

# Public Document Pack

## GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Friday, 4 November 2016 at 10.30 am in Conference Room A - Civic Offices

(NB These minutes should be read in conjunction with the agenda for the meeting which can be found at [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk).)

### Present

Councillor Ian Lyon (in the chair)  
Councillor Scott Harris (Vice-Chair)  
Councillor John Ferrett  
Councillor Frank Jonas  
Councillor Leo Madden  
Councillor Rob Wood (deputising for Councillor Hugh Mason)

### Officers

Michael Lawther, Deputy Chief Executive, City Solicitor and Monitoring Officer  
Jon Bell, Director of HR, Legal and Performance  
Julian Pike, Deputy Section 151 Officer  
Elizabeth Goodwin, Chief Internal Auditor  
Paul Somerset, Audit Manager  
Greg Povey, Assistant Director Contracts  
David Moorman, Contract Management Business Partner

### External Auditor

Adam Swain (Ernst & Young)

#### 60. Apologies for Absence (AI 1)

Apologies for absence were received on behalf of Councillor Hugh Mason. Councillor Rob Wood deputised for him. Councillor Scott Harris sent apologies that he would be late for the meeting.

#### 61. Declarations of Members' Interests (AI 2)

Councillor Rob Wood declared a personal non prejudicial interest in agenda item 7 as he was the vice-chair of Portsmouth Race Equality Network.

#### 62. Minutes of the meeting held on 16 September 2016 (AI 3)

**RESOLVED that the minutes of the meeting held on 16 September 2016 be confirmed and signed by the chair as a correct record subject to**

- a) minute 55 – Corporate Complaints received in Quarter 1 of 2016/17 should not have been recorded as "noted", but "deferred" and**
- b) minute 56 - Local Government Ombudsman Complaints 2015/16 should not have been recorded as "noted", but "deferred"**

**63. Updates on actions identified in the minutes (AI 4)**

- It was agreed that the advice concerning Neighbourhood Forums would be re-circulated to members of the Committee.
- The City Solicitor advised that the amended complaints procedures are now on the website
- With regard to the report on Data Breaches, members raised the issue of Cyber Security which is not covered in that report. Members were advised that this is a specialist item. Members requested that a presentation on this subject be brought to a future meeting of this committee so that members could then decide if a report was necessary. The presentation should cover Business continuity and Disaster recovery.

**64. Annual Audit Letter for the year ended 31 March 2016 (AI 5)**

(TAKE IN REPORT)

Adam Swain introduced the report and said that an unqualified opinion had been given in September. He drew members' attention to page 15 of the document pack and advised that on 19 September 2016 the E U Commission issued a press release announcing that the commission had opened an in-depth investigation into alleged state aid to MMD Shipping Services Ltd by Portsmouth City Council. The information came to the auditors' attention before they had issued their opinion on the 2015/16 financial statements. The external auditors had therefore delayed issuing the opinion to allow them time to consider if this had an impact on the financial statements and required additional disclosures.

From the additional work external auditors performed they concluded there was no requirement for the council to add any disclosure to the 2015/16 financial statements. However the external auditors would consider this as part of their planning for the 2016/17 audits, both in terms of the outcome of the investigation and in understanding the nature of the relationship between the council and MMD.

The City Solicitor advised that specialist external lawyers and accountants had been appointed to deal with this. The City Solicitor said that he was keeping a close eye on costs but that there was no reason for concern at the moment.

Following discussion, Members agreed that although this is a Cabinet matter, this committee should receive updates from time to time particularly in relation to expenditure. Members also requested that a general statement should be

made to councillors concerning how the council intends to proceed - perhaps at the November or December council meeting?

Members went on to discuss the objections received as set out on page 30 of the document pack. Two objections were received to the 2015/16 accounts from a member of the public. The first objection related to the council's use of capital grant funding relating to the City Deal awarded to Portsmouth and Southampton in 2013. The objection was received on 12 August which is outside the prescribed 30 working days for the lodging of objections under the regulations. That objection was not accepted as it did not meet the criteria for consideration.

