages 33 - 44*)
6. To receive the Scrutiny Forward Work Programme 2015/16 (*Pages 45 - 46*)
7. To select appropriate items from the Cabinet Board Agenda for pre-scrutiny (Cabinet Board reports enclosed for Scrutiny Members)
8. Any urgent items (whether public or exempt) at the discretion of the Chairman pursuant to Section 100B (4) (b) of the Local Government Act 1972
9. Access to Meetings to resolve to exclude the public for the following

item(s) pursuant to Section 100A(4) and (5) of the Local Government Act 1972 and the relevant exempt paragraphs of Part 4 of Schedule 12A to the above Act

PART 2

10. To select appropriate private items from the Cabinet Board Agenda for pre-scrutiny (Cabinet Board Reports enclosed for Scrutiny Members)

S.Phillips
Chief Executive

Civic Centre
Port Talbot

Wednesday, 23 March 2016

Committee Membership:

Chairperson: Councillor D.W.Davies

**Vice
Chairperson:** Councillor A.Jenkins

Councillors: Mrs P.Bebell, A.Carter, Ms.C.Clement-Williams, M.Harvey, Mrs.L.H.James, Mrs.D.Jones, A.Llewelyn, A.R.Lockyer, Mrs.K.Pearson, L.M.Purcell, A.J.Siddley, J.Warman, I.D.Williams and Mrs.A.Wingrave

Notes:

- (1) If Committee Members or non-Committee Members wish to have relevant items put on the agenda for future meetings, then please notify the Chief Executive/Chair eight days before the meeting.*
- (2) If non-Committee Members wish to attend for an item of interest, then prior notification needs to be given (by 12.00 noon on the day before the meeting). Non-Committee Members may speak but not vote, or move or second any motion.*
- (3) For pre scrutiny arrangements, the Chair will normally recommend forthcoming executive items for discussion/challenge. It is also open to Committee Members to request items to be raised - though Members are asked to be selective here in regard to important issues.*
- (4) The relevant Cabinet Board Members will also be invited to be present at the meeting for Scrutiny/ Consultation purposes.*
- (5) Would the Scrutiny Committee Members please bring the Cabinet Board papers with them to the meeting.*

This page is intentionally left blank

POLICY AND RESOURCES SCRUTINY COMMITTEE

(Committee Rooms 1/2 - Port Talbot Civic Centre)

Members Present: **18 February 2016**

Chairperson: Councillor D.W.Davies

Vice Chairperson: Councillor A.Jenkins

Councillors: A.Carter, Ms.C.Clement-Williams, M.Harvey,
Mrs.L.H.James, Mrs.D.Jones and
Mrs.K.Pearson

Officers In Attendance Mrs.K.Jones, D.Rees, Mrs.S.Rees, Burgess,
Mrs A. Hinder, Mrs D.Hopkins and S. Curran

Cabinet Invitees: Councillors P.A.Rees

1. **MINUTES OF THE POLICY AND RESOURCES SCRUTINY COMMITTEE HELD ON 7 JANUARY 2016**

The Committee were informed by the Chairperson that he had written to the National Procurement Service (NPS) as per the recommendation from the last meeting of the Committee to invite them to a future meeting. A suitable date will be arranged via Democratic Services.

The minutes were then noted by the Committee.

2. **HUMAN RESOURCES DIVISION REPORT CARDS 2015/2016 - HUMAN RESOURCES, HEALTH AND SAFETY AND JOINT RESILIENCE UNIT**

Members considered information in relation to the Human Resources, Health and Safety and Joint Resilience Teams as contained within the circulated reports and received presentations which accompanied the information.

Human Resources Team

Members heard about the team's roles and responsibilities, their performance against key priorities for 2015/16 and information about the team overall including sickness absence figures.

Members asked for further information in relation to the two HR Officers who had been seconded into the Adult Social Services Team to provide dedicated support. They noted that when a similar secondment had taken place in Children's Services there had been a demonstrable improvement and they wondered if the same success was being seen in Adult Services. Officers commented that good work was in progress since the commencement of the secondments in August 2015. The staff are responsible for embedding processes and procedures to assist managers as well as advising on tackling sickness absence and safe recruitment practices. Officers were confident that with the implementation of a new management structure and new lines of reporting, improvements should soon become apparent.

The Committee asked for further information in relation to the percentage figures included in the report. Generally, Members requested that when data is presented to them in percentages that relevant numbers are also included in order for a full understanding of what is being presented.

Members queried the rise in days lost to sickness absence in the team compared to the same quarter last year. Officers explained that there had been three significant long term sickness absence cases within the team which accounted for this figure. Members were pleased to note that two of these cases have been resolved and the staff involved had returned to work. With the third case, the illness was so severe that the employee will not be returning to work within the Council.

Further information was sought regarding the principles behind the Long Term Sickness Taskforce. Officers explained the procedure which included a focus on early intervention and communication with the employee. Informal return to work plan meetings are held to identify the timescales and communication methods and rigorous case management is in place to prompt managers at each step of the policy. Members were pleased to note that the 'How To' guides on managing absence and the Occupational Health Referral hotline appear to be showing positive results.

Members asked for clarification in relation to sickness absence where the case is particularly serious or in some cases terminal. Officers confirmed that context is always taken into account and serious conditions are always treated as such.

