

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF A MEETING of Governance & Audit & Standards Committee held on Thursday 14 March 2013 at 2.00 pm in Conference Room A, second floor, Civic Offices, Portsmouth.

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

Present

Councillor Terry Hall (Chair)
Councillor Michael Andrewes
Councillor Phil Smith
Councillor Sandra Stockdale (deputising for Councillor Fuller)
Councillor Donna Jones
Councillor John Ferrett

Officers

Mr Michael Lawther, City Solicitor and Monitoring Officer
Mr Chris Ward, Head of Finance and Section 151 Officer
Mr Michael Lloyd, Finance Manager (Technical & Financial Planning)
Ms Elizabeth Goodwin, Deputy Chief Internal Auditor
Mr Jon Bell, Head of HR, Legal & Performance Improvement
Mr Matt Gummerson, Senior Strategy Adviser
Ms Megan Southcott, Strategy Adviser
Mr Kate Handy, External Auditor

15 Apologies for Absence (AI 1)

Apologies for absence were received from Councillor David Fuller. Councillor Sandra Stockdale attended the meeting as his standing deputy.

16 Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

The chair advised that a request to make a deputation relating to exempt item 16 - Outcome of Investigation into a complaint against a Member had been received from Mr Wareham.

Councillor Phil Smith said that he would leave the chamber for item 16 and also for the deputation relating to it.

Mr Wareham then made his deputation. He outlined the reasons why he had made a complaint against a councillor and also expressed his disappointment at the time taken to respond to the complaint.

The chair thanked Mr Wareham for his deputation and said that a letter would be sent to him to advise of the decision taken by this committee concerning the exempt report.

17 Minutes of the meetings of Governance & Audit & Standards Committee held on 16 January and 24 January 2013 (AI 3)

RESOLVED that the minutes of the meetings of Governance & Audit & Standards Committee held on 16 January 2013 and 24 January 2013 be confirmed and signed by the Chair as a correct record.

18 Updates on actions identified in the minutes (AI 4)

The following matters were clarified:

- The training session on the whistleblowing policy had been arranged as requested.
- The amended wording for Appendix A to the anti-fraud, bribery and corruption report that had been presented at the 15 November 2012 meeting had now been redacted and published on the city council's website.
- The City Solicitor advised that the pension liability for those staff transferring to PCC from the NHS would not fall to Portsmouth City Council.
- Training had not yet been arranged for members on the new responsibilities resting on them following the transfer of public health responsibilities.
- It was confirmed that a report concerning Appendix A of the audit plan under the heading HR about compliance with the PDR policy, completion of code of conduct form and anti-fraud, bribery and corruption training had been presented at the last Employment Committee meeting held on 19 February.
- With regard to the lack of response from Transport & Environment service concerning the compliance level for equality impact assessments, the committee was advised that Mr Michael Lawther had arranged to meet with the Head of Transport & Environment, Mr Simon Moon and would report back on progress.

19 External Audit Progress report (AI 5)

(TAKE IN REPORT)

Ms Kate Handy outlined the purpose of the report which was to assess and identify the key risks raised during discussions with officers and internal auditors and to present the audit process.

RESOLVED that the report be noted.

20 External Audit Plan 2012/2013 (AI 6)

Ms Kate Handy introduced the audit plan which sets out how the external auditors intend to carry out their responsibilities. She said that the report provides the Governance & Audit & Standards Committee with a basis to review the proposed audit approach and scope for the 2012/13 audit in accordance with the requirements of the Audit Commission Act 1998, the Code of Audit Practice, the Standing Guidance, Auditing Standards and other professional requirements, but also to ensure that their audit is aligned with the committee's service expectation.

Ms Handy concentrated on sections 2 and 3 of the report which covered financial statement risks and economy efficiency and effectiveness. During discussion the following matters were clarified:

- The audit fee is considerably reduced compared with the 2011/12 fee. However the fee shown is for the core audit and any extras would be charged for separately after first discussing with officers.
- Mr Jon Bell said that the anticipated start date for HR self-serve was July 2013.

RESOLVED that the contents of the audit plan for Portsmouth City Council year ending 31 March 2013 be noted.

21 Treasury Management Policy for 2013/14 - (Information Only) (AI 7)

(TAKE IN REPORT)

Mr Michael Lloyd outlined the contents of the report and said it had been to Cabinet already and would be considered at the council meeting scheduled for 19 March 2013. He explained that the report was before this committee for noting and to allow any observations on the recommendations set out in paragraph 4 of the report that the committee wishes to be forwarded to council for consideration. During discussion the following points were made:

- Mr Chris Ward said that the downgrade from AAA status had not had a massive knock-on effect and that currently only Canada and Germany still retained AAA rated status. It seemed likely that the markets had already taken the likely downgrades into consideration.
- It was confirmed that there is a statutory requirement for councils to have regard to government guidance. Although it would be good to achieve a better return on money invested, government guidance has to be followed as set out in 14.3 as having two objectives.
 - Achieving first of all security (protecting the capital sum from loss) and
 - Liquidity (keeping the money readily available for expenditure when needed).

