

Meeting	Audit and Governance Committee
Date	29 September 2021
Present	Councillors Pavlovic (Chair), Fisher (Vice-Chair), Wann, Webb, Carr, Daubeney and Looker (Substituting for Lomas)
Apologies	Councillors Lomas and Mason

26. 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.

27. MINUTES

Resolved: That the minutes of the meeting held on 8 September 2021 be amended within item 22. Public participation in relation to the contribution by Councillor Kilbane and brought back to the meeting of the Committee on 20 October 2021.

28. PUBLIC PARTICIPATION

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn raised concerns about the quality of minutes being produced at the Council. She noted that she felt insufficient engagement had been made with members about the proposed constitution and asked for the work plan of the cross party working group. She stated that the constitution should be open to public consultation. Finally she raised the Action Plan and noted that she felt previous action plans related to Public Interest Reports had never been fully implemented.

Andy Mendus enquired as to whether the use of settlement agreements as outlined in the proposed guidance were exceptional as stated, or if they would be more routine, noting

the reference to a budget for these payments. Regarding Make it York he noted that it was good for the Committee to intervene and asked the Committee to seek an explanation as why the missing reports were not chased up, and whether the Council knew if Make it York was in breach of the rules relating to Teckal companies in this period.

29. PROGRESS AGAINST THE ACTION PLAN

The Committee received an update on the progress of the actions with the Action Plan, they were also provided with the proposed scope and focus of the assurance exercise the Local Government Association (LGA) had been invited to provide by the Committee. It was noted that the chair in his role had met with the LGA and had outlined his thoughts which had been taken into consideration when the LGA drafted the proposed document which was annex 1 in the agenda. It was also confirmed that the LGA had had access to relevant meetings and papers relating to the Public Interest Report (PIR).

Members considered the proposed scope and focus outlined in annex 1 and noted that the Council should embrace a culture change as well as carry out the actions of the Action Plan to improve the Council. Members also welcomed the opportunity to have the LGA attend a relevant meeting of the Committee.

A brief update was also provided on the work regarding the review of the proposed new constitution. It was confirmed that the cross party working group had been established but members could still come forward to join if they desired. It was noted that representation had been received from a group of former Sheriffs of York about the proposed role of a Deputy Sheriff in the Constitution, and it was agreed they would be invited to speak at the meeting on the 20 October 2021 when the relevant section of the Constitution would be considered.

Resolved:

- i. Accepted the scoping proposal prepared by the Local Government Association as detailed at Annex 1 of this report.

Reason: To add external assurance to the Council to ensure appropriate compliance with the agreed Action Plan.

30. PUBLIC INTEREST REPORT - EXIT STRATEGY: GUIDANCE ON THE USE OF SETTLEMENT AGREEMENTS INCLUDING SPECIAL SEVERANCE PAYMENTS

Members considered the amended Exit Strategy: Guidance on the use of Settlement Agreements Including Special Severance Payments, following the Committees initial consideration at the 8 September 2021 meeting.

The Committee discussed the role of Staffing Matters and Urgency Committee and the structure for handling complaints against Chief Officers. Officers noted the inclusion to reference and guidance from the Joint Negotiating Committee handbook (JNC) and how external arrangements were in place with other local authorities should a Chief Officer be unable to fulfil their role in a complaint procedure. The Committee also discussed Members oversight of decisions and noted the role of Executive Members, Staffing Matters and Urgency Committee, and that of Audit and Governance.

The use of payments within a settlement agreement when honorary and not a statutory payment would be used were discussed. Members highlighted the importance of a consistent approach being used and it was recommended that the guidance highlight both the number of different payments, as well as, the circumstances be included to be considered as part of the guidance around settlement agreements.

Members also discussed the proposed strategy in relation to PIR and the its role within the Action Plan. An enquiry was made regarding the current cost of the PIR and not including internal officer time it was confirmed that £33,827 had been used. The Committee also asked if there was a role for the LGA to consider the proposed guidance and it was confirmed that they would be invited to consider it as part of their work with the Council in delivering the Action Plan.

Resolved:

- i. That the Staffing Matters and Urgency Committee at their next meeting consider the Exit Strategies: Guidance on the use of Settlement Agreements including Special Severance Payments and approve

- its adoption and immediate implementation, with the inclusion of both the number of different payments, as well as, the circumstances when deciding of the use of honorary payments;
- ii. That the LGA be invited to consider the Exit Strategies: Guidance on the use of Settlement Agreements including Special Severance Payments document as part of their work with the Council on the Action Plan;
 - iii. That the Head of HR liaise with the Executive and the Corporate Management Team to ensure consistent compliance with the Guidance;
 - iv. That the Head of Internal Audit will provide an annual report to the Audit & Governance Committee detailing compliance with this Guidance and the Council's use of special severance payments.

Reason: To ensure compliance with the recommendations detailed by the Council's.

31. MIY CONTRACT MANAGEMENT

The Committee received a update on the audit into Make it York (MIY) which had been given limited assurance. It was confirmed that getting performance data from MIY had been challenging. As a teckal company forcing compliance through the contract mechanism it was noted by officers was difficult, instead they noted the need for strong partnership work and noted that a new reporting schedule had been agreed once the new director at MIY is in place.

Members enquired about the recruitment process at MIY and whether or not recruitment was open enough, noting the use of CV and covering letters. Officers confirmed that MIY had the power to recruit how the company sees fit but that the Council observes the recruitment of senior roles and expects it teckal companies to practice the highest standard of recruitment. It was confirmed that CV and covering letters were not bad practice and the recruitment of the Managing Director was a rigorous process. It was also confirmed that the Council maintained the right to appoint directors and has two Executive Members as directors of the company.

The Committee discussed the monitoring of MIY and its performance against the service level agreement within the contract. The role of the Shareholders Committee, the client (the City of York Council officer), and the Executive were discussed and how did the Council ensure performance when reports and performance data was no longer being supplied by MIY. It was confirmed that the lack of reports and data was a challenge however, client meetings continued to take place and the lack of reports were raised with MIY. It was also confirmed that Covid had effected MIY and this was noted by officers as a contributing factor to the decline in expected reporting. Tackling issues were discussed and it was noted that penalties to force compliance were an issue as any financial penalty would effectively be a sanction on the Council.

Ensuring good practice going forward was discussed and members considered whether the service level agreement was fit for purpose. It was confirmed that the Council had tried several different styles of agreements, those with lots of performance indicators and those that did not, officers confirmed that the challenge was developing a system which monitored performance effectively and properly outlined what the Council expected from MIY. It was confirmed that the Council had at times been a bad client to MIY and had been unclear about its expectations and what specific functions MIY were expected to cover.

Members discussed the Council's relationship with MIY going forward including the new MIY contract and service level agreement, as well as, the role moving forward for directors, Shareholders Committee, and client officer. It was confirmed that training was provided to Executive Members that performed as Directors on a teckal company and for officers that performed the role of clients. It was noted that proposed changes to the constitution noted that the Leader of Opposition groups would be able to attend but not have a vote at Shareholders Committee, members noted concerns that any role as a nonvoting member on a committee can be an ineffective role. Members also noted the need for the Council to act as a better client to MIY to ensure a more successful partnership.

Resolved:

- i. Noted the measures taken to improve the contract management arrangements.

Reason: To improve the governance of Make It York.

32. AUDIT AND GOVERNANCE WORK PLAN

The Committee considered the work plan for 2021/22.

Resolved:

- i. The Committee work plan was noted.

Reason: So that the committee has a planned programme of work in place.

Councillor Pavlovic, Chair

[The meeting started at 5.30 pm and finished at 7.44 pm].