Members asked for an update in relation to the case law referred to in the report which requires employers to include regular payments in addition to basic salary in holiday pay. The Committee were informed that the Council position on this is being presented to the next meeting of the Personnel Committee. If approved, the Council will be the first in Wales to address this case law and Officers explained that this was in no small part to the successful partnership working with the trade unions.

Members made reference to the key actions for 15/16 with the status 'ongoing' and asked if there was an end date assigned to these actions. The Committee were informed that these actions are a journey and would continue to be ongoing.

The Committee were pleased to note that 100% of staff had received a PDR in the last 12 months.

Members queried the training that schools receive in relation to disciplinary meetings and Officers stated they would consider this further.

Health and Safety Team

Members heard about the team's roles and responsibilities, their performance against key priorities for 2015/16 and information about the team overall including sickness absence figures.

Officers explained that since 2009, the staffing in the team has been reduced by approximately a third and that they had received excellent support from the ICT division who have provided innovative software solutions such as online accident reporting to alleviate service pressures.

Thorough completion of incident/accident investigations have resulted in a decrease in the total number of accidents to Authority employees and the number of lost time accidents.

Members were pleased to note the positive culture in the workforce of reporting near miss accidents and asked if further information on

numbers of accidents per numbers of employees could be presented to the Committee

The Committee asked for further information in relation to the percentage figures included in the report. They were informed that the team budget is £428,000 with all revenue expenditure staying within this budget. The savings solutions required from the team was £10,000 and this has been delivered.

The 90% completion figure in relation to service priority HR20- Delivery of incident/accident investigation process in support of sickness absence and accident reduction and HR21- Delivery of health and safety operational risk management activities were ongoing but Officers were confident of their completion within the 15/16 timeframe.

In relation to the 40% completion of HR22-Delivery of COSHH (Control of Substances Hazardous to Health) legislative changes, Members were informed of the enormity of this task which includes conducting a risk assessment on every chemical in use throughout the Council. Officers explained that the most high risk substances assessments have been completed with the aim of completing all by February 2017.

Members queried the significant rise in days lost to sickness absence in the team compared to the same quarter last year. They were informed that three professional staff had been off with flu and stomach upsets which had influenced the figures and the Sickness Absence Policy had been adhered to. Officers were confident that no particular sickness trends had emerged and they were comfortable with these particular sickness absence occurrences.

The Committee were pleased to note that 100% of staff had received a PDR in the last 12 months. They drew reference to the HR Team Report Card whereby (subject to Member approval) a revised Performance Appraisal Policy is due to be operational by April 2016 and inquired if the next round of PDRs would be overtaken by the appraisal process.

Officers confirmed that from April 2016 the Performance Appraisal Policy will be implemented in the place of PDR's. The appraisals will be two tiered; one full appraisal and one simplified version as feedback from piloted versions highlighted that not all roles

necessitate the full appraisal style. Members were pleased to note the opportunity in the appraisals to discuss employee development.

Joint Resilience Team

Members heard about the team's roles and responsibilities, their performance against key priorities for 2015/16 and information about the team overall including sickness absence figures.

Officers explained that the staffing in the team will be reduced through employees taking ER/VR opportunities and that excellent support from the ICT division have provided innovative software solutions to alleviate service pressures.

The Committee queried the 50% completion noted against the Delivery of City and County of Swansea's City Evacuation. Officers raised the recent £500,000,000 investment announcement for Swansea and Members agreed it is difficult to plan within an ever changing landscape.

The Committee asked for further information in relation to the savings percentage figures included in the report and were informed that £13,000 had been achieved.

Members asked why there were no sickness absence figures against the team and were informed that the staff are under the employment of Swansea Council so data isn't available.

Members asked for further information about how accountable Neath Port Talbot are for Swansea delivering against their actions. Officers confirmed that although there is joint working and a shared manager's post Neath Port Talbot has no influence and all actions attributable to this Council are in good order.

Following scrutiny, the report was noted.

3. SICKNESS ABSENCE MONITORING REPORT

Members considered information in relation to sickness absence across the Council as contained within the circulated report. Members noted this was the quarterly monitoring report focusing on Quarter 3 2015/16 for the period April to December 2015 which the Committee

will receive on an ongoing basis to inform scrutiny of sickness absence across the Council.

Members attention was drawn to the fact that 'reasons for absence' were now included in the data. This had highlighted that for the period covered, cancer related absences had more than doubled, bereavement and grief reaction had increased and stress, back pain and post operation absences were still the highest reasons for absence. Members were interested to note that arthritis related absences had appeared for the first time which could be an indication of an aging workforce. Officers explained that understanding these reasons for absence was informative as it allows for targeted initiatives i.e. bereavement counselling.

Officers went on to explain that the ratios for long and short term sickness absence had remained the same and that the larger the service area the higher the levels of sickness absence tend to be. Members had specifically asked for a head count of members of staff per department and were pleased to note the inclusion of this in the report. Members asked if a breakdown of what each Head of Service is responsible for across the Council could be circulated to the Committee.

Members' attention was drawn to the particular reduction in average number of working days lost per FTE in the 'Transformation' sector which in particular related to Catering and Cleaning staff due to the advanced work and engagement with managers that had been carried out.

