

Meeting	Audit and Governance Committee
Date	8 September 2021
Present	Councillors Pavlovic (Chair), Fisher (Vice-Chair), Lomas, Mason, Wann, Webb And Carr

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## Apologies

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### **20. Declarations of Interest**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

### **21. Minutes**

Members enquired as to whether an update was available on the identifying of funds to cover the costs associated with the Action Plan. Officers confirmed that the Section 151 officer was not in attendance but would be able to bring an update to the Committee meeting on the 29 September 2021.

Resolved: That the minutes of the meeting held on 28 July 2021 be approved and then signed by the Chair as a correct record.

### **22. Public Participation**

It was reported that there had been four registrations to speak at the meeting under the Council's Public Participation Scheme. However, one of the speakers was unable to join due to technical issues.

Gwen Swinburn noted that she felt there had been a governance failure in relation to the questions of proportionality and the use of substitutes at the Customer and Corporate Services Scrutiny Management Committee (CCSMC) and questioned members conduct at the meeting. Asked that advice and solutions be shared regarding the meeting and asked that

proportionality rules be shared. She also requested that all training for Members be held on Open Data and reviewed for Joint Standards Committee and this Committee and asked that chairs training be given to all members. Finally she asked about public involvement in the review of the Constitution and what progress had been made in recruiting an independent person.

Andy Mendus asked about the Councils policies regarding the use of settlement agreements noting that the report seemed to suggest there should be both used in exceptional circumstances, but also would be commonly used. He also enquired as to their use in redundancies noting that they had been missed in the Settlements report. He also asked whether it was correct for the Council to outline a budget for settlement agreements and raised concerns that the proposals would not deal with issues raised in the Public Interest Report.

Councillor Kilbane noted that he believed it was disappointing that the guidance on Members not being allowed to take part in a decision on the use of a settlement agreement in cases where a complaint was made against that Member had been included, but noted his thoughts on its connection to the decisions around the exit of the former Chief Executive and the role of the Leader of the Council in the settlement decision. He noted the delay to the review of the Constitution and asked that a further postponement be made to allow for a significant consideration and wide public engagement in the forming of the Constitution.

**23. Report in the Public Interest: Exit Strategies: Guidance on the use of Settlement Agreements Including Special Severance Payments**

The Committee considered the report and the proposed 'Exit Strategies Guidance on the use of Settlement Agreements including Special Severance Payments'. Officers noted the new proposed Exit Strategy guide in relation to the Action Plan following the Public Interest Report (PIR) and noted that if agreed by the Committee then it would be referred to consider the adoption and implementation of the strategy.

Members enquired about the reference to Chief Officer in the proposed Exit Strategy, noting that further clarification could be given to identify who classified as a Chief Officer in relation to the strategy. Officers confirmed that Chief Officer would include Assistant Directors, Directors, Corporate Directors, and the

Chief Operating Officer. It was also noted that in the case of the exit of a statutory officer such as the Monitoring Officer or the Section 151 Officer, reciprocal arrangements had been made with North Yorkshire County Council to ensure the Council would be supported. Members also noted that redundancy wasn't included in the strategy which was confirmed would be added.

Financial considerations when deciding on tribunals and the possible use of special severance payment were highlighted as requiring evidence of best value for money and Members enquired whether this would include independent legal advice. It was confirmed that the Chief Legal Officer would perform their function to provide legal advice to the Council, but would often seek independent legal advice which would be legal advice owned and presented by the Chief Legal Officer. The Committee discussed whether the Council should have to seek independent legal advice in relation to any exit agreements with Chief Officers. The role of Internal Audit was raised and whether their opinion should always be sought when determining value for money.

The options on when to settle and what criteria for a settlement were raised and officers noted some of the challenges of a criteria due to each case being unique. It was noted that it can be challenging to identify the full costs related to an exit due to potential future costs, however, it was noted that the Section 151 officer would consider a whole range of costs when determining value for money. Members also enquired about whether actions could be taken in cases where the Council accepted mistakes, prior to a tribunal and appeal. Officers confirmed that this would be the case and could be made clearer within the proposed strategy.

The Committee also discussed how the new proposed exit strategy could address issues highlighted in the PIR as part of its role in the Action Plan. Members enquired about whether the new strategy would ensure any payments could not be described incorrectly for when Members considered any exit payments and whether the new business case would be clear enough to ensure it avoids errors. Officers confirmed changes should create further clarity, for instance in the business case document it was noted further information would be required to ensure better decision making. The Committee requested therefore that the old strategy and business case document be

shared with the Committee and Staffing Matters and Urgency when the Committee considers them to compare changes in policy.

Members also discussed training regarding any changes to the Exit Strategy and the use of documents in relation to these. Officers confirmed that a range of new training would be made available to Members, with an aim to improve Member training across the Council. In relation to those that could use the proposed strategy early training would be put in place should the new strategy be adopted to ensure Members were prepared for meetings it could be required in.

#### **24. Review of the Council's Constitution**

The Chair stated that the Committee would not consider the Review of Council's Constitution at the meeting, he noted the need for Members to have additional time to consider the changes to the Constitution and Members considered how they would wish to review of the Constitution in future meetings.

Officers outlined a request to amend the current Council Constitution, they noted that in March 2020 the Committee amended the Standing Orders relating to substitutes at a number of Committees. It was noted that this amendment to Planning Committee had meant that due to named substitutes not always being available attendance had been affected, this had been made harder due the Covid-19 pandemic. Members considered and agreed to recommend to Full Council to amend the standing orders to allow for more Members to be available to substitute at Planning meetings.

Resolved:

- i. That the Committee recommends to Full Council to amend Section 4B of the Constitution to remove Planning from the meetings which can only use named Substitutes;
- ii. That the Committee defer the review of the Constitution to the Committees next meeting on 29 September 2021.

Reason: To ensure Planning meetings can maintain sufficient Membership at Committee meetings. To allow for

additional time to consider the Council's Constitution.

## **25. Urgent Business**

The chair outlined that the Mazars Annual Audit Letter would not be ready for the Committee meeting on the 29 September 2021 and therefore asked the Committee to consider an amendment to the Committee work plan for the 20 October 2021 meeting.

Members discussed how to consider the Constitution and whether it could be considered and signed off in sections. Officers noted that the Committee could consider the Constitution in sections but noted that it would need to be signed off in full by Full Council and noted the timescale for meeting the Action Plan. Noting the length of the Constitution to consider members also discussed the prospect of the creating a cross party working group to discuss the Constitution.

Resolved:

- i. The Mazars Annual Audit Letter to be deferred from the 29 September 2021 to 20 October 2021 meeting, the chair and vice chair to consider and ensure the Committee work plan is up to date;
- ii. A cross party working group to discuss the Constitution be arranged.

Reason: To ensure that the Committee manages its work plan effectively and to ensure enough time is dedicated to the consideration of the Constitution.

Cllr Pavlovic, Chair

[The meeting started at 5.33 pm and finished at 7.50 pm].

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