

Agenda item:

Title of meeting: Governance and Audit and Standards Committee

Date of meeting: 30 January 2014

Subject: Probate Applications

Report by: City Solicitor

Wards affected: n/a

Key decision: No

Full Council decision: Yes

1. Purpose of report

To seek to obtain a council resolution to appoint the City Solicitor as lawful nominee of the council for the purpose of obtaining Grants of Representation from the Probate Registry in order to recover debts owed to the council.

2. Recommendations

That Governance and Audit and Standards Committee recommend to Council that the City Solicitor's delegation be amended by inserting the following additional delegation between paragraphs 30 and 31:

"To act in the capacity of lawful nominee of the council for the purpose of applications to the Probate Registry and, in so doing, to take such steps as shall be considered necessary to obtain a Grant of Representation in order to recover monies owed to the council."

3. Background

In cases where monies are owed to the council by the estate of a deceased debtor, the council may apply for a 'creditor's grant' from the Probate Registry in order to recover the sum owed. This would be appropriate in a case where there is no personal representative of the deceased who is willing and able to act as executor/administrator of the estate.

In the past, a resolution of full council has been sought to appoint the City Solicitor as nominee of the council for the purpose of making application to the Probate Registry on individual cases. Extension of the powers delegated to the City Solicitor would avoid the need for a resolution of full council to be passed in each case where a debt is owed.

4. Reasons for recommendations

It is considered that extending the City Solicitor's delegation in this way is consistent with the other delegations to him, namely to conduct legal proceedings on behalf of the Council, and will avoid further reports having to be brought when the occasion arises.

5. Equality impact assessment (EIA)

An Equality Impact Assessment is not required as there are no equality issues arising from the recommendations in the report.

6. Legal Implications

There is a possible, low risk that Portsmouth City Council could be held responsible for payment of any outstanding liabilities/debts owed by the estate of the deceased. In each case, Legal Services should endeavour to obtain a signed statement from each and every personal representative of the deceased setting out what, if any, outstanding liabilities/debts there are.

Provided that external solicitors are not required to assist our own Legal Services department, the only anticipated fee will be for the application to the Probate Registry, currently £45.00. In the event that an external solicitor is required, it is likely (based on the fee charged for the previous similar case) that their fee would be approximately £1,500.

7. Finance comments

There are no financial implications arising from the recommendation in this report. Any specific costs arising from individual cases will be met by the service receiving the income.

.....
Signed by: Michael Lawther, City Solicitor

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location
None	N/a