Members noted with sadness that there had been five deaths in service in 15/16 to date and stated that it was important to note that some members of staff who the figures relate to are very sick indeed and that the support of these staff would always remain a priority.

Members raised the particularly high level of sickness absence in schools and were informed that the Director of Education is looking at a strategy specifically for tackling sickness absence of school staff. In liaison with LLAN and NAASH (the groups of primary and secondary head teachers in Neath Port Talbot) a pilot is being developed to focus on the top ten schools with the highest rates of sickness absence.

Members commented on some of the high areas of sickness absence and requested that the following service areas prepare an in-depth report for the relevant scrutiny committee:

Schools Sickness – Children Young People and Education
Street Care – Environment and Highways

Members noted the high levels of sickness absence in relation to stress and asked if these figures could be broken down into work related and non work-related absences.

Members asked for further information in relation to long term sickness absence. Officers explained that if appropriate, a return to work plan is put in place or a Formal Stage 1 Meeting is held where their options are discussed.

Members were pleased to see the level of detail presented in the report which allowed them to fully understand the data and the information in relation to sickness absence across the Council and welcomed the ongoing quarterly reporting of data to the Committee.

Following scrutiny the report was noted.

4. **SCRUTINY FORWARD WORK PROGRAMME 2015/16**

The Forward Work Programme was noted by the Committee.

5. **PRE-SCRUTINY**

The Committee scrutinised the following matters:

Cabinet Board Proposals

(i) **Treasury Management Monitoring Report 2015-2016**

The Committee received information on the Treasury Management actions and information as contained within the circulated report.

Members' noted the revised Minimum Revenue Provision (MRP) policy which was agreed by Council on 3rd February 2016. This will allow for a different method to be adopted for

the repayment of Council debt which will allow for a £2.9m contribution to be put into the voluntary redundancy reserves.

Following scrutiny, the report was noted.

- (ii) Urgency Action No 0901- Welsh Government Consultation Proposed Response- Multi Agency Collaboration in respect of Violence against Women, Domestic Abuse and Sexual Violence.

The Committee received details of the Urgency Action that had been taken by the Head of Corporate Strategy and Democratic Services as contained within the circulated report.

Members questioned generally the title of the consultation and queried why there was no mention of 'violence against men' in the title. The Committee discussed gender based violence and Officers confirmed that the local response to the consultation would include both men and women.

Members considered the role of this Committee as the designated Scrutiny Committee of the Community Safety Partnership and agreed it would be worthwhile to consider the ongoing work with partners in this area as part of their Forward Work Programme.

Following scrutiny, the report was noted.

- (iii) Quarterly Performance Management Data 2015/16- Quarter 3 Report -1 April 2015-31 December 2015.

The Committee received the quarterly performance management data 2015-16 for Quarter 3 performance as contained within the circulated report.

Members noted their overall role in discharging the performance management function but the specific services within their remit are Chief Executives and Finance and Corporate Services Directorates.

Members noted improvements in performance in relation to the Customer Services section. Officers explained a particular service improvement whereby Blue Badge holders who have no change in their circumstance no longer have to be interviewed by Customer Services Staff. Members were pleased to note how this has seen a reduction in some 500 appointments, freeing up resource and capacity in the section.

Members asked if there had been an increase in uptake of online services following the Council's adoption of the Digital by Choice Strategy. Officers explained that with the introduction of the strategy, calls to the Contact Centre have reduced by some 30,000 releasing significant capacity in the section. Embracing this strategy continues to be the Council's strategic way forward and will significantly change the way services are accessed and how the Council communicates with service users. Members agreed that it is important that digital services are embraced internally also to engender an online and digital culture among staff.

Members noted a dip in performance in the rate of Delayed Transfers of Care for social care reasons as well as reduced performance in some areas of Environmental Health and Trading Standards due to several particularly complex cases. The Committee recommended that the relevant scrutiny committee consider this when they scrutinise performance for areas under their remit; in this instance Social Care Health and Housing Scrutiny Committee.

Members also noted the drop in performance in relation to the percentage of final statements of special education need issued within 26 weeks which continues to be an ongoing concern. The Committee recommended that the relevant scrutiny committee consider this when they scrutinise performance for areas under their remit; in this instance Children, Young People and Education Scrutiny Committee.

The Committee praised the overall picture of performance which they felt was very good in relation to the amount of change in staffing and resources that the Council has faced. In relation to the reduction in the workforce, Members asked for a breakdown of staff per Directorate.

Following scrutiny, the report was noted.

CHAIRPERSON

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

POLICY AND RESOURCES SCRUTINY COMMITTEE

31 March 2016

Report of the Head of Legal Services

Matter for Information

Wards Affected: All Wards

Judicial Review update

Purpose of the Report

1. Members have requested a report providing them with a briefing on current general Judicial Review cases in the Local Government Sector.

Background

The general nature of Judicial Review

2. Judicial Review is the means by which persons who are aggrieved at decisions of public bodies may request that the Courts review those decisions. It is not open to the Court to simply substitute its own decision for that of the public body. The question is whether the public body has fallen into error in the way in which it has made the decision. In some cases no reasonable public body could come to the decision which has been made but in most cases, it is simply a question of how the decision was made. Grounds of Judicial Review may include such issues as failure to consult properly, a failure to consider relevant issues or acting in contravention of human rights without proper justification.

