

WEST MIDLANDS FIRE AND RESCUE AUTHORITY

26TH JUNE 2006

1. **OUTCOME OF LITIGATION PROCEEDINGS AGAINST THE AUTHORITY BY AP (UK) LTD, WOLVERHAMPTON**

Joint report of the Chief Fire Officer, Clerk and Treasurer.

RECOMMENDED

THAT the Authority notes the final outcome of the litigation proceedings that were re-commenced against it by AP (UK) Ltd, of Wobaston Road, Wolverhampton.

2. **PURPOSE OF REPORT**

This report is submitted to inform the Authority that the litigation claim brought against West Midlands Fire and Rescue Authority by AP (UK) Ltd has now been finally dismissed by the High Court. This claim related to the way a major fire was extinguished in February 1999, at a premises in Wolverhampton.

3. **BACKGROUND**

3.1 West Midlands Fire Service attended a serious fire at the premises of AP (UK) Ltd, in Wolverhampton, on 7th February 1999. The fire destroyed much of the property of the company which manufactured toilet paper. Following the incident, the company commenced litigation proceedings against three defendants, including the Authority, for damages in the region of £12 million.

3.2 The Authority at that time resisted the claim and, in view of the potential high level of legal costs which would have inevitably been incurred in defending the case, sought 'security for costs' from the claimant. After many hours of legal argument, the Judge decided that AP (UK) Ltd should pay £135k into the Court. The Company failed to comply within the timescales and on 16th March 2001, the Judge dismissed the case. Furthermore, the Judge refused leave to appeal to the Court of Appeal over this issue.

- 3.3 However, on 1st June 2005, a writ was served on the Authority claiming 'damages for the defendant's acts and omissions when it attended the fire'. The claim was vigorously defended, as outlined in the reports to the Executive Committee at their meetings on 9th June 2005 and 24th October 2005.
- 3.4 The Authority was subsequently advised by its legal defence that the next step in the process would be to seek to have the case struck out on the grounds of the unreasonableness of the claim and the failure of the claimants to produce any real evidence. This took place on 14th November 2005 at the High Court in London.
- 3.5 On 30th March 2006, judgement was handed down. The judge came to the conclusion that the proceedings initiated by the claimant were an abuse of process and the claim was struck out. The claimants were also ordered to pay costs.
- 3.6 AP (UK) Ltd was given until 28th April 2006 to appeal the decision. No appeal was made and the case is therefore finally closed.
- 3.7 The Authority incurred no direct costs in this action, as they were underwritten by our insurers.

4. **EQUALITY IMPACT ASSESSMENT**

In preparing this report, an initial Equality Impact Assessment was undertaken which did not raise issues which required a full Equality Impact Assessment to be completed.

5. **LEGAL IMPLICATIONS**

The course of action recommended in this report does not raise issues which should be drawn to the attention of the Authority's Monitoring Officer.

6. **FINANCIAL IMPLICATIONS**

The cost of defending this case and those involved in the action to have the claim struck out were met by the insurers representing the Authority at that time. Therefore, there are no direct financial implications arising from this report.

BACKGROUND PAPERS

Executive Committee meeting 9th June 2005 report:
'Fresh proceedings against the Authority by AP(UK)Ltd.'

Executive Committee meeting 24th October 2005 report:
'Update on litigation proceedings against the Authority by AP(UK)Ltd.'

HR Department Files relating to the case.

F. J. E. SHEEHAN
CHIEF FIRE OFFICER

SUSAN PHELPS
CLERK

LYNDA BATEMAN
TREASURER