



EXECUTIVE MEMBER DECISION

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

PORTFOLIO/S AFFECTED:	Finance and Governance
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WARD/S AFFECTED:	All
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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.

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.

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)*

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.

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