The guidance states that only when proper levels of security and liquidity have been secured should yield be taken into account.

RESOLVED that the Committee notes the report.

22 Audit Performance Status Report to 15 February 2013 for Audit Plan 2012/13 and Proposed Audit Coverage update for 2013/14 (AI 8)

(TAKE IN REPORT)

The Deputy Chief Internal Auditor introduced the report and said that of the 128 revised planned audits for 2012/13, 91% have been completed or are in progress as at 15 February and this represents a higher rate of achievement than for the same period over the last two years. She said that although three audits have been deferred from 2012/13 audit plan to 2013/14 as set out in 5.3 of the report, there were clear reasons for these deferrals. The Deputy Chief Internal Auditor advised that there were no new areas of concern (critical exceptions) highlighted in finalised reports to services since the previous status to this committee.

She also advised that consultation tests the risk levels and whether all items have been included in the audit universe and once consultation is complete and the audit plan determined, the full audit coverage and resource will be included in the next report to this committee.

During discussion the following points were raised:

- It was confirmed that the audit universe meant all of the activities within the organisation. The aim is to cover all the key areas over a three year period.
- With regard to the format of reporting to the committee, members were familiar with the current format but were open to receiving alternative forms of reporting the information. The Deputy Chief Internal Auditor said she would investigate providing the information in an alternative format.
- With regard to the Pyramids item, it was confirmed that this is included in the 2013/14 plan. The Deputy Chief Internal Auditor said that Audit had just performed a second audit which would be reported back to this committee.
- It was noted that debt recovery was on red for everything but that management were putting in a number of controls after which it would be reviewed again.
- With regard to corporate training, some training has to be undertaken by all staff and monitoring of this would be better next year.
- With regard to debt recovery, there had been inadequate management but there had been a recent appointment which should lead to a marked improvement.

- With regard to training issues, HR were about to roll out a programme that should ensure a marked improvement by this time next year.
- Members asked about how risk was measured in the audit universe. For example 25% of a small risk would not necessarily be particularly serious whereas 25% of a large risk could be. The Deputy Chief Internal Auditor said she would provide more information about this at a future meeting.

RESOLVED (1) that Members note the Audit Performance for 2012/13 to 15 February 2013;

(2) that Members note the highlighted areas of control weakness for the 2012/13 Audit Plan;

(3) that Members note the progress on the 2013/14 Audit Plan compilation.

23 Regulation of Investigatory Powers Act 2000 (RIPA) (AI 9)

(TAKE IN REPORT)

The City Solicitor introduced this item and said that the report updates members on the authority's use of regulatory powers for the five month period from November 2012 to March 2013 and the changes required to policy; to advise on training provided and the impending visit by the Office of Surveillance Commissioners (OSC) who will inspect PCC's RIPA records on 4 April 2013.

The City Solicitor advised that the RIPA powers are used sparingly by Portsmouth City Council. He said that one RIPA application for communications data had been authorised in the five month period between November 2012 and March 2013 to assist in an investigation into the sale of counterfeit goods via a website.

The City Solicitor advised that the proposed changes to the RIPA policy are highlighted in the policy attached to the report as Appendix A. He said that the changes mainly relate to test purchases, drive-bys and the process for magisterial approval.

RESOLVED that Members of the Governance & Audit & Standards Committee

- (1) Note the RIPA application authorised in the five month period from November 2012 to March 2013**
- (2) Approves the required changes to Policy**
- (3) Notes the OSC inspection due on 4 April 2013**
- (4) Notes that update training has been provided to relevant officers.**

24 Whistleblowing Policy Changes Report (AI 10)

(TAKE IN REPORT)

The City Solicitor introduced the report and said that following a recent whistleblowing investigation, the whistleblowing policy had been updated. Members of the committee were asked to approve the updated policy which would go on to the full council meeting scheduled for 19 March 2013 as this represented a constitutional change.

In response to questions the following matters were clarified:

- Most members of staff would be aware of the Freedom of Information Act and would therefore realise that it would be difficult to maintain anonymity. The Deputy Chief Internal Auditor said that if a person asked that their identity was not disclosed, PCC would not disclose that person's identity without their consent unless required to do so by law. The person concerned would be advised that there may be some circumstances when a concern cannot be resolved without revealing the person's identity. In such cases a discussion would be arranged in order to establish how best to proceed.
- With regard to 4.1 of the policy, being accompanied by a union or professional association representative or a friend is an offer rather than a right.

Members noted that there was nothing in the policy to recognise member involvement in the whistleblowing process even though several members had been approached by officers on a whistleblowing matter. The Head of HR, Legal & Performance Improvement said that including members under option 4.3 of the report would place obligations on councillors.

Following further discussion, it was agreed that the City Solicitor would arrange for some guidance to be circulated to councillors to raise their awareness of the whistleblowing policy and to ensure they knew what action to take should a whistleblower contact them directly.