3. Judicial Review cases often attract a lot of publicity and can cause some embarrassment to local authorities in the conduct of their business. For lawyers however, whilst we would go to great lengths to avoid Judicial Review of decision making, these cases are part of the general structure of legal decision making and, whilst not routine, are to be expected particularly in current financial circumstances.
4. What follows is a very brief account of some cases which may be of interest to Members:-

School reorganisations

5. There have been several recent challenges to school reorganisations under the School Standards and Organisation (Wales) Act 2013.
6. Key obligations for a local authority to be aware of in this context are: consultation; publication of proposals in a statutory notice; consideration of objections to proposals; making a determination about its proposals; publication of a summary of the objections received and the local authority's response; publication of the local authority's determination; and notification of the local authority's determination to bodies specified in the legislation.
7. In dealing with questions and objections, an authority is under a duty to provide the relevant information which has informed their proposals¹.
8. Challenges to proposals for reorganisation may arise in relation to the consultation or over failure by the local authority to have regard to how the proposals would affect its compliance with statutory duties.
9. One local authority's decision to close a school was quashed because of its failure to comply with the requirements of the legislation and the statutory School Organisation Code and comments about the educational benefit of school closure that were not supported by evidence². The Court stated that "taken together, those failures can, in my view, be seen to be both a cause of an inadequate approach to the decision-making process and symptomatic of a failure to engage with the ethos of the statutory

¹ R (Wiggins & Another) v NPTCBC

² R(McCann) v Bridgend CBC

provisions”. The Court said that the council had simply claimed that its proposal was the best option, “apparently because its officers had reached that conclusion”. That was not what the statutory process required, and it undermined the clear purposes inherent in that process.

10. A challenge to a local authority’s decision to reduce its support for nursery education failed as the consultation was fair and dealt adequately with the issue of realistic alternatives. The issue of childcare was approached on the basis of a correct appreciation of the local authority’s statutory duty³.

Transport

11. A local authority successfully defended its decision to close its passenger transport unit (PTU) and make alternative arrangements for users⁴. The closure of the PTU could not be equated with the withdrawal of a service and the decision was linked with the search for alternative transport arrangements. The authority took the steps reasonably required to acquaint itself with the relevant information to enable it to make a lawful decision.
12. The court found that the consultation process as a whole was not unfair. The authority did have due regard to the Public Sector Equality Duty in section 149 of the Equality Act 2010 in relation to the disabled adults potentially affected by the decision to close the PTU.
13. Through the carrying out of individual transport assessments and a lawful consultation exercise, the authority had obtained sufficient information to discharge the duty of inquiry for the purposes of section 149.

³ R (Morris & another) v Rhondda Cynon Taff CBC, in contrast to a successful challenge in 2014 when the local authority decision to reduce its support for nursery education for 3 year olds was found to be unlawful because of the local authority failure to have regard to its duty to secure the provision of nursery education for children of a prescribed age was sufficient for its area.

⁴R (Robson & Another) v Salford City Council

Care Home Fees

14. A recent Court of Appeal judgment has concerned the respective funding obligations of local authorities and NHS Local Health Boards with respect to the cost of the provision by registered nurses of nursing care to residents in care homes who require some nursing care, but for whom this is not a primary need⁵.
15. The case arose in circumstances where the registered nurse recruited by the care home provided both nursing care, in the sense of medical and clinical care, and social care, in the sense of care of a kind which does not depend upon the skill and experience of a registered nurse and can be provided by non-specialist care workers. The Court of Appeal agreed with the NHS' argument that the relevant statutory regime requires a distinction to be drawn between nursing and social services, with the former being paid for by the NHS and the latter by local authorities.
16. Therefore the NHS can lawfully set the rate they pay to care homes to reflect time spent, directly or indirectly, on nursing tasks that have to be carried out by a nurse, but excluding time spent on social care. The latter will have to be funded by the care homes or local authorities, or, subject to their means, the residents of the care homes.
17. This case is subject to further proceedings.

Consultation

18. There have been numerous cases which have considered the issue of consultation on alternatives when a local authority is proposing a change to or withdrawal of services i.e. whether a public body must consult on proposals which it has, itself, rejected⁶.
19. As part of presenting information in a clear way, a local authority may present its preferred option. Part of the available information to be presented to the public may be alternative options for change. What is an

⁵ Forge Care Homes Ltd v Cardiff and Vale University Health Board

⁶ See Moseley v Haringey – in the context of a scheme such as a council tax reduction scheme with which the general public could not be expected to be familiar the consultation document itself should have contained a brief outline of the alternative options and the reasons for their rejection.

alternative option will depend on the factual and context specific circumstances of the consultation in question⁷.

20. Much will depend on the relevant statutory provision and only sometimes fairness will require that interested persons be consulted not only upon the preferred option, but also upon discarded alternative options⁸. The requirement in respect of the level of information required is a requirement to provide sufficient information to permit an informed response.
21. Therefore there is no rule that alternatives must be consulted upon in every consultation. The issue is context specific.

