

LEGAL PROCESS

- (1) Following the implementation of Emergency legislation in Iceland at the time of the banks' collapse deposits were elevated to priority claims ranking alongside wages and other claims under Icelandic insolvency legislation. The Council, through Bevan Brittan, lodged its claims in the insolvency (the equivalent of a proof of debt in the UK) claiming depositor priority for the outstanding deposit, penalty interest and costs.
- (2) In November last year the Landsbanki winding up board accepted the principal amount of the Council's claim as a priority claim under the amended insolvency legislation but rejected the claims for penalty interest and costs.
- (3) The Glitnir winding up board rejected the Council's claim for priority. It accepted the principal amount claimed as a general unsecured claim, and rejected the claims for interest and costs.
- (4) Bevan Brittan, on the council's behalf filed formal objections in accordance with Icelandic procedure to: (a) the decision of the Landsbanki winding up board to reject the claims for interest and costs and (b) the decision of the Glitnir winding up board in all respects.
- (5) General unsecured creditors who stand to lose if the Council and other wholesale depositors secure priority status filed formal objections in relation to the decisions of both winding up boards and challenged the constitutionality of the changes to the insolvency legislation.
- (6) Mediations took place in January and February in accordance with Icelandic procedure to attempt to resolve the issues in dispute. These were unsuccessful and the winding up board of both Landsbanki and Glitnir selected test cases from within the wholesale depositor group which have now referred the matter to the Icelandic District Court to resolve. The council is one of the test cases.
- (7) The non-test cases are also being referred to court as there is current uncertainty around whether decisions on the test cases will be binding on the non-test case claims. It is anticipated that these claims will be stayed pending final decisions on the test cases.

- (8) The LGA, Bevan Brittan, Logos (Icelandic counsel) and UK specialist counsel are representing the affected councils and each council needed to confirm that Bevan Brittan are instructed to represent them in the Icelandic proceedings to secure a decision as to whether or not the wholesale deposit claims are entitled to priority under the Icelandic insolvency regime and to penalty interest and costs. Distributions to creditors will not be made until the courts have made a decision.
- (9) This process entails the following main stages: reference to the Icelandic District Court of the issues in dispute, consideration and determination by the Icelandic District Court, possible lodging of or responding to appeal(s) in the Icelandic Supreme Court; subsequent distributions to creditors by the winding up board as part of the formal winding up process (this will be either as a general unsecured or priority creditor).
- (10) The current position is that the Landsbanki test cases have been referred to the District Court and non-test cases (including this Council's) have been mediated. These will be referred to the court shortly. In respect of Glitnir, the winding up board is considering whether to refer the non-test cases to court. Once this is agreed they will also be referred to court.
- (11) Initial hearings will take place, possibly in May 2010, when preliminary matters will be considered and a timetable will be set for the filing of written submissions. Once submissions are filed there will then be a review hearing at which further directions will be considered and the trial date set.
- (12) Whilst it is too early to assess when the matter will come to trial and how long the trial may last, it is unlikely to occur before November 2010. Judgement will be delivered within four weeks of the trial closing. Each party will have two weeks from the date of judgement to appeal the decision to the Icelandic Supreme Court. It is too early to assess the merits, process and timescales for an appeal.