

COUNCIL

Wednesday, 23 January 2019

AUTHORISATION OF OFFICER TO ATTEND MAGISTRATES AND COUNTY COURT (REP1949)

EXECUTIVE SUMMARY

1. To recommend that Aayeesha Muzondo be authorised to represent Waveney District Council in the County Court, under Section 60 of the County Courts Act 1984, and at the Magistrates Court in accordance with Section 223 of the Local Government Act 1972.

Is the report Open or Exempt?	Open
Wards Affected:	All wards in the District
Cabinet Member:	Councillor Mark Bee Leader of the Council
Supporting Officer:	Christopher Bing Legal and Licensing Services Manager 01394 444408 (Ext.2408) Chris.Bing@eastsoffolk.gov.uk

1 INTRODUCTION

- 1.1 Provision is made for Local Government Officers, who do not necessarily have legal qualifications (as solicitors, barristers, or legal executives), to be authorised by the Local Authority to address a District Judge in the County Court and to appear in the Magistrates Court on behalf of the Council.
- 1.2 Section 223 of the Local Government Act 1972 allows local authorities to authorise officers to prosecute or defend on behalf of the Council in the Magistrates Court.
- 1.3 Section 60 of the County Courts Act 1984 allows local authorities to authorise the right of audience to officers, in actions brought by the Council for either or both of the following
 - a) the recovery of possession of a house belonging to the authority;
 - b) the recovery of any rent, mesne profits, damages or other sum claimed by the authority in respect of occupation by any person of such a house
- 1.4 Aayeesha Muzondo has recently been appointed to the post of Trainee Solicitor within the Legal Services. As part of her training contract, Miss Muzondo is required to gain experience and skills necessary for practice. It will be advantageous both for the department and the trainee if she is able, as part of her training, to undertake advocacy as appropriate.
- 1.5 The Section 223 and Section 60 powers are used very widely by local authorities and most have at least one or two non-lawyer officers who have been authorised. Waveney and Suffolk Coastal District Councils have for many years used authorisations granted under the Section 223 power to enable officers to appear in Council Tax and Business Rate enforcement cases.
- 1.6 In accordance with the usual practice of local authorities, officers who are not legally qualified have usually appeared in court to deal with routine matters i.e. cases where a person pleads guilty, so that it is only necessary for the prosecutor to give the facts to the magistrates, or cases where the person being prosecuted fails to attend, in which case, the prosecutor can prove the case in their absence by reading out witness statements. Contested cases, in which it is necessary to call witnesses, cross-examine or argue points of law are dealt with by the Council's Solicitor.
- 1.7 In practice, Miss Muzondo will deal with cases that fall into the 'routine' category. Section 223 and Section 60 provide very useful powers, which enable local authorities to arrange for routine cases in the Magistrates Court and County Court, which do not require the specific skills of a qualified lawyer, to be dealt with more economically and efficiently, enabling legal staff to concentrate on matters where their qualifications are needed.
- 1.8 Section 113 of the Local Government Act 1972 allows a Council to place its employees at the disposal of another Council subject to appropriate consultation. Most of the partnership arrangements between Suffolk Coastal and Waveney District Councils make use of this provision. It is lawful for a Council to authorise an officer whose services are at its disposal in accordance with Section 113 to appear in Court for it under Section 223 of the same act.
- 1.9 In order to ensure efficiency and flexibility, it would assist if Miss Muzondo were able to represent Waveney District Council in the Magistrates Court and the County Court.

2 HOW DOES THIS RELATE TO THE EAST SUFFOLK BUSINESS PLAN?

- 2.1 Legal Services supports the delivery of almost every aspect of the East Suffolk Business Plan. There are very few matters in the Business Plan which do not require input from Legal at

some stage. To have an additional officer authorised to appear in court will provide resilience and effective cover.

3 FINANCIAL AND GOVERNANCE IMPLICATIONS

3.1 There are none, save for those identified above.

4 OTHER KEY ISSUES

4.1 There are none, save for those identified above.

5 OTHER OPTIONS CONSIDERED

5.1 None.

6 REASON FOR RECOMMENDATION

6.1 To authorise Aayeesha Muzondo to appear in the Magistrates' Court and the County Court to enable the appropriate and cost effective use and deployment of staff resources within Legal Services.

RECOMMENDATIONS

That Aayeesha Muzondo be authorised to represent Waveney District Council in the County Court, under Section 60 of the County Courts Act 1984, and at the Magistrates Court in accordance with Section 223 of the Local Government Act 1972.

APPENDICES – None

BACKGROUND PAPERS – None