

## Summary Sheet

### **Name of Committee and Date of Committee Meeting**

Council – 18 October 2017

### **Report Title:**

Authorisation of officers to represent the Council in Magistrates Court Proceedings and the Delegation of the power to authorise officers to the Assistant Director of Legal Services

### **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 & Development Manager – Revenues, Benefits & Payments

### **Ward(s) Affected**

All

## Executive Summary

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

In order to efficiently deal with similar issues in the future and avoid delay, the report also seeks delegation to the Assistant Director of Legal Services to authorise officers to appear in the Magistrates' Court on behalf of the Council in the future.

### **Recommendations:**

1. That Sean Beesley and Martin Selman 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. That the power to authorise Council officers under section 223 of the Local Government Act 1972 to prosecute, defend or appear in proceedings on behalf of the Council be delegated to the Assistant Director of Legal Services.

### **List of Appendices Included**

None

**Background Papers**

None

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

No

**Council Approval Required**

Yes

**Exempt from the Press and Public**

No

## **Authorisation of officers to represent the Council in Magistrates Court Proceedings and the Delegation of the power to authorise officers to the Assistant Director of Legal Services**

### **1. Recommendations**

- 1.1 That Sean Beesley and Martin Selman 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.
- 1.2 That the power to authorise Council officers under section 223 of the Local Government Act 1972 to prosecute, defend or appear in proceedings on behalf of the Council be delegated to the Assistant Director of Legal Services.

### **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 Sean Beesley and Martin Selman to the post of Technical Officer. 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.
- 3.2 In order to deal with similar authorisations in the future and to avoid delay, this report also seeks delegation to the Assistant Director of Legal Services to authorise officers to appear in the Magistrates' Court on behalf of the Council in the future.

### **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 Sean Beesley and Martin Selman be authorised by the Council to appear on its behalf to prosecute, defend and conduct proceedings in the Magistrates' Court.

### **5. Consultation**

- 5.1 The recommendations have been considered by the relevant Cabinet Member who is supportive of both.

## **6. Timetable and Accountability for Implementing this Decision**

- 6.1 Assuming the proposed recommendation is passed by the Council, at that stage 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 There are no financial or procurement implications as a result of the proposed recommendation which could be implemented within existing budgets.

## **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. This power is currently exercisable by Council but can be delegated to an officer.

## **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 passing of the recommended resolution will ensure that all proceedings conducted by Technical Officers in the Magistrates' Court will be lawful.

## **14. Accountable Officer(s)**

Graham Saxton, Assistant Director of Financial Services  
Dermot Pearson, Assistant Director of Legal Services

Approvals obtained on behalf of:-

	<b>Named Officer</b>	<b>Date</b>
Strategic Director of Finance & Customer Services	Graham Saxton	
Assistant Director of Legal Services	Dermot Pearson	10/10/2017
Head of Procurement (if appropriate)	N/A	
Head of Human Resources (if appropriate)	N/A	

*Report Author – Rob Cutts, Service & Development Manager – Revenues, Benefits & Payments*