

DELEGATED OFFICER DECISIONS - FINANCE AND CUSTOMER SERVICES

Venue:

Date: Monday, 1st October, 2018

Time: 2.30 p.m.

A G E N D A

1. Authorisation of officers to represent the Council in Magistrates Court Proceedings. (Pages 1 - 5)

Summary Sheet

Report of Officer Non-Executive Decision

Title:

Authorisation of officers to represent the Council in Magistrates Court Proceedings

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Badger, Strategic Director Finance & Customer Services

Report Author(s)

Robert Cutts (Service and Development Manager, Revenues, Benefits and Payments)

Ward(s) Affected

All

Executive Summary

This report seeks authorisation under delegated powers from the Strategic Director for Finance and Customer Services under section 223 of the Local Government Act 1972, for three Technical Officers in the Council's Account Management Team to appear in the Magistrates' Court on behalf of the Council.

Recommendations:

It is recommended that:

- Karen Wilson, Janine Levers and Natalie Wilmot be authorised under section 223 of the Local Government Act 1972 to prosecute, defend or appear in proceedings on behalf of the Council in the Magistrates' Court.

List of Appendices Included

None

Background Papers

None

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Main Report

Authorisation of Officer to Appear in Court Proceedings

1. Recommendations

It is recommended that:

- Karen Wilson, Janine Levers and Natalie Wilmot be authorised under section 223 of the Local Government Act 1972 to prosecute, defend or appear in proceedings on behalf of the Council in the Magistrates' Court

2. Background

- 2.1 The Council's Account Management Team is responsible for seeking recovery of Council Tax and Business Rates arrears. The team includes Technical Officers whose role incorporates representing the Council in the Magistrates' Court to conduct applications for liability orders and committal to prison as part of the arrears recovery process.
- 2.2 Whereas only certain qualified legal persons, such as solicitors and barristers, normally have a right of audience before a Magistrates' Court, a Local Authority has the power under section 223 of the Local Government Act 1972, to authorise officers to appear on its behalf to prosecute, defend and conduct proceedings in the Magistrates' Court.

3. Key Issues

- 3.1 The Council's Account Management Team has recently recruited Karen Wilson, Janine Levers and Natalie Wilmot to the post of Technical Officer after their applications for the posts showed that they met the selection criteria for knowledge, skills and experience. In order for them to fulfil all their duties they require authorisation from the Council under section 223 of the Local Government Act 1972, to appear on its behalf to prosecute, defend and conduct proceedings in the Magistrates' Court. Before embarking upon these duties the officers undergo a significant period of training and mentoring from experienced officers in preparation.

4. Options considered and recommended proposal

- 4.1 The officers concerned cannot lawfully appear in the Magistrates' Court on behalf of the Council without proper authorisation. Therefore, the recommended proposal is that Karen Wilson, Janine Levers and Natalie Wilmot be authorised to prosecute, defend and conduct proceedings in the Magistrates' Court on behalf of the Council.

5. Consultation

- 5.1 None.

6. Timetable and Accountability for Implementing this Decision

- 6.1 Assuming the proposed recommendation is approved then the officers concerned will have completed all necessary training and it is intended that they will start to appear in the Magistrates' Court on behalf of the Council at the next scheduled court hearing.

7. Financial and Procurement Implications

- 7.1 This decision will enable the Council to seek recovery of Council Tax and Business Rates arrears through the Magistrates Court and hence will assist in ensuring income is collected in line with budget assumptions.

8. Legal Implications

- 8.1 Section 223 of the Local Government Act 1972 gives the Local Authority the power to authorise its officers to prosecute, defend and conduct the proceedings on its behalf before the Magistrates' Court.

- 8.2 The authorisation of officers under section 223 is an executive function. The Responsibility for Functions set out in the Council's Constitution states:

The Strategic Director of Finance and Customer Services is authorised to discharge executive functions for:-

[...]

2. Implementing effective financial management and controls, including:-

(a) Collecting council tax and business rates, and collecting other money that is owed to the Council;

[...]

The Strategic Director for Finance and Customer Services therefore has the delegated authority to authorise officers under section 223 of the 1972 Act.

9. Human Resources Implications

- 9.1 No direct implications from this report.

10. Implications for Children and Young People and Vulnerable Adults

- 10.1 No direct implications from this report.

11. Equalities and Human Rights Implications

- 11.1 No direct implications from this report.

12. Implications for Partners and Other Directorates

12.1 No direct implications from this report.

13. Risks and Mitigation

13.1 The approval of this recommendation will ensure that all proceedings conducted by Technical Officers in the Magistrates' Court will be lawful.

14. Accountable Officer(s)

Approvals Obtained from:-

Graham Saxton, Assistant Director, Finance and Customer Services

Dermot Pearson, Assistant Director, Legal Services
Legal Services Business Partner: Neil Concannon

Head of Procurement - Not Applicable

Robert Cutts, Service and Development Manager, Revenues, Benefits and Payments

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