

Welcome

Welcome to the second edition of nplaw's bi-monthly newsletter. Thank you to all those people who made complimentary comments about our March publication. One or two people said they didn't want to receive any more newsletters; a greater number of people said they'd like to be added to our mailing list. If you're in the former category we hope that you're not reading this; if in the latter, we hope you are! If you're a new reader, you can subscribe to subsequent editions of this newsletter by entering your email address in the box on the news & events page of our website at <http://www.nplaw.co.uk/news-events/>.

In this edition, we provide our top tips for those involved in changing from a cabinet to a committee system form of governance and our suggestions for how to manage change however it arises. We continue with an article about the use of the enforced sale procedure and details of two forthcoming seminars: the first on developments in planning law and the second on the practical use of compulsory purchase orders for regeneration projects.

Changing to a committee system of governance

Two of our stakeholder authorities have recently changed from a cabinet to a committee system. Norfolk County Council made the change in 2013. Great Yarmouth Borough Council followed suit this month. When converting to a committee system of governance, it is essential that you consider certain matters. Here are our top tips.

1. What do members hope to achieve by moving to a committee system? Try to get their aims and objectives clearly set out. Consider engaging independent external advice to help shape the debate.
2. What is your authority's current form of governance and how was it chosen? In certain circumstances you will need a referendum on the change. In other cases, there is no legal requirement for consulting on the change, but are you going to consult in any event, and, if so, who?
3. How will the new system look and what are the cost implications? What is the optimum number of committees for your authority?
4. Under the committee system there is no "executive". All functions are council functions. The full council sets up committees to deal with different functions and delegates decision making powers to these committees and/or to officers. Consider putting an escalation procedure in place for controversial decisions.
5. No delegations to individual councillors are possible. Make sure your officer delegations are fit for purpose under a committee system.
6. Each committee and sub-committee must be politically balanced unless the council decides "nem con" otherwise.
7. There is no legal requirement to set up a scrutiny committee although the council may, if it wishes, set up a committee with scrutiny type or similar functions.
8. When members pass a resolution to move to a committee system of governance, the resolution must specify when the change will take place – this must be either the next or a subsequent annual meeting. If the resolution does not specify the timing, the change must take place at the next annual

meeting.

9. You will need a new constitution and standing orders. It's never too early to begin work on this! Consider setting up a committee or working group to make decisions along the way.

Managing change

The silicon revolution has transformed all our lives. The pace of change seems ever quicker and, in our working lives, it has been propelled since 2008 by the drive for greater effectiveness and efficiency which has resulted from austerity measures. Much of this change is beneficial (we, and those we serve, can access far more information far more quickly than we could even 10 years ago, and we can communicate it instantly at any time of the day or night), but the natural instinct of human beings is to prefer stability. The saying "May you live in interesting times" is, after all, widely regarded as a curse*. Human beings feel threatened by change (change that is imposed rather than chosen) at a fundamental level.

It follows that any plans for restructuring or introducing new methods of working are likely to meet with resistance. The planning process should therefore include a strategy for gaining employees' support. The steps are simple enough (at least to enumerate!) but without the support of all the individuals involved, even the best-laid plans are likely to fail.

1. **Set the strategy.** A formal strategy is generally preferable to dealing with issues on an ad hoc basis. The strategy needs to take account of the organisation's history, culture and core values and of the willingness and capacity of the workforce to implement change. It should recognise where resistance is likely to come from and set out proposals for overcoming it.
2. **Start at the top.** Simply gaining the management team's agreement to the necessity for and direction of change is not enough. Each member of the management team must be willing to accept responsibility for making change happen in every area over which they have influence. Managers may need training or other support (they're human too!) and this needs to be assessed and provided before the programme is rolled out to the rest of the organisation.
3. **Communicate.** Convincing employees of the need for change is crucial. Managers must be prepared to explain, and to keep explaining:
 - the reasons why change is necessary;
 - what the proposals for change are and why they are the most appropriate means of addressing the issue;
 - the timetable for implementing the proposals; and
 - alterations to the proposals and the timetable for implementation whenever they are made.
4. **Listen.** Obviously employees' questions must be answered and their concerns addressed, but managers also need to actively solicit employees' views and suggestions and be prepared to act on them.
5. **Motivate.** It is generally assumed in the private sector (perhaps not always correctly) that material rewards and/or sanctions are the prime incentives for accepting change. Incentives in the public sector are necessarily less tangible. They include making improvements to the service we provide, public recognition of those improvements, and the personal satisfaction of identifying and resolving problems and working as part of a team to do so.
6. **Review the strategy and revise it whenever necessary.** The impact of the programme should be continually monitored and the strategy amended whenever necessary.