Equality Act & the Public Sector Equality Duty (PSED)

22. In summary the PSED requires that a public authority must in the exercise of its functions have due regard to the need to eliminate discrimination and advance equality of opportunity⁹. Complying with the PSED may well involve having to conduct further inquiries and may frequently involve a consultation. It is a fundamental principle that there must be compliance with the PSED before the decision in question is taken because that process is meant to inform and influence the decision¹⁰. Members will be familiar with the Equality Impact Assessments used by this Council.
23. A recent case provides a useful reminder to local authorities making decisions about the importance of ensuring that all decision-makers have had sight of and had an opportunity to look at key reports and documents¹¹.
24. The High Court held that changes to a council tax scheme were not discriminatory for the purposes of the PSED. However, the Court did find that there had been a failure by the full council to have due regard to the PSED because not every member of the council had been provided with

⁷ R (Morris) v Rhondda Cynon Taff CBC

⁸ See R (Robson) v Salford CC & R(L) v Warwickshire CC

⁹ See section 149 Equality Act 2010

¹⁰ R(West Berkshire District Council) v Secretary of State for Communities and Local Government

¹¹ R(Logan) v London Borough of Havering

a report and accompanying equality impact assessment looking at the possible adverse impact of the changes.

Duty of candour

25. A public authority defendant in judicial review proceedings has a duty of candour and co-operation so as to assist the court in understanding its decision-making process and deal with the issues fairly¹².
26. Steps have been identified which a public authority ought to take, if it cannot, for financial reasons, defend its own decision in court in judicial review proceedings. In particular a public authority should consider: disclosing all relevant documents; filing a witness statement to assist the court in understanding its decision-making process and dealing with the claim for judicial review fairly; filing an acknowledgement of service, with summary grounds of resistance, even if only in outline form; and sending a representative of the authority to be present in court at any hearing.

Financial Impact

27. None required

Equality Impact Assessment

28. None required for this information report.

Workforce Impacts

29. None

Legal Impacts

30. None

¹² R (Midcounties Co-operative) v Forest of Dean Council

Risk Management

31. Judicial Review and potential judicial review matters are considered as part of the risk management process.

Consultation

32. This is not required in this case.

Officer Contact

David Michael - Head of Legal Services

Tel: 01639 763368 e-mail: d.michael@npt.gov.uk

This page is intentionally left blank

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

POLICY AND RESOURCES SCRUTINY COMMITTEE

31 March 2016

Report of the Head of Legal Services

Matter for Monitoring

Wards Affected: All

Legal Services Report Card 2015/2016

Purpose of the Report

1. To provide members of the Scrutiny Committee with information to assist them in scrutinising the performance of the Legal Services Section.

Background

2. During 2014/15 the Council introduced a revised Performance Management Framework of which one of the features is the production of report cards by service managers. These report cards are intended to assist members in the scrutiny of the service concerned. The report card is attached as the appendix to this report.
3. Corporate Service Report Cards have been developed to illustrate the performance achieved for the resources invested in service areas. The report card also refers to various corporate themes and is arranged in that fashion.
4. There are a number of comments which I have to make about the process and its particular features when dealing with Legal Services. The provision of legal advice and services is effectively determined by the

work which comes in from the internal clients on a daily basis. Whereas it would be preferable if services could be developed in a planned and methodical fashion there are many outside influences which make that difficult. Changes in legislation, statutory guidance and decisions of the Courts will inevitably have an impact on service delivery. The central feature of all public administration now is the financial situation and much of the work which comes in is dependent upon that. More pressure is being placed on service delivery to individuals and that increases the likelihood of judicial review and general pressure on litigation services and complaints. Equally, the transformation of services which local authorities are compelled to embrace in the current financial circumstances also places an increased, variable and sometimes unpredictable load on Legal Services.

5. Many of these factors feature in relation to other services but they are particularly prevalent in relation to Legal Services.
6. A two year budget programme for Legal Services is something which would be preferable in terms of what service planning can be achieved. This must be a priority for the next financial year.
7. Data protection issues have already been reported to Members and complaints and compliments will be reported and brought up to date in the corporate report for this Directorate and the Chief Executive's Department.

Appendix

8. Legal Services Report Card

Background Papers

9. The Head of Legal Services Business Plan 2015/16.

Financial Impact

10. None required

Equality Impact Assessment

11. None required for this monitoring report.

Workforce Impacts

12. None

Legal Impacts

13. None

Risk Management

14. None

Consultation

15. This is not required in this case.

Officer Contact

David Michael - Head of Legal Services

Tel: 01639 763368 e-mail: d.michael@npt.gov.uk

Brief description of the service

Whilst the Legal Services is generally associated only with the provision of legal services to the Council, it is in fact a diverse unit providing many different services. The Head of Legal Services is the Council's statutory Monitoring Officer and there are three legal teams, Property, Litigation, and Child Care. Support Services provide support to Legal Services and to the Council generally in terms of payment of accounts, mail handling and the statutory land charges function. One joint report card is being provided for these teams. A separate report card has been prepared for the Licensing Team, which is also part of legal services. A separate business plan is being developed for the Registration Service for the financial year 2016 – 2017.

As one might expect, the aims and objectives of the service are many and varied but may be summarised as follows: –

Probity and Legality:

This includes ensuring that the Council maintains high standards of conduct and compliance with legal duties. The register of members' interests is maintained and advice provided to members on the statutory Code of Conduct. The Monitoring Officer services the Council Standards Committee. Advice is provided on the law as it applies to local government.

