

# Public Document Pack

## Executive Member Decisions

Friday, 31st July, 2020  
10.00 am

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### AGENDA

1. **Acceptance of a 'No Case to Offer' settlement of the sum owed in lieu of proceedings with prosecution relating to monies owed to the Council**

**Part 1 No case to Offer Decision**

**2 - 9**

**EIA-Checklist - No Case to Offer Settlement**

**No case to offer Part 2**

Date Published: 31<sup>st</sup> July 2020  
Denise Park, Chief Executive

## EXECUTIVE MEMBER DECISION



<b>REPORT OF:</b>	Executive Member for Finance and Governance
<b>LEAD OFFICERS:</b>	Director of Finance and Customer Services Director of HR, Legal and Governance
<b>DATE:</b>	07/07/2020

**PORTFOLIO/S AFFECTED:** Finance and Governance

**WARD/S AFFECTED:** All

**SUBJECT: Acceptance of a 'No case to offer' settlement of the sum owed in lieu of proceeding with prosecution relating to monies owed to the Council**

### 1. EXECUTIVE SUMMARY

The Council has been liaising with the Police and Crown Prosecution Service (CPS) regarding the prosecution of a case regarding monies owed to the Council. The case was listed for Court but has now been deferred until early next year, as a result of the impact of CV-19 on the Court process.

The CPS, via the Police, have now asked if the Council would be content with accepting the repayment of the outstanding sum owed as an acceptable solution to this case rather than continuing with the prosecution. This would be a one-time offer of a non-negotiable figure, with a limited time to settle the sum owed in full. There would be no discontinuance of the case until full settlement is completed.

The sum owed is approximately £40,000.

### 2. RECOMMENDATIONS

That the Executive Member:

Approves making a one-time, non-negotiable offer to the individuals concerned to repay the sum owed in full. If full payment is not received in the time limit agreed with the CPS, the case will continue to Court

### 3. BACKGROUND

There is evidence that the Council has paid sums to the individuals' concerned based on false information they provided.

As there is clear evidence of a criminal offence, the decision was made to contact the Police for support with the investigation and to pursue formal action in line with the Council's Counter Fraud Policy. Upon consultation with the Police, the decision was taken to pursue action through the Court.

The case has been with the Police and CPS for a considerable period of time whilst the CPS considered the facts. It was listed for trial a few months ago but has now been postponed until early next year due to CV-19. To avoid the need for further delay and a trial, the CPS have now asked if the Council would be willing to accept a 'no case to offer settlement' of the sum involved. The Police have confirmed that while immediate repayment could not be expected, a reasonable timescale can be set and 28 days has been suggested.

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#### 4. KEY ISSUES & RISKS

The CPS have confirmed that there would be no discontinuance of the case until full settlement is completed.

If the case continues to trial there is a risk that it may not be successful.

Even if the prosecution is successful, there may be difficulty in obtaining the repayment quickly.

#### 5. POLICY IMPLICATIONS

The steps taken regarding this matter are in accordance with the Council's policy not to accept any fraud or corruption and to ensure that any case identified is thoroughly investigated and dealt with appropriately

#### 6. FINANCIAL IMPLICATIONS

Settlement of the case at this stage, as an alternative to pursuing the matter to trial early next year, would ensure the prompt recovery of the full sum owed to the Council.

Whilst the Police and CPS believe that there is a realistic prospect of securing a successful prosecution based on the fact of the case, there is always the risk of a 'not guilty' verdict. Furthermore, if the case was successful there is no guarantee that the Council would receive full repayment of the overpayment in a prompt manner.

#### 7. LEGAL IMPLICATIONS

The Council seeks appropriate redress for frauds and overpayments identified. This includes applying appropriate sanctions, including criminal proceedings to recover any losses when necessary, working with relevant organisations to achieve this.

The Council's Scheme of Delegation enables the Council to enter into this arrangement and agree the settlement as a joint decision by the S151 Officer and Monitoring Officer, in consultation with the Executive Member for Finance and Governance. If payment is not received in accordance with the terms of the offer Court proceedings will proceed.

