

CONFIDENTIAL

LEGAL COMPLIANCE REPORT

The members of the Legal Services Division are divided into seven Sections:

- Litigation;
- Prosecutions;
- Corporate Services;
- Planning & Environment;
- Real Estate & Expropriation;
- Research, Legislative Services and Administrative Law; and
- Administrative Services.

Managers of each Section report directly to the City Solicitor. Given that the Law Department is a full-service in-house municipal law office, only very limited use is made of external legal counsel. External lawyers are retained only when the Department is in a conflict situation, when clients' workloads require more service within a tighter timeframe than can be accommodated by City lawyers or when expertise in a particular area of law in which members of the Department do not typically practice (e.g. income tax matters) is required. Even in the latter case, internal lawyers work very closely with external lawyers and cross-training and a knowledge transfer is required.

As reported in previous years' legal compliance reports, City staff carry out a number of activities governed or regulated by federal, provincial or municipal legislation. This results in a public law duty to comply with these enactments. In addition, City staff are responsible for many activities that impact individuals. This could result in a private law duty of care to not injure or harm anyone while carrying out these functions. The City must act in accordance with both its statutory obligations and decided case law.

Due to the hundreds of lines of business in which The City is engaged, the Law Department is unable to monitor every business unit's activities to ensure legal compliance. Therefore, the responsibility for ensuring legal compliance rests with business unit leaders. However, given:

- that members of the Law Department provide educational seminars to various business units to advise City employees of their legal obligations;
- that the Law Department engages in the initiatives noted below;
- that the City Solicitor or her representative attend all regular and combined meetings of City Council and the meeting of the Administrative Leadership Team that immediately precedes them;
- that members of the Department often attend Standing Policy and Special Committee meetings to address particular items; and

- that the City Solicitor is in frequent contact with the Mayor, City Manager, General Managers, and Directors;

the Law Department has considerable opportunity to learn about significant initiatives underway in the corporation which then allows for input into the identification of potential issues that may arise as a result.

As indicated in Report AC2014-0194, the extent to which members of the Law Department can assist clients in identifying, mitigating, managing, and monitoring risk, securing legal compliance and achieving Council, corporate and business unit objectives is directly related to the timeliness of Department members' involvement in a matter, lawsuit or project. To ensure earlier involvement, over the past few years the Law Department has significantly altered its approach to its clients and expanded the services it provides.

Some years ago, the Law Department tended to provide traditional, fairly narrowly focused legal advice in a rather reactive manner. Now, members of the Department both seek out opportunities to provide, and react to requests for, legal, risk management and strategic advice intended to help clients achieve their business objectives while identifying, mitigating, managing, and monitoring risk for the corporation. For example, some members of the Law Department take some of the same training their clients take (e.g. C-train and Calgary Police Service driver training), which allows for a much better understanding of their clients' operations.

Outlined below is a list of new or continuing positive developments which enhance the Law Department's ability to help clients comply with the law and identify, mitigate, manage, and monitor risk:

- More frequent in camera briefings on unique and higher risk matters are being provided to members of Council and Committees and to the City Manager and General Managers;
- Immediately after the 2013 election, the City Solicitor and Assistant City Solicitor made presentations to new Council members in regard to legal and governance matters and public hearing matters, respectively;
- Members of the Law Department were present at the Emergency Operations Centre (EOC) throughout the state of local emergency in 2013. Senior leaders in the corporation have indicated that they appreciated this because immediate legal and risk-related advice was available throughout the emergency response and during planning for recovery. The City Solicitor serves on the Recovery Operations Centre Steering Committee and members of each Law Department Division serve on the Recovery Operations Centre Task Force. Having learned many lessons from the flood event, work is underway in the Law Department to enhance the Department's readiness to respond to future emergency situations while concurrently meeting required normal business needs;
- Clients now often involve members of the Law Department at the project chartering stage of major projects and lawyers assist in writing risk assessments in reports to Council;

- Members of the Law Department serve on corporate, multi-departmental and departmental steering and advisory committees and project teams, allowing opportunities to participate in both governance decisions and in risk assessments;
- Managers have been more proactive in seeking out clients' annual work plans with a view to being able to better align Law Department resources with client needs and assess corporate risk. Some clients attended Section strategic partner sessions held during 2013 to help Law Department staff better understand their business objectives;
- Discussions have occurred between the City Solicitor, Manager of Corporate Security and Senior Risk Strategist in the City Manager's Office (responsible for integrated risk management) to ensure that risks identified by the Law Department are elevated to the corporate risk register;
- Discussions have occurred between the City Solicitor, Manager of Corporate Security and City Auditor in regard to various aspects of risk management;
- The City Solicitor has begun discussions with the City Manager in regard to participating in the development of his annual corporate risk report to Audit Committee;
- Members of the Department attend some business unit's management team meetings to help better understand clients' objectives and needs;
- The City Solicitor and members of the Law Department's management team have taken action to enhance relationships with, and better serve, some key clients in the corporation;
- Members of the Department are continually increasing the nature and extent of training provided to City employees on matters as diverse as workplace violence, emergency preparedness, court processes and proceedings, briefings on developments in the law, and new legislation impacting clients' businesses;
- Members of the Department are heavily involved in important governance and financial issues such as the current comprehensive Municipal Government Act review, discussions relating to the creation of a City Charter and discussions relating to growth management, acreage assessments and levies;
- Members of the Department collaborate with other major municipalities in Alberta to, for example, seek amendments to the Municipal Government Act to benefit municipalities;
- While increased client demand for service is a welcome development indicating that clients are anxious to have Law Department members' advice, this demand has resulted in a need to streamline processes both within the Department and with clients to achieve objectives within clients' time frames. An important initiative currently underway involves

the Supply business unit and the Law Department. An external procurement law expert has been retained to assist lawyers and clients in modernizing and standardizing City procurement documents and streamlining document production and review processes. This front end investment of time will result in consistent documentation being released to the market and will save considerable time for buyers, lawyers and City project managers;

- In 2014, rather than measuring performance strictly on the basis of a demonstration of competencies, the Department's Executive Committee required all management exempt employees to identify two goals and then demonstrate the achievement of those goals through the use of competencies the Department values. The goals must relate to professional development and innovation/efficiencies. The intent of this change in measuring performance is to both enhance individual and collective ability to identify, assess, mitigate, manage, and monitor risk and achieve efficiencies, both in the way the Law Department delivers service and in clients' operations;
- Lawyers are required to satisfy continuing professional development obligations imposed by the Law Society of Alberta and access to training to ensure currency in the law and in risk management and corporate security advancements is provided to members of the Department on an as required basis;
- The Department's management team recently reviewed its 10 year old vision, mission and values statements and elaborated on language in the mission statement associated with risk management. During 2014, managers will be focused in part on developing better performance indicators for their Sections through examining, for example, activities and outcomes clients measure;
- In terms of assessing the performance of Calgary's Law Department vis-a-vis other municipal in-house law departments, the Law Department will continue to participate in the Ontario Municipal Benchmarking Initiative (OMBI) intended to identify internal and external legal expenditures. However, given the different service delivery models used by participating departments, the information generated through this exercise is currently not as meaningful or comparable as it might be. Therefore, the City Solicitor has outlined a strategy to OMBI and participating municipalities to aid in enhancing the integrity of data input and results. She has suggested that service profiles for each participating municipal law department be created to better enable participants to assess the comparability and relevance of the data generated through this exercise.