



## **ESPO MANAGEMENT COMMITTEE - 25 JUNE 2012**

### **AGENDA ITEM NO 6**

#### **REPORT OF THE CONSORTIUM SECRETARY**

##### **OUTCOME OF THE LEGAL CLAIM**

###### **Purpose of report**

1. The purpose of this report is to provide the Management Committee with information on the outcome of the Legal claim against ESPO.

###### **Background**

2. A claim was made by solicitors acting for EMAPS Limited, a company that ESPO entered into a contract with as part of its work on the Building Schools for the Future (BSF) Programme. The claim has been dealt with by Leicestershire County Council on behalf of ESPO in its capacity as Servicing Authority for ESPO. The Management Committee has been kept informed of progress on the matter.
3. On 2 March 2012 the Management Committee were advised that the case was listed for trial on 17 April 2012 for 12 days in the High Court. The Committee authorised the County Solicitor to continue to conduct the litigation on behalf of the ESPO Consortium and to reach any settlement of the claim as may be appropriate, subject to certain conditions.

###### **The Current Position**

4. Prior to the trial an offer was made on behalf of ESPO for both sides to 'drop hands', i.e. to abandon the litigation and for neither side to pursue any claim against the other. That was not accepted. The trial started on 18 April 2012 and by the end of 19 April 2012 it was clear that the claimants were prepared to consider the offer.
5. On Monday 23 April 2012, agreement was reached and the case settled on that basis. A copy of the court order is attached as an appendix. The terms of the schedule to the order are intended to have the effect of bringing all possible litigation related to the case to a close. In reaching agreement the advice of James Dingmans, Q.C., was sought and followed.

6. As a consequence, the only cost to ESPO is in relation to the costs of defending the case. The advice of the Q.C. was not to continue with the case in these circumstances. Information about these costs will be provided to the ESPO Finance Subcommittee.

### **Recommendation**

7. The Committee is recommended to note the outcome of the Legal claim against ESPO.

### **Equal Opportunities Implications**

8. None have been identified.

### **Officer to Contact**

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### **List of Appendices**

Appendix – Court Order