Defending the Council's interests:

In all the transactions which it handles and in all its court work the section seeks to maintain and defend the interests of the local authority which are, in effect, the interests of the community.

Achieving the Council's objectives:

Legal Services contributes towards the achievement of the Council objectives by the provision of services to the Council's Directorates. Its activities are service driven and follow the priorities of the departments concerned. Much of the Council's transformative work in implementing different methods of working is dependent on the provision of legal services.

Structures for decision-making and co-operation:

Local authorities are required to co-operate with other local authorities and public bodies in the delivery of services. In order for those co-operations to work properly and in a regulated manner proper legal structures must be put in place.

Direct service delivery:

Whereas Legal Services generally provide support services to the Council it also provides some direct services to the public such as land charges. Those services should be provided in an efficient and reliable fashion.

What we did in 2014-2015 - Service Performance (Internal)

The activities of Legal Services are analysed under the headings specified in the Business Plan which follow the Council's own objectives.

Improving outcomes for children in need and looked after children

Contracts have been put in place for provision of early intervention and preventative services. The Legal Services Child Care Team provides a comprehensive service for child protection.

Raise educational standards and attainment

Contracts were put in place for Ysgol Bae Baglan and prepared for the 21st-century school programme. Advice is being provided on contract conditions for transport and advices been given in relation to learner travel duties. Legal support has been provided for the Schools Improvement Programme and the litigation team conducted successful defence of the judicial review of decisions made as part of that programme.

Maximise the number of adults who are able to live independently

The legal team lead on the final conclusion of an agreement for the provision of intermediate care under Section 33 of the National Health Service (Wales) Act 2006. Legal advice and assistance has been provided in relation to home care contracts to achieve continuity of provision in difficult operational circumstances. Supporting people contracts have been extended. Legal support and advice is being provided in relation to direct payments to social services clients. Agreement had been executed in relation to the provision of training services to the Local Health Board. Work has been undertaken in relation to a Dynamic Purchasing System for implementation in the next financial year.

Support and promote economic growth and regeneration etc

The leases for the former Tesco/Wilkinson's multi-storey car park site in Neath town centre have been surrendered to the Council and the lease to the new Wilkinson's store has been granted. Work continues on the acquisition of land and the payment of compensation as a result of the construction of the Port Talbot PDR. Grant agreements have been completed with Coastal Housing in relation to the residential development at Green Park Aberafan. The former Port Talbot police station site has been acquired together with other property in Station Road. As part of a programme of asset transfers and self-management arrangements, a large number of leases have been completed in favour of sports clubs, community councils and groups operating local libraries and other facilities.

Increase percentage of waste recycled

Legal Services have continued to provide advice and assistance in the tendering of waste services. There have been 20 prosecutions for offences contrary to the Environmental Protection Act 1990.

Improve customer access to services and improve efficiency

Contract procedure rules for the Council have been redrafted and that the draft is being considered by the project team. Internally in Support Services the remaining secretarial staff have been integrated into legal services and cost centres merged.

LEGAL SERVICES REPORT CARD 2015-2016

Appendix

Commons and Commons searches work has been undertaken in-house with a saving to the authority. Work is underway to reduce a backlog in right-of-way work which has also been taken in-house. More meaningful budget information has been provided for Legal Services. A one-off exercise to reduce the cost of the advertisement of public notices was led by the Head of Service and the saving was incorporated in the budgets of the relevant directorates. Further work on this would be undertaken outside the Section next financial year.

Financial

During the current financial year legal services has achieved its Forward Financial Plan savings and is due to deliver a projected underspend. This is due to various factors including underspend in specific budget headings and income from providing child care related legal services to the City and County of Cardiff . The budget for the whole of Legal Services excluding Child Care legal Services has reduced by 16%. Performance against the Forward Financial Plan will be more difficult in the forthcoming two financial years. Budget reductions for 2016/17 will only be achieved by the use of the one off income that I refer to above and will have to be compensated for in the following financial year 2017/18.

The budget for each of the teams in this financial year was:-

Property/Litigation and Monitoring Officer - £870,045

Legal Services Child Care - £961,136

Support Services - £154,402

LEGAL SERVICES REPORT CARD 2015-2016

Appendix

Employee/Staffing

The staffing for each of the teams in full time equivalents in this financial year was:-

Property/Litigation and Monitoring Officer - 16.00

Legal Services Child Care – 21-42

Support Services - 15.40

There are 78 employees in Legal Services in total (including Licensing and Margam Crematorium both of which are not covered by this report), 67% of whom are female. 42% of employees are aged over 50 with 13% aged between 55 and 59. These figures are distorted by the inclusion of casual staff used for cover at the register office and in Margam Crematorium. The overwhelming majority, 92%, are permanent employees.

Up until the last year or so sickness absence in Legal Services has been substantially lower than for the local authority overall. However, in recently we have had some instances of long-term sickness from unavoidable causes. The number of full-time equivalent days lost third employee in 2014/15 was 9.5. The cumulative quarter three figure for 2014/15 was 7.4 and the equivalent figure for this year is 5.9.

Customer

For the last complete year 2014/2015 there were no complaints or compliments in relation to Legal Services.

