



Subject:	Update on the Recovery of Court Costs
Date:	15th February, 2017
Reporting Officer:	Stephen Hewitt, Building Control Manager, ext. 2435
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Is this report restricted?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>
Is the decision eligible for Call-in?	Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>

1.0	Purpose of Report/Summary of Main Issues
1.1	Members will recall that the issue of recovery of legal costs for prosecutions issued pursuant to the Local Government (Miscellaneous Provisions) (NI) Order 1985 has been raised on a number of occasions and, most recently, at your meeting on 18th January, whilst considering a report on Entertainments Licences where an applicant had been convicted of an offence.
1.2	The purpose of this report is to explain how the level of costs is established and agreed against the various types and quantities of cases that Legal Services deal with on a weekly basis in Belfast Magistrates' Court.
1.3	The report will also provide a basis to advise the Committee what the Council is seeking to do in order to try and address Members' concerns.
2.0	Recommendation
2.1	The Committee is requested to consider the content of the report and the key issues within.
3.0	Main report
	<u>Key Issues</u>
3.1	The recovery of legal costs is governed by the Magistrates' Courts (Costs in Criminal Cases) Rules (NI) 1988 ("the 1988 Rules"). Schedule 1 of the 1988 Rules provided that the maximum fees for solicitor and counsel was capped at £75, however, if the court thinks that, due to exceptional length, difficulty or complexity the maxima are insufficient, it may make a special order for greater sums, stating the reasons for doing so.

<p>3.2</p> <p>3.3</p> <p>3.4</p> <p>3.5</p> <p>3.6</p>	<p>Schedule 1 was amended on 1st January 2013, by the Magistrates' Courts (Costs in Criminal Cases) (Amendment) Rules (Northern Ireland) 2012, to remove the upper limits set by Schedule 1 of the 1988 Rules. Schedule 2 details the amounts payable in connection with the attendance of witnesses, travel costs, loss of earnings, other costs and expert witness fees.</p> <p>In the case of <i>Re Caffrey's Application</i> (2000) NI 17, it was established that a prosecuting body can only recover costs in relation to the prosecution of the case and not investigation costs. It was held that the prosecutor should serve, in advance of the hearing, a full statement detailing the legal costs and expenses, and the defendant can give proper notice of his intention to dispute any part of the costs. The prosecutor must specify what costs are claimed as legal fees under Schedule 1 and what relate to professional and expert witness expenses under Schedule 2 (the latter being subject to an absolute ceiling) so that the Judge can assess costs in relation to legal fees, professional and expert witnesses and ordinary witnesses, and then impose such amount for costs against the defendant as is proper.</p> <p>In terms of application for costs in court, the established custom and practice has been that the Council is awarded £50 in each case as a contribution towards legal costs, in addition to any court fees, for example, the fee for a process server to serve the summons.</p> <p>On average, Legal Services can prosecute up to 30 cases each week in the Magistrates' Court. The majority of those cases are relatively straightforward, although there are a number of cases which are technically complex. The number of complex cases can vary widely, but typically those which Legal Services spend more time preparing are those relating to breaches of Entertainments Licences, Health and Safety, Food Safety, illegal evictions, and breaches of the Building Regulations.</p> <p>The Divisional Solicitor has agreed to undertake a comprehensive review of this matter in conjunction with the Assistant Director of City and Neighbourhood Services Department and the Director of Planning and Place, to determine the appropriate standard fee for prosecutions. In the interim, Legal Services will apply for increased legal fees in respect of any technically complex or time consuming prosecutions where it is considered appropriate to do so.</p> <p><u>Financial and Resource Implications</u></p> <p>3.7 There are no financial and resources issues associated with this report.</p> <p><u>Equality or Good Relations Implications</u></p> <p>3.8 There are no equality or good relations issues associated with this report.</p>
<p>5.0</p>	<p>Documents Attached</p>
	<p>None</p>