

Summary Sheet

Advisory Cabinet/Commissioners' Decision Making Meeting – 18th January, 2016

Title Authorisation of Officer to Appear in Court Proceedings

Is this a Key Decision and has it been included on the Forward Plan? No

Strategic Director Approving Submission of the Report

Stuart Booth, Acting Strategic Director Finance & Corporate Services

Report Author(s)

Robert Cutts, Revenue & Benefits Manager

Ward(s) Affected ALL

Executive Summary

This report seeks authorisation from the Council under section 223 of the Local Government Act 1972, for a newly recruited Technical Officer to the Council's Account Management Team to appear in the Magistrates' Court on behalf of the Council.

Recommendation:

That the Commissioners recommended to Council that Vivian Wadsworth 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

Not applicable

Background Papers

Not Applicable

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Main Report

Authorisation of Officer to Appear in Court Proceedings

1. Recommendations

That the Commissioners recommended to Council that Vivian Wadsworth 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. That Team consists of Technical Officers whose role includes regularly appearing in the Magistrates' Court to represent the Council and conduct applications for liability orders to attempt to recover those arrears.
- 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 Vivian Wadsworth to the post of Technical Officer. In order for her to fulfil all her duties she requires 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.

4. Options considered and recommended proposal

The officer concerned cannot lawfully appear in the Magistrates' Court on behalf of the Council without proper authorisation. Therefore, the recommended proposal is that Vivian Wadsworth be authorised by the Council to appear on its behalf to prosecute, defend and conduct proceedings in the Magistrates' Court.

5. Consultation

The recommended proposal does not require any prior consultation.

6. Timetable and Accountability for Implementing this Decision

Assuming the proposed recommendation is passed by the Council, at that stage the officer concerned will have completed all her necessary training and it

is intended that she will start to appear in the Magistrates' Court on behalf of the Council at the next scheduled court hearing.

7. Financial and Procurement Implications

There are no financial or procurement implications as a result of the proposed recommendation which could be implemented within existing budgets.

8. Legal Implications

Council officers (other than solicitors/barristers) are required to be properly authorised by the Council under section 223 of the Local Government Act 1972, before they have the right to appear on behalf of the Council in the Magistrates' Court.

9. Human Resources Implications

There are no human resource implications.

10. Implications for Children and Young People and Vulnerable Adults

The recommended proposal does not involve any implications for children, young people or vulnerable adults.

11. Equalities and Human Rights Implications

The recommended proposal does not have any equalities or human rights implications.

12. Implications for Partners and Other Directorates

The recommended proposal does not have any implications for partners and other directorates.

13. Risks and Mitigation

The passing of the recommended resolution will ensure that all proceedings conducted by the officer in the Magistrates' Court will be lawful.

14. Accountable Officer(s)

Robert Cutts

Approvals Obtained from:-

Acting Strategic Director of Finance and Corporate Services: Stuart Booth

A handwritten signature in black ink, appearing to read 'S Booth', with a stylized flourish at the end.

Director of Legal Services: Neil Concannon

Head of Procurement (if appropriate): N/A

HR Business Partner: Simon Cooper

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