

Finance and Resources Committee

10.00am, Thursday, 3 March 2022

Solicitors Fees in relation to Historic Child Abuse Claims

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1. Recommendations

- 1.1 It is recommended that the Finance and Resources Committee:
 - 1.1.1 Notes the content of this report and approves the additional £250,000 waiver of contract standing orders that it is anticipated will be required to continue to process and defend civil litigation claims in relation to historic child abuse via an agreement with Clyde & Co.

Richard Carr

Interim Executive Director of Corporate Services

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Report

Solicitors Fees in relation to Historic Child Abuse Claims

2. Executive Summary

- 2.1 The report advises members of the background to the current position in terms of solicitors' costs for civil litigation claims received, which has evolved since the initial contract/agreement was put in place.
- 2.2 From a consistency perspective, it is important that the incumbent provider continues to defend the Council's position for these civil litigation claims.

3. Background

- 3.1 The ongoing Scottish Child Abuse Inquiry (SCAI) has been investigating the abuse of children in care in Scotland since the introduction of the Limitation Bill (Scotland) Act 2017 ("the Act").
- 3.2 The focus of the SCAI investigations has considered both privately and publicly owned institutions, and recorded the testimony of survivors. Individual abusers have, over the course of the last 20 years, been taken to Court and some of the cases have resulted in convictions.
- 3.3 The Act removed the time bar element to a civil litigation claim. Claims for the period back to Sept 1964 are permitted. The former Lothian Regional Council (and its successor authorities) have seen civil litigation claims submitted in relation to allegations of child abuse.

4. Main report

- 4.1 Historic claims submitted against the Council are handled by Clyde & Co (as part of the nominated insurers panel for insured claims). Depending on the period outlined in the claim, these can be classed as insured or uninsured. A waiver of contract standing orders valued at £250,000 was put in place in February 2018 to provide the necessary governance for these actions.
- 4.2 Where there are uninsured periods, the handling of these claims is also undertaken by Clyde & Co to ensure consistency in the handling of claims, any appropriate settlement proposal and to minimise reputational damage.

- 4.3 Given the complexity of claims received to date, the amount under the waiver has recently been exhausted and further provision is required to cover the ongoing and any new costs incurred.
- 4.4 As limitation has been lifted for these civil litigation cases and the Redress Scotland compensation scheme is now open, it is impossible to determine how many more claims will be received however the Council must be prepared to respond appropriately and swiftly in the event that they are received.
- 4.5 For the existing and future claims, it is recommended that a further waiver of contract standing orders is put in place to continue the agreement with Clyde & Co to protect the Council's position.

5. Next Steps

- 5.1 Following Committee consideration, the appropriate action to put in place the required waiver will be taken.

6. Financial impact

- 6.1 It is currently estimated that an additional £250,000 over five years will provide sufficient financial resource to finalise ongoing and future claims.
- 6.2 This will be reviewed annually and the Service Director: Finance and Procurement will be kept abreast of costs incurred on an annual basis.

7. Stakeholder/Community Impact

- 7.1 There are no adverse stakeholder or community impacts arising from this report.

8. Background reading/external references

- 8.1 SCAI Inquiry: [Scottish Child Abuse Inquiry — Home](#)
- 8.2 Redress Scotland: [Scotland's Redress Scheme - gov.scot \(www.gov.scot\)](#)

9. Appendices

- 9.1 None