*Often described as old and Chinese, the saying seems to be recent and Western!

At nplaw we've been through considerable change during recent years, from our formation in 2010 by the merger of three separate legal teams, to completion of our most recent restructure in April this year. We structure our own development so as to best support our clients' needs, and pride ourselves on our innovative approach and our ability to respond to our clients' changing needs and budgets. We have retained our culture and core values throughout, preserving all the benefits of a public service ethos.

We understand the issues that other local authority legal practices undergoing change may face and can offer practical assistance in the form of temporary services either as an alternative to employing locums or on an emergency basis. We are currently providing temporary cover to Cambridge City Council and South Cambridgeshire and Huntingdonshire District Councils as they establish a shared legal service, and we have staff on full or part-time secondment to a number of clients. To discuss the provision of such services, please contact our Practice Manager, Chris Reynolds on 01603 222215 or at chris.reynolds@norfolk.gov.uk

Enforced sales

Whilst enforcing a sale of property is essentially a debt recovery action, it does have the added benefit of securing a change in ownership of the property. The procedure is not particularly well used by local authorities, but those councils who do make use of it often target problem empty properties. There is nothing wrong with this, but it must not be forgotten that the procedure is essentially a means of recovering money owed.

The ability to force the sale of a property relies on the local authority having a charge over it. Many statutes allow a council to serve a notice on an owner of property calling on the owner to carry out works. Often the council has the right to carry out works in default and to recover the cost from the owner. Some statutes provide that where the council does so, it automatically acquires a charge over the property as security for its costs. It is these charges that provide the basis for the enforced sale procedure. Examples of statutory provisions that create a charge on property where works are in default are: section 4 of the Prevention of Damage by Pests Act 1949; section 79 of the Building Act 1984; section 80 of the Environmental Protection Act 1990; section 215 of the Town and Country Planning Act 1990; and sections 11 and 12 of the Housing Act 2004.

There are various statutory processes that have to be gone through before an enforced sale can proceed, such as service of a notice under section 103 Law of Property Act 1925 and registration of the charge at the Land Registry, but there is no need to obtain any kind of order from the courts.

Of course, the sale of the property can be stopped if the owner pays off the debt and so you may not want to enforce a sale when the debt is small. There is a duty on the council to secure the best price for the property when it sells it. Sales at auction are generally recognised as a way of complying with this duty. The proceeds of an enforced sale must be used to repay the debt owed to the local authority and the costs of sale. Any balance then remaining must be paid to the holders of other mortgages or charges on the property or, if there are none, to the former owner.

nplaw acts for many local authorities on enforced sales and its "no sale, no fee arrangement" can make enforcing sales almost risk free. If the sale does not go ahead, there is no cost to the authority. If a sale does go ahead, nplaw's costs can be deducted from the sale proceeds. We charge a fixed fee of £2,500 (excluding VAT and disbursements) for each property sold, and this covers both the enforced sale procedure and the subsequent conveyance of the property to the new owner. Provided that the proceeds of sale are sufficient, all other costs, such as auctioneer's fees, can also be deducted from the proceeds of sale.

A detailed guide to enforced sales can be found on our website at <http://www.nplaw.co.uk/briefings/enforced-sales-december-2015/>. If you require further information please contact Chris Skinner on 01603 223736 or at chris.skinner@norfolk.gov.uk.