#### 8. RESOURCE IMPLICATIONS

If the Court prosecution continues there is a resource implication associated with the case involving officer time in ongoing liaison with the Police and CPS. Two Council Officers will also be required to attend the trial as witnesses. Settlement of the case before the trial removes the need for these officers to attend.

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#### 9. EQUALITY AND HEALTH IMPLICATIONS

**Please select one of the options below. Where appropriate please include the hyperlink to the EIA.**

Option 1  Equality Impact Assessment (EIA) not required – the EIA checklist has been completed.

Option 2  In determining this matter the Executive Member needs to consider the EIA associated with this item in advance of making the decision. *(insert EIA link here)*

Option 3  In determining this matter the Executive Board Members need to consider the EIA associated with this item in advance of making the decision. *(insert EIA attachment)*

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#### 10. CONSULTATIONS

Director of Finance & Customer Services.  
Director of HR, Legal & Governance  
Director of Adults & Prevention

#### **11. STATEMENT OF COMPLIANCE**

The recommendations are made further to advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation and an equality analysis and impact assessment has been considered. The recommendations reflect the core principles of good governance set out in the Council's Code of Corporate Governance.

#### **12. DECLARATION OF INTEREST**

All Declarations of Interest of any Executive Member consulted and note of any dispensation granted by the Chief Executive will be recorded and published if applicable.

<b>VERSION:</b>	<b>1</b>
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<b>CONTACT OFFICER:</b>	Colin Ferguson – Head of Audit & Assurance
<b>DATE:</b>	7 July 2020
<b>BACKGROUND PAPER:</b>	Nil

## EQUALITY IMPACT ASSESSMENT CHECKLIST

***This checklist is to be used when you are uncertain if your activity requires an EIA or not.***

An Equality Impact Assessment (EIA) is a tool for identifying the potential impact of the organisation's policies, services and functions on its residents and staff. EIAs should be actively looking for negative or adverse impacts of policies, services and functions on any of the nine protected characteristics.

The checklist below contains a number of questions/prompts to assist officers and service managers to assess whether or not the activity proposed requires an EIA. Supporting literature and useful questions are supplied within the [EIA Guidance](#) to assist managers and team leaders to complete all EIAs.

<b>Service area &amp; dept.</b>	Audit & Assurance, Finance & Customer Services	<b>Date the activity will be implemented</b>	31/07/2020
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<b>Brief description of activity</b>	Acceptance of a 'No case to offer' settlement of the sum owed in lieu of proceeding with prosecution relating to monies owed to the Council.
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Answers favouring doing an EIA	Checklist question	Answers favouring not doing an EIA
<input type="checkbox"/> Yes	Does this activity involve any of the following: - Commissioning / decommissioning a service - Budget changes - Change to existing Council policy/strategy	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes	Does the activity impact negatively on any of the protected characteristics as stated within the Equality Act (2010)?	<input checked="" type="checkbox"/> No
<input type="checkbox"/> No <input type="checkbox"/> Not sure	Is there a sufficient information / intelligence with regards to service uptake and customer profiles to understand the activity's implications?	<input checked="" type="checkbox"/> Yes
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	<b>Does this activity:</b> Contribute towards unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act <i>(i.e. the activity creates or increases disadvantages suffered by people due to their protected characteristic)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Reduce equality of opportunity between those who share a protected characteristic and those who do not <i>(i.e. the activity fail to meet the needs of people from protected groups where these are different from the needs of other people)</i>	<input checked="" type="checkbox"/> No
<input type="checkbox"/> Yes <input type="checkbox"/> Not sure	Foster poor relations between people who share a protected characteristic and those who do not <i>(i.e. the function prevents people from protected groups to participate in public life or in other activities where their participation is disproportionately low)</i>	<input checked="" type="checkbox"/> No
<b>FOR = 0</b>	<b>TOTAL</b>	<b>AGAINST = 6</b>

**Will you now be completing an EIA?**

Yes

No

The EIA toolkit can be found [here](#)

<b>Assessment Lead Signature</b>	
<b>Checked by departmental E&amp;D Lead</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <b>N.Master</b>
<b>Date</b>	07/07/2020

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Document is Restricted