The Deputy Chief Internal Auditor said that there was a hotline for whistleblowers to use but not a unique email address and she undertook to look into this. Members also suggested that contact details should be included under section 2 of the policy.

The City Solicitor confirmed that if a complaint were to be made against a senior officer - for example a strategic director - that person would not be included in matters concerning that particular whistleblowing matter. Instead it would be referred upwards to more senior officers. This would equally apply if the whistleblowing matter concerned a member of the steering group.

Members asked that the City Solicitor arranges for the document to be tidied up in terms of typographical errors and to reflect the few minor amendments referred to at this meeting.

RESOLVED that Members approve the updated Whistleblowing Policy subject to minor amendments to be made by the City Solicitor.

25 Health and Wellbeing Board Constitution (AI 11)

(TAKE IN REPORT)

Mr Matt Gummerson introduced the report saying that its purpose was to seek approval of the constitution for the Health and Wellbeing Board as it assumes its statutory responsibilities from 1 April 2013.

In response to questions the following matters were clarified:

- The City Solicitor advised that those non-councillor members of the Health and Wellbeing Board with pecuniary interests should not participate in voting on that issue or in the discussion.
- In response to a query about whether the code of conduct applies to non councillor members if a complaint is made against them, the City Solicitor advised that technically they could not be regarded as councillor. The City Solicitor said that some work needed to be done on how to deal with this eventuality which he would consider further.

RESOLVED that the constitutional change to the Board be supported and that authority is given to the City Solicitor to include wording in the Standing Orders to make appropriate consequential changes.

26 Annual Governance Progress (AI 12)

(TAKE IN REPORT)

Megan Southcott, Strategy Adviser, introduced the report which was to

- a) Provide an update on progress being made against the key governance issues as highlighted in the Annual Governance Statement 2011/12.
- b) Provide an update on the development of the Annual Governance Statement for 2012/13
- c) Provide an update on the review of the Corporate Governance Framework.

Ms Southcott said that

- The issues that have emerged so far are set out in 3.3.2 of the report.
- The sources listed in 3.3.3 of the report have yet to be reviewed for significant issues.
- A self-assessment of the Governance & Audit & Standards Committee was due to be carried out on 22 March 2013 which may identify further governance issues.

Ms Southcott said that a review of the corporate governance framework had been carried out which showed that there were a number of barriers preventing the framework from being effective as set out in the report.

In response to questions the following matters were clarified:

- The number of governance controls had been reduced as services do not have the time or resource to monitor and report on compliance against a large number of governance controls. However, central government were constantly adding new requirements and there was no need to include controls in the corporate governance framework if they were already being dealt with elsewhere. The corporate governance framework now excludes matters which are dealt with elsewhere but the monitoring is still taking place.
- It was agreed that PCC would explore how it engages with local people and other stakeholders to ensure robust accountability. This is in relation to those sections of the community and other stakeholders where clear channels of communication had not been established. Members wanted to receive more information about the improvements that could be made to ensure those channels of communication are used to full advantage. The Strategy Adviser agreed to bring back some more detailed information on these matters to a future meeting.

RESOLVED that the Governance & Audit & Standards Committee:

- a) Note the progress being made against the key governance issues for 2011/12**
 - b) Note significant governance issues which have so far been identified for 2012/13**
 - c) Note the outcomes of the Corporate Governance Framework review.**
- 27 The appointment of Independent Persons for the Municipal Years 2013 to 2016 (AI 13)**

(TAKE IN REPORT)

The City Solicitor introduced this item and said there was a need to agree a process for appointing independent persons under the provisions of the Localism Act 2011 and for the committee to decide on how many independent persons should be appointed.

RESOLVED to recommend to council

- (1) that the Committee's procedure be agreed for the appointment of Independent Persons as required by the Act, for the period May 2013 to May 2016, which is**

- To advertise on the council's website and in a local newspaper
- For the interview panel to be drawn from a cross-party panel of three councillors from the Governance & Audit & Standards Committee

(2) that three Independent Persons be appointed.

28 Date of Next Meeting (AI 14)

The date of the next scheduled meeting is 27 June 2013 at 2.00 pm.

29 Exclusion of Press and Public

It was proposed by Councillor Terry Hall and seconded by Councillor Michael Andrewes that, under the provisions of Section 100A 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 item on the grounds that the report contains information defined as exempt in Part 1 of Schedule 12A to the Local Government Act 1972.

This was agreed.

30 Exempt report - Outcome of Investigation into a complaint against a Member (AI 16)

The City Solicitor outlined the report and members were asked to make their decision in accordance with the recommendation in the report. Members were advised that if they did not agree to the recommendations in the report it was open to them to instruct that another investigation be carried out.

Following discussion, the recommendations set out in the report were accepted unanimously.

RESOLVED that no further action is taken in relation to the complaint.

The City Solicitor would write to those concerned advising of the outcome of the investigation

The meeting concluded at 4.10 pm.

Chair

VJP/DMF
4 April 2013
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