Seminars

We will be holding two seminars later this year:

The Housing and Planning Act 2016. Our planning team will be giving a briefing on “The Housing and Planning Act 2016 and other recent developments in planning law” on Thursday 30th June 2016 from 9 am to 12.30 pm at County Hall, Martineau Lane, Norwich NR1 2DH. The seminar will be free to anyone who wishes to attend. For further details, please contact Fiona Anthony on 01603 222943 or at fiona.anthony@norfolk.gov.uk.

We will also be publishing a briefing on the Housing and Planning Act 2016 very soon. Look out for it on our website at <http://www.nplaw.co.uk/briefings/>

Compulsory Purchase Orders — Their effective use for regeneration projects.

Our CPO Consultancy Service will be hosting an all-day seminar on “Compulsory Purchase Orders – Their effective use for regeneration projects” at Friends House, 173 - 177 Euston Road, London NW1 2BJ on Friday 23 September 2016.

nplaw has a strong reputation in the field of compulsory purchase and acts for councils across England and Wales on CPO projects ranging from single empty houses to multi-plot, multi-million pound regeneration schemes. This seminar looks at the specific issues that arise when acquiring land for regeneration projects, both large and small, and will take into account the recently updated government guidance and the changes put forward in the Housing and Planning Act 2016. The speakers are Chris Skinner and Jane Linley, both solicitors with nplaw who between them have over 60 years’ experience of dealing with CPOs. The full programme is set out below.

The cost of the full day seminar is £95 and includes all refreshments, lunch and course materials. To book a place please email Fiona Anthony at fiona.anthony@norfolk.gov.uk and provide the name of your organisation and details of the delegates (including names, job titles, email addresses and telephone numbers). Please also confirm whether you will need to supply a purchase order before an invoice is submitted.

PROGRAMME

- 9.30 Arrival and registration
- 10.00 **Introduction**
 - Useful CPO powers for regeneration projects – the law and government advice
 - Examples
 - When is it right to proceed with a CPO
 - Working with the private sector
- 11.15 Tea, coffee and refreshments
- 11.45 **Making the Order**
 - Obtaining council authority
 - The forms, notices and documents
 - Dealing with the site no one owns
 - CPO procedures
 - Confirmation of Order
 - Practical tips
- 1.00 Lunch
- 2.00 **Dealing with Objections**
 - How to avoid objections in the first place
 - The contested Order
 - Written representations or public inquiry
 - The procedure
 - Witnesses

- 3.00 Tea, coffee and refreshments
- 3.15 **Finances and title**
Financing a CPO project: from local authority funds; by way of a third party developer; on a “small budget” basis
What should an indemnity/”back to back” agreement look like?
What compensation might be payable?
Can compensation payments be reduced?
Exercising the CPO powers – Notice to Treat or General Vesting Declaration
Conveyancing aspects of compulsory purchase
Extinguishment of easements and covenants
- 4.15 Close

The Lawyer Awards 2016

We have just learnt that nplaw has been shortlisted for In-house Public Sector Team of the Year by The Lawyer Awards 2016. We are one of five teams shortlisted – and the only team that is a local authority legal service. The results will be announced on 29th June 2016.

Our next newsletter

Our next newsletter is due out in July. We hope to bring you the inside track on the governance issues raised by the devolution proposals for East Anglia. Our practice director, Victoria McNeill, has been working hard on these issues since the Chancellor first proposed the creation of a Mayoral Combined Authority for East Anglia in the March 2016 budget. We are hoping to drag her away for long enough to provide us with a description of the twists and turns in what has clearly been an absorbing journey.

If you have any queries relating to this newsletter or wish to seek advice, please contact:

Chris Skinner: chris.skinner@norfolk.gov.uk or 01603 223736

Whilst every effort has been made to ensure that the content of this newsletter is up-to-date and accurate, no warranty is given to that effect and nplaw does not assume responsibility for its accuracy and correctness. The update summarises latest legal developments but is no substitute for specific legal advice after consideration of all material facts and circumstances.



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