LEGAL SERVICES REPORT CARD 2015-2016

Appendix

Service Priorities for 2015-2016

What

- | | |
|----|---|
| 1. | To deliver the savings allocated within the Council's Forward Financial Plan to the department and contain overall expenditure within the cash limit set for the department |
| 2. | To maintain high levels of attendance in the Section |
| 3. | To ensure departmental performance management arrangements are effective and in line with the Council's revised corporate framework |
| 4. | To further develop staff communications, engagement and development arrangements across the department |
| 5. | To maintain high standards of health and safety at work, ensuring all risk assessments are up to date and operational |

LEGAL SERVICES REPORT CARD 2015-2016

Appendix

6.	To maintain an effective business continuity and emergency incident response across the functions and services within the portfolio and in particular to review business continuity arrangements at Margam Crematorium.
7.	To ensure Directorate service changes and improvements in FFP are delivered
8.	To support and ensure proper governance arrangements are in place re collaboration work

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Policy and Resources Scrutiny Committee

31 March 2016

Report of the Head of Legal Services – David Michael

Matter for Monitoring

Wards Affected: All

Licensing Section Report Card 2015 / 2016

Purpose of the Report

1. To provide members of the Scrutiny Committee with information to assist them in scrutinising the performance of the Licensing Section.

Background

2. The Council introduced a revised Performance Management Framework in 2014 / 2015. One of the requirements within that framework is the production of service report cards by service managers which will enable members to scrutinise the performance of all services within their remit.
3. Report cards set out measures to determine the performance of services by referencing the priority actions set out in the business plan. It will also include workforce / staffing issues, financial information and performance indicators.

Report Card

4. A Licensing report card for the period 2015 / 2016 has been produced and is attached at appendix 1 of this report.
5. As the Licensing Section continues to undertake inspections and receive income from applications, the report card cannot be finalised until after the 31st March 2016. The report card therefore provides a snap shot of the current position up to and including the 22nd March 2016.
6. An annual report is presented to the Registration and Licensing Committee which provides details such as number of licences granted or refused and details of enforcement action. The report card does not attempt to replicate this information.

Financial Impact

7. There are no financial impacts associated with this report.

Equality Impact Assessment

8. There are no equality impacts associated with this report.

Legal Impacts

9. There are no legal impact associated with this report.

Risk Management

10. There are no risk management issues associated with this report.

Consultation

11. There is no requirement under the constitution for external consultation on this item.

Recommendation

12. Item for monitoring only

Reasons for Proposed Decision

13. Not applicable

Implementation of Decision

14. Not applicable.

Appendices

15. Appendix 1 - Licensing Section Report Card 2015 - 2016

List of Background Papers

16. Legal Services Business Plan

Officer Contact

17. Neil Chapple
Licensing Manager
Tel (01639 763056)
Email n.chapple@npt.gov.uk

This page is intentionally left blank

LICENSING SECTION REPORT CARD 2015-2016

Brief description of the service

Licensing is a small team comprising of 8 people which equates to 6.6 FTE. The Licensing Section is responsible for ensuring that the Council fulfils its statutory duty in respect of the administration and enforcement of the following licensing functions

- Licences issued under the Licensing Act 2003
 - Premises Licences
 - Club Premises Certificates
 - Personal Licences
 - Temporary Event Notices
- Licences issued under the Gambling Act 2005
 - Premises Licences - Betting Shops, Bingo Halls, Adult Gaming Centres, Family Entertainment Centres, Tracks
 - Permits – Gaming Machines
 - Small Society Lottery Registrations
- Hackney Carriage and Private Hire Licences
 - Hackney Carriage (Taxis) and Private Hire Vehicles,
 - Hackney Carriage and Private Hire Drivers
 - Private Hire Operators
- Animal Welfare Licences
 - Dog Breeding Establishments
 - Animal Boarding Establishments
 - Pet Shops
 - Riding School
 - Dangerous Wild Animals
 - Zoos
- Boats and Boatmen
- Charitable Collections
 - Street Collections

LICENSING SECTION REPORT CARD 2015-2016

- House to House Collections
- Cosmetic Piercing and Tattooing
- Explosive storage
 - Petrol Station
 - Firework Retailers
- Scrap Metal Dealers
- Sex Establishments
 - Sex Shops
 - Sexual Encounter Venues
- Stage Hypnotism
- Street Trading

LICENSING SECTION REPORT CARD 2015-2016

Service Priorities for 2015-2016		
	Priority	Date to be completed
1.	Review Licensing Act Policy in accordance with the Licensing Act 2003 statutory timescales. The Licensing Act Policy is required by legislation to be reviewed at least once every 5 years. It is proposed that existing policy be updated to reflect a number of changes in legislation and guidance issued by the Home Office. The Policy will be subject to an extensive consultation exercise with interested parties and will require full Council approval.	January 2016
2.	Review Gambling Statements of Principles in accordance with the Gambling Act 2005 statutory timescales. The Statement of Principles is required to be reviewed at least once every 3 years. It is proposed that the existing policy be updated to reflect new codes of practice and guidance issued by the Gambling Commission. The Statement will be subject to extensive consultation and requires full Council approval.	January 2016
3.	Implement taxi driver training in relation to safeguarding issues including child sexual exploitation. Taxi drivers are the eyes and ears of the community and are ideally placed to be able to recognise and report issues relating to safeguarding and in particular instances of Child Sexual Exploitation. Without suitable training, potential safeguarding issues may not be reported or signs simply not recognised.	March 2016
4.	Complete review of licence fees to ensure the Council recovers the cost of the Licensing Service from those who derive benefit from it.	March 2016
5.	Implement a risk based inspection system for licences issued under the Licensing Act 2003. Inspections of premises should not be undertaken without reason to do so. By implementing a risk based system, we can ensure that our resources are appropriately allocated to those premises that offer the greatest risk.	June 2015