The second objection asked whether a lender option borrower option (LOBO) loan that the council entered into in 2003 (with renegotiated terms in 2007) represents value for money. Adam Swain advised that this is a common objection across a number of local authorities. This objection was accepted as it met the criteria for consideration. The council was asked to provide information relating to the loan which has recently been received. The external auditors will review the information provided and determine the objection as soon as practicable. However the external auditors were able to conclude that the objections raised did not have an impact on the external auditors' Financial Statement opinion. This is because they did not believe that it represented a risk of material misstatement in relation to items in the 2015/16 statement of accounts. The value for money conclusion considers whether the council has made proper arrangements for securing economy efficiency and effectiveness in its use of resources in 2015/16. The external auditors did not consider that either objection indicates that the council had improper arrangements in 2015/16.

The audit opinion and value for money conclusion has been issued but the certificate cannot be issued until all objections are resolved. Work on the second objection is currently ongoing.

It was confirmed that the council only had one lender option borrower option loan.

**RESOLVED that the annual audit letter be received and noted by the committee**

**65. Consideration of the political balance rules in relation to the constitution of Sub-Committees considering complaints against Members (AI 6)**

(TAKE IN REPORT)

The City Solicitor advised that the purpose of the report is to ask the committee to consider whether it wishes to dis-apply the political balance rules in respect of its sub-committees which consider complaints against members and to agree that the same rule shall apply to the initial filtering panels where applicable. He further advised that as there has been a change in the political make-up of the committee, members have to reconsider their decision. If they decide to dis-apply the political balance rules then this shall be in force until the end of the municipal year in May 2017 - unless there is a further change in the political make-up of the committee when the decision would again have to be reconsidered.

**RESOLVED** that the political balance rules are dis-applied in respect of Governance and Audit and Standards Sub-committees which are considering complaints against members and also the same arrangement should apply in respect of initial filtering panels where applicable.

**66. Monitoring of Equality Impact Assessments through the committee decision process (AI 7)**

(TAKE IN REPORT)

The City Solicitor explained that this report was to suggest introducing a minor change to procedures. Since 2000 a three year rolling program of EIAs consisting of the main functions of the service has been in force. Services would be required to review these every three years but if the service or function was being changed an EIA would need to be completed to ensure these changes did not disproportionately impact negatively on the protected characteristics as described by the Act. The current practice of monitoring EIAs on a three year rolling program has not always resulted in meaningful outcomes. Consequently Cabinet and Committees can make decisions that could result in adversely impacting on our customers or residents. It is considered that a more effective way forward would be for this committee to monitor Cabinet and Committee reports on a regular basis to check they have EIAs where required. This would ensure that potential adverse impacts on the community can be highlighted before decisions are made. The expectation was that the change in approach would result in EIAs being more effective. The intention would be to bring a summary report to this committee showing the levels of compliance with EIAs.

Members agreed that this would change the process from being reactive to being proactive and requested that an annual summary report be brought to this committee.

**RESOLVED**

- (1) That the committee noted the contents of the report**
- (2) that the committee agreed to the new process to monitor equality impact assessments set out in paragraph 5.1 to ensure continued compliance of the council services with the equality duty and that annual reports be received by this Committee and**
- (3) that the city solicitor continued to report on such compliance to the committee as required.**

**67. Compliance with the Gifts and Hospitality Protocol (AI 8)**

(TAKE IN REPORT)

The City Solicitor introduced the report which was to update Members on any issues regarding compliance with the Gifts and Hospitality protocol and to advise on remedies. There followed a discussion about possibly increasing

the levels of hospitality that could be accepted by staff and whether the register itself should be reviewed in terms of how the information was recorded and what information was recorded. The majority of members felt that the current levels should be unchanged as there was no evidence that the present amounts should be uplifted.

