

## **1.0 Summary**

1.1 A decision is required to approve, or otherwise, a settlement agreement under legal advice

## **2.0 Background**

2.1 The former Clerk and RFO to the Council was dismissed with effect from the end of November 2019 and he subsequently lodged a claim at the Employment Tribunal alleging unfair dismissal

## **3.0 Legal Powers**

3.1 The Local Audit and Accountability Act 2014;

3.2 The Openness of Local Government Bodies Regulations 2014 (the Regulations);

3.3 s.203 Employment Rights Act 1996

## **4.0 Detail**

4.1 The Regulations require that any decision made under delegated powers granted by a local authority has to be recorded and that the record must include

4.1.1 the date the decision was taken;

4.1.2 a record of the decision taken along with reasons for the decision;

4.1.3 details of alternative options, if any, considered and rejected; and

4.1.4 where the decision falls under paragraph (2)(a), the names of any member of the relevant local government body who has declared a conflict of interest in relation to the decision.

4.2 Both the Council and the former Clerk took independent legal advice

4.3 The Council has not made an admission of liability but it has to be recognised that in any litigation there are risks and especially as to costs. It also has to be recognised that until any Court has issued its decision no guarantees can be assumed as to an outcome.

4.4 Members of a Council, jointly and severally, have a fiduciary duty to Council Tax Payers – so they have a duty to be prudent when looking to incur expenditure. Members also have the moral and democratic obligation to expend money from the budget properly and with an appropriate level of a duty of care. There can be no cavalier approach but reasoned decisions have to be taken. This moral and legal obligation is to those who elected us.

4.5 It is common practice in employment matters for parties to come to some kind of settlement agreement so as to dispose of the litigation and such agreements include for confidentiality. I have considered that there is a significant public interest in promoting such a settlement in this claim, which will secure the most appropriate use of the Court's and Council's resources.

### **Budget Implications**

Any expenditure incurred here would be from reserves. It is anticipated in any event that the Council's expenditure from its precept will be reduced this year as a result of the lock down, due to the corona virus, and the prudent housekeeping and budgetary controls it has put in place since January 2020.

### **Risk Management Implications If any**

Council had recognised that, during the course of the litigation process, there could be times when urgent decisions were required and that formal meetings may not be possible. I was appointed an officer of the Council at our February Council meeting as delegated decision making powers should be granted to an officer to make decisions rather than to a Councillor. I am therefore duly authorised to make this decision after consulting with Members of the Council.

This arrangement avoids the risks of litigation

### **Decision**

1. That the Council enters into the settlement agreement
2. Allegations of wrongdoing against the former clerk Mr Christopher Shaw remain unproven. The sum of £5,200 be paid on legal advice to Mr C Shaw to settle his claim for alleged unfair dismissal
3. A cheque for that sum may be signed and paid once the formal agreement has been signed by Mr Shaw.



Signed...

Rob Huck, Officer, Parton Parish Council

Dated 27<sup>th</sup> May 2020