

SUBJECT: Appearance of local authorities in legal proceedings
MEETING: Individual Cabinet Member Decision – Cllr Paul Jordan
DATE: 22 May 2019
DIVISION/WARDS AFFECTED: All

1. PURPOSE

- 1.1 To authorise an Officer to appear on behalf of Monmouthshire County Council in the Magistrates' Court.

2. RECOMMENDATIONS

- 2.1 To authorise Claire Williams, Legal Executive in Legal Services, to appear in the Magistrates' Court on behalf of Monmouthshire County Council to prosecute or defend matters, or as required, in accordance with Section 223 of the Local Government Act 1972.

3. KEY ISSUES

- 3.1 Any advocate appearing in a civil or criminal court for a hearing or trial must have a right of audience. A right of audience is the right to appear before and address a court, including the right to call and examine witnesses.
- 3.2 Solicitors and Barristers, regulated by the Law Society and the General Council of the Bar respectively, have rights of audience for all proceedings in the Magistrates' Courts. Section 222 of the Local Government Act permits Local Authorities to prosecute or defend, appear in or institute any legal proceedings and s233 permits Local Authorities to be represented in the Magistrates' Courts by officers of the local authority who are not qualified barristers or solicitors. The power to authorise such an officer lies with the Executive.
- 3.3 Claire Williams is a Chartered Legal Executive Lawyer and has conducted and advised on legal matters on behalf of Monmouthshire County Council for 9 years. Following the recent restructure it has become necessary for Claire to appear in the Magistrates' Court on a variety of matters in order to further build resilience and flexibility across the department, and continue to develop training and experience therein.
- 3.4 This authorisation is strongly supported by Matt Phillips, the Head of Law, and Caryl Gray, the Head of Litigation and Family Law.

4. EQUALITY AND FUTURE GENERATIONS EVALUATION (INCLUDES SOCIAL JUSTICE, SAFEGUARDING AND CORPORATE PARENTING):

- 4.1 Court work has the ability to cover a wide range of matters across the Council's business and so may impact a number of areas. However, no specific impact is predicted as the work is already being conducted, this is simply an authorisation for a further person to be involved.

5. OPTIONS APPRAISAL

- 5.1 The only alternative is to do nothing but this would not satisfy the aim of improving resilience across the department and training and developing those within it.

6. RESOURCE IMPLICATIONS

- 6.1 This decision has the potential to reduce costs by improving the legal department's ability to deal with matters in Court, building resilience for matters that cannot be dealt with by a currently authorised lawyer and therefore potentially reducing cost through the ability to avoid instructing external legal attendees for Court.

7. CONSULTEES:

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