In response to a query, the Chief Internal Auditor said that PCC's practice was to prevent council employees from accepting bequests and this was adopted by many councils. This raised queries about the accuracy of the register as there was no mention of any bequests having been refused although it was suggested that this had happened. The City Solicitor said that he would look into this and report back. He would also arrange for staff to be reminded of expectations around the Gifts and Hospitality register

#### **RESOLVED**

**(1) that the report be noted and**

**(2) that city solicitor would arrange for the register to be reviewed with a view to what information was recorded and how IT recorded that information.**

#### **68. Audit Performance Status Report for Audit Plan - to 7 October 2016 (AI 9)**

(TAKE IN REPORT)

Paul Somerset introduced the report saying that there were no new critical risk exceptions or "No Assurance" audits from the 2016/17 audit plan highlighted in this report. In addition to the 136 planned audits for 2016/17 there are 11 areas of ongoing work and 4 continuous audits which contribute to risk assurance. Areas of assurance are shown in appendix A. Results of completed follow-up audits can be found in appendix B.

Appendix C represented a breakdown of audits and exceptions by directorate and year as requested by the committee at the last meeting.

A discussion took place about what exactly this committee wants to be recorded in the audit reports going forward as many changes have been requested recently. The Chief Internal Auditor said that the report would be written to reflect whatever the committee wanted.

Members agreed that an extra paragraph should be included in the report to explain which director was responsible for what action and to record that director's response and that an extra recommendation should be added to that effect

The committee felt that new appendix C was useful.

#### **RESOLVED that**

**1) Members noted the audit performance for 2016/17 to 7 October 2016**

**2) Members noted the highlighted areas of control weakness for the 2016/17 Audit Plan**

- 3) A paragraph be included in future reports stating to which officer the individual items have been referred and what action has been/is to be taken and including a suitable timescale.

**69. Exclusion of Press and Public (AI 10)**

**RESOLVED that in view of the contents of the following items on the agenda, the committee adopted the following motion**  
**"That under the provisions of Section 100 A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985, the press and public be excluded for the consideration of the following items on the grounds that the appendices contain information defined as exempt in Part 1 of Schedule 12 A to the Local Government Act 1972" exemptions paragraphs 1, 2 and 3**

**70. Procurement Management Information (Report Format) (AI 11)**

(TAKE IN "Information only" REPORT)

David Moorman introduced the report saying that its purpose is to propose a format for future procurement management information reports which meets the reporting requirement of members. He explained that owing to the fact that the last procurement report was brought less than 6 weeks ago, and that the purpose of this report was to agree a future report format, the data used is the same as for the September report.

Greg Povey and David Moorman explained to members what was in each section of the report. The chair of the committee said he would like the procurement process to be as transparent as possible. Mr Povey advised that the directors could approve their own waivers up to £100,000. This meant that procurement had no oversight on those contract waivers. However it was possible for a program to be run to provide information on the number of contract wavers that directors have made up to the £100,000 limit.

The City Solicitor advised that in order to change this provision, the Contract Procedure Rules would have to be amended. He said that PCC could look into doing this.

In response to a query, Mr Povey said that although it was possible at the beginning of a contract to put in a contract term about for example where contractors should park their vehicles, many contracts - such as the COLAS contract - still had a number of years to run and so this would not have the desired effect very quickly .

Mr Povey advised that there was nothing overly concerning in the procurement report this time

A query was raised on section 6.5 of Appendix 1 of the exempt papers relating to an emergency condition survey. The City Solicitor said that he would find out more detail on that section and would circulate it to members.

With regard to the exempt minutes from the Strategic Contract Management Board, Members felt that giving a précis on the most important contracts is fine but the committee would like more on what happened at the meeting - not just matters arising. If this is not possible then it is probably not useful to bring this to the committee

Members thanked the officers for revising the report format and the report was noted.

The meeting concluded at 1.35 pm.

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Councillor Ian Lyon  
Chair

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