

Report for: Cabinet Member Signing

Title: Amendment to Cabinet approval for Legal Costs following an Ombudsman Decision

Report authorised by : Jess Crowe, Director of Culture, Strategy and Engagement

Lead Officer: David Graaff Head of Service Delivery
David.graaff@haringey.gov.uk

Ward(s) affected: N/A

**Report for Key/
Non Key Decision:** Non Key Decision

1. Describe the issue under consideration

- 1.1 Members approved a level of legal costs in relation to annulment of the bankruptcy of Ms B (recommended by the Ombudsman) in the report to Cabinet on 10th December 2019.
- 1.2 Cabinet has agreed the Councils response, but the level of trustees costs has risen since the original report.
- 1.3 A further approval is required to negotiate and settle the level of costs to be paid to the Trustees.

2. Cabinet Member Introduction

- 2.1 The report delegates to officers the ability to negotiate and approve legal costs which have risen since 2019 in order to achieve a satisfactory outcome for all parties.

3. Recommendations

- 3.1 To note that the level of legal costs has increased from the initial cabinet report for the reasons set out in section 4, and as set out in the exempt appendix.
- 3.2 To authorise the Assistant Director Resident Experience, in consultation with the Cabinet Member for Finance and Local Investment, to conclude negotiations with the Trustees to agree and then to pay the costs in order to allow the bankruptcy annulment to proceed.

4. Reasons for decision

- 4.1 The remedies proposed by the Ombudsman were agreed by Cabinet on the 10th December 2019 and have been actioned, with the exception of the annulment of the bankruptcy.
- 4.2 The Trustee's costs were estimated to be in the region of £15,000, but these have since escalated. The bankruptcy cannot be annulled until the Trustees costs have been settled

- 4.3 The Trustee's costs have escalated from the initial estimates due to procedural requirements and delays due to COVID:
- 4.3.1 There was an requirement to communicate with the complainant and set out the consequences of the bankruptcy annulment relating to this debt and other debts to third parties. This took time to arrange and conclude discussions
 - 4.3.2 All the Courts were closed for an extended period due to Covid so it was not possible to progress matters
 - 4.3.3 The Trustees were still required to comply with a procedural timetable in the absence of the Courts, which led to activity and increased cost attributable to that activity
 - 4.3.4 Negotiations to reduce the level of costs payable have been time consuming and have led to some delay

5 **Alternative options considered**

- 5.1 There are no alternatives available.

6 **Background information**

- 6.1 The report to Cabinet on 10th December 2019 entitled "Report by the Local Government and Social Care Ombudsman into complaint by Ms B against Haringey Council" sets out the background to the matter and the original decision that Cabinet:
 - 6.1.1 Accept the findings and recommendations of the Ombudsman in the report dated 17th September 2019, as shown at Appendix 1 of that report. Authorise officers' reduction of Ms B's debt by £3,400 as compensation
 - 6.1.2 Authorise officers to compensate Ms B by applying to annul her bankruptcy and paying the court and trustee costs of doing so up a value of £20,000
 - 6.1.3 Adopt this report as the Council's formal response under s.31 Local Government Act 1974, to be communicated to the Ombudsman.
 - 6.1.4 Adopt this report as the Cabinet's formal response as required by s.5A Local Government and Housing Act 1989, to be distributed to all members and the Monitoring Officer.
- 6.2 On 6 June 2022 Luton County Court ordered that Ms B's bankruptcy be annulled, and that the Council pay both the costs of the application and the Trustee's costs of the bankruptcy itself
- 6.3 The Trustee estimates those costs at [EXEMPT]; his solicitors have proposed agreement of the costs at a figure of [EXEMPT].

7 **Contribution to strategic outcomes**

7.1 Positive Resident Experience

8 Statutory Officers comments

8.1 Finance

8.1.1 There is provision for [EXEMPT] to deal with this matter in the Revenues Budget.

8.2 Procurement

8.2.1 There are no procurement issues.

8.3 Legal

8.3.1 The Head of Legal and Governance has been consulted in the drafting of this report and comments as follows.

8.3.2 As envisaged by the Cabinet report of 10 December 2019, the Council was on 6 June 2022 ordered to pay the Trustee's costs.

8.3.3 If costs cannot be agreed, the Trustee will apply to the Court for them to be fixed; unless the Council was able to achieve a very significant reduction in costs through that process, it would be required to pay the costs of that process in addition.

8.3.4 In this context and having regard to the significant information as to costs already provided by the Trustee, the offer to agree costs at [EXEMPT] is considered reasonable to accept.

8.3.5 The Head of Legal and Governance sees no legal reasons preventing approval of the recommendations in the report.

8.4 Equality

8.4.1 There are no equalities implications

9 Use of Appendices

Exempt appendix 1

10 Local Government (Access to Information) Act 1985

Minutes of the Cabinet Meeting of 10th December 2019

<https://www.minutes.haringey.gov.uk/documents/s113057/Cabinet%20report%20-%20Ombudsman%20-%2010%20December%202019.pdf>