

Cabinet Member Decision Note

To Authorise Legal Assistant to Undertake Court Advocacy

To: Leader of the Council

Date: 22nd October 2014

Author: Director of Law and Democratic Services

Wards: All

Locality Affected: All

Parishes Affected: All

1. Purpose and Reasons

- 1.1 To enable a Legal Assistant within Law and Democratic Services to represent the authority before the Magistrates Court.
- 1.2 This would enable three Solicitors employed in the Litigation Department of Law and Democratic Services to continue to use their time more efficiently on the more complex cases.
- 1.3 The proposal supports the Council's strategic priority of consistently making best use of all available resources.

2. Recommended Action to be Authorised by a Cabinet Member Under Delegated Powers

Recommended that:

- 2.1 It is recommended that Ms Zoe Bagwell, a Legal Assistant within Law and Democratic Services, be authorised under Section 223 of the Local Government Act 1972 to prosecute or defend or to appear on the Council's behalf in proceedings before a Magistrates Court.

3. Detail

- 3.1 Ms Zoe Bagwell has been employed by Swindon Borough Council as a Legal Assistant within the Litigation Section of Law and Democratic Services since February 2014 having been previously engaged in that role on a temporary basis from November 2012.
- 3.2 The number of prosecutions undertaken by the Litigation Section has increased and it is expected to continue to increase for the foreseeable future.
- 3.3 Zoe Bagwell has completed her qualifying law degree in 2009. In 2011 she completed the Legal Practice Course as part of her qualification to be admitted as a Solicitor. She has, therefore, appropriate legal training to provide advocacy support in the Magistrates Court, as necessary. The authorisation would enable the three Solicitors within the Litigation Section who currently deal with

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prosecutions, to focus on the more complex prosecution cases before the Magistrates' Court whilst Zoe Bagwell would deal with the more routine cases.

- 3.4 Rosie Heath, Litigation Solicitor, will, with the Principal Solicitor, be responsible for the allocation of suitable cases to Zoe Bagwell and supervision of her work.

4. Alternative Options

- 4.1 The Council could determine not to authorise Ms Bagwell to provide advocacy support and to continue with the existing arrangements.

5. Consultation

- 5.1 The following Opposition Spokespersons have been consulted on the recommendations of the report and their responses are also summarised below:

Councillor Stan Pajak - "I support the proposal regarding Ms Bagwell".

Councillor Jim Grant – No adverse comments or request for Cabinet consideration was received by the response deadline.

6. Implications, Diversity Impact Assessment and Risk Management

Financial and Procurement Implications

- 6.1 There are no specific financial implications related to the approval of this authorisation. Any costs will be met from within existing budgets.

Legal and Human Rights Implications

- 6.2 The Local Government Act 1972 section 223 empowers a local authority to authorise a member or officer to prosecute or defend on their behalf, or to appear on their behalf in, proceedings before a magistrates' court and that such person shall be entitled to prosecute or defend or to appear in any such proceedings, and to conduct any such proceedings. Human rights implications were considered in the preparation of this Decision Note and it is believed that the recommendation is compatible with Convention rights.

All Other Implications (including Staff, Sustainability, Health, Rural, Crime and Disorder)

- 6.3 No other specific implications were identified in the preparation of this report.

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Diversity Impact Assessment

- 6.4 A Diversity Impact Assessment (DIA) has not been completed for this Decision Note as it deals with the authorisation of an officer to act in court on behalf of the Council and does not make any recommendations or have any implications that affect services.

Risk Management

- 6.5 There are no identified risks associated with the proposed authorisation.

7. Consultees

- 7.1 The Board Director, Resources (Section 151 Officer) and Director of Law and Democratic Services (Monitoring Officer) are consulted in respect of all reports.

8. Background Papers

- 8.1 None

9. Appendices

- 9.1 None

10. Declarations of Interest

- 10.1 (Cabinet Members are reminded to consider whether they have any known interests in any of the matters referred to in this Decision Note. If such an interest exists this should be declared to the Monitoring Officer (or Committee and Member Services Manager), and they should take no part in the consideration of the Decision Note and should refer the Decision Note to the Leader of the Council instead for consideration.

11. Sign-off

- 11.1 The Cabinet Member is requested to respond with 5 days of the date of this report (by 12th November 2014).
- 11.2 The Cabinet Member is requested to indicate one of the following responses to the Recommendations set out in Section 2 of this report:

Note and support the proposed action to be taken under delegated authority –
Yes / No

Note and request the proposed action be reconsidered – Yes / No

Reasons for Reconsideration:

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Request Report be Referred to Cabinet - Yes / No

NB To protect against identity theft, Cabinet Member's signatures will be redacted on public versions of the signed Briefing Note.

Date

SignedCabinet Member

Decisions of Cabinet Members will be published in the Members' Bulletin. The Decision must not be implemented until such time that a five-day "Call-in" period has expired. This date will be specified in the Members Bulletin. If a Decision is "called-in" it will be referred to the Scrutiny Committee for consideration. It must only be implemented if the Scrutiny Committee has raised no objection. If an objection is forthcoming the matter will be referred back to the Decision-Maker.