LICENSING SECTION REPORT CARD 2015-2016

What do we want to achieve

Licensing – Performance Indicators

The following is a list of key performance indications that we would like to achieve for the year 2015 / 2016:

- 1/3 of premises licensed under the Licensing Act 2003 to have an initial inspection in accordance with risk based inspection programme – this equates to 159 of the 478 premises and 24 of the 72 Clubs.
- All premises licensed under the Gambling Act 2005 to receive at least 1 inspection – 21 premises
- All premises licensed to sell, keep, board or exhibit animals to receive at least 1 inspection – 41 premises
- All premises licensed to store fireworks to receive at least 1 inspection - 24 premises
- All Static street trading consents to receive at least 1 inspection – 20 consents

LICENSING SECTION REPORT CARD 2015-2016

How did we do

Quarter 1 April - June

- Risk based inspection system completed and implemented
- Hackney carriage and private hire vehicles roadside inspections -37
- Licensing Act 2003 inspections carried out - 4
- Animal establishment inspections – 3

Quarter 2 July - September

- Hackney carriage and private hire vehicles roadside inspections -56
- Licensing Act 2003 inspections – 15
- Animal establishment inspections – 5
- Street trading inspections - 2

LICENSING SECTION REPORT CARD 2015-2016

Quarter 3 October - December

- Licensing Act 2003 Policy review completed and approved by Council
- Gambling Act 2005 Statement of Principles review completed and approved by Council
- Firework storage inspections carried out - 24
- Animal establishment inspections - 27

Quarter 4 January – March (up until 22nd March 2016)

- Page 42
- Review of Licensing fees completed and implemented from the 1st April 2016
 - Hackney carriage and private hire vehicles roadside inspections - 68
 - Licensing Act 2003 inspections – 69
 - Animal establishment inspections – 7
 - Gambling Act 2005 inspections – 12
 - Street trading inspections - 3

LICENSING SECTION REPORT CARD 2015-2016

Whole of
2015 / 2016 (Up until 22nd March 2016)

The following is a brief summary of what we achieved in 2015 / 2016:

- Licensing Act 2003 Policy review completed
- Gambling Act 2005 Statement of Principles review completed
- Review of Licensing Fees completed and implemented from the 1st April 2016
- Risk based inspection system completed and implemented.
- Hackney carriage and private hire vehicles roadside inspections -161
- Licensing Act 2003 inspections – 89
- Gambling Act 2005 inspections – 12
- Animal establishment inspections – 42
- Street trading inspections - 5

Officer Report

- Implementation of the taxi driver safeguarding training is progressing well, however various obstacles including, funding, trainers and training content have held up implementation. The first training sessions are anticipated to commence by April 2016 on a voluntary basis. The introduction of mandatory training by way of licence conditions is to be included on the business plan for 2016/2017.
- Inspection of premises licences and clubs is currently some way off levels which we wanted to achieve this year. This is due to the high levels of other work, which has increased due to temporarily reduced staffing levels (sickness and secondment)

LICENSING SECTION REPORT CARD 2015-2016

Financial

- One of the aims of the Licensing Section is that the licensing function is self-financing. In this situation the cost is borne by persons that derive benefit from licences and there is no burden on council tax payers. Additionally legislation dictates that the Council can only levy a fee in order to achieve cost recovery, therefore no profit can be made.
- Targeted income is £261,310, the Licensing Section is on course to achieve this level of income which will mean that the Section recovers at least all the above line costs and a proportion of the below line costs. Actual levels of expenditure and income will not be available until after the 31st March 2016.

Workforce

Page 44

- Sickness – 58.5 Calendar days lost (includes one long term absence of 31 days).
- Staff turn-over – 1 member of staff is currently on secondment to a higher grade post (July 2015 – May 2016)
- Employee Development Reviews – 0% completed (interviews scheduled for April 2016)

Customer

- Complaints/compliments – None received

**Policy and Resources Scrutiny Committee
Forward Work Programme**

Date of Meeting	Agenda Item
18 th February 2016	Report Cards – Human Resources, Corporate Health and Safety and Joint Resilience
	Sickness Absence Quarterly Reporting
	Pre-scrutiny - Cabinet Board Items
	Quarterly Performance Reporting
31 st March 2016	Licensing Report Card
	Legal Services Report Card
	Pre-scrutiny - Cabinet Board Items
22 nd April 2016 (Special)	Community Safety Report Card

	Community Safety Partnership
19th May 2016	Report Cards - Occupational Health Unit and Learning, Training and Development
	National Procurement Service Update
	Pre-scrutiny - Cabinet Board Items