

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Thursday, 30 January 2014 at 3.00 pm 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.)

Present

Councillor Terry Hall (in the chair)
Councillor David Fuller (Vice-Chair)
Councillor Michael Andrewes
Councillor John Ferrett
Councillor Phil Smith
Councillor Neill Young (deputising for Councillor Donna Jones)

Officers

Michael Lawther, City Solicitor
Michael Lloyd, Directorate Finance Manager (Technical & Financial Planning)
Lyn Graham, Chief Internal Auditor
Elizabeth Goodwin, Deputy Chief Internal Auditor
David Pennery, Auditor
Jon Bell, Head of HR, Legal & Performance
Iwona Defer, Equalities & Customer Research Officer
Kelly Nash, Corporate Performance Manager
Megan Southcott, Strategy Advisor
Mark Justesen, External Auditor

1. Apologies for Absence (AI 1)

Apologies for absence were received from Councillor Donna Jones.

2. Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

3. Minutes of the Meeting held on 7 November 2013 (AI 3)

RESOLVED that the minutes of the meeting held on 7 November 2013 be confirmed and signed by the chair as a correct record.

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

The City Solicitor confirmed that the new Director of Public Health, Janet Maxwell would be arranging the provision of training as mentioned in minute number 69.

5. External Audit Progress Report - Ernst & Young (AI 5)

(TAKE IN REPORTS)

- (1) Certification of Claims and Returns - Annual Report 2012-13 (Summary of Results of Work Done on Portsmouth City Council's Claims and Returns)

Mr Mark Justesen, External Auditor, Ernst & Young, introduced the report. He said that section 1 of the report outlines the results of the 2012-13 certification work and highlights the significant issues. Six claims and returns were certified with a total value of £226,361,455. He advised the committee that two qualification letters for the housing and council tax benefits and teachers' superannuation claims were issued. Details of the qualification matters were included in section 2 of the report. He said that they have not made any recommendations for improvement as errors made were administrative and were not viewed as significant failures. He said that the processes in place were sufficiently robust from the external auditor's point of view.

Mr Justesen said that the fees for certification work are summarised in section 2 and that the Audit Commission applied a general reduction of 40% to certification fees in 2012-13.

- (2) Audit Progress Report to December 2013

Mr Justesen advised the committee that the purpose of this report is to provide the committee with an overview of progress against the milestones set out in the 2012-13 audit plan. He said that there was only one matter that he wished to draw to the committee's attention and that was the statutory requirement for the harbour authority to produce accounts for the external auditors to audit.

In response to a query it was confirmed that it would fall to Ernst & Young to carry out this audit under their general appointment. The City Solicitor confirmed that the city council would comply with the statutory requirements in due course.

RESOLVED that (1) the certification of claims and returns 2012-13 annual report be noted; and

(2) The audit progress report from the external auditor to December 2013 be received and that no action is required to be taken by the Chief Executive in this regard.

6. Update on the council's compliance with its Equality Duty and Equality Impact Assessment Process (AI 6)

(TAKE IN REPORT)

The Equalities & Customer Research Officer introduced the report which was to update the committee on the compliance of council services with the equality duty and equality impact assessment process since the last report dated 26 September 2013. The committee's attention was drawn to paragraph 3.2.1 which included a table showing that the majority of services continued to be 100% compliant with the 3 yearly rolling EIA process. Adult Social Care has significantly improved its compliance over the last few months and currently has no outstanding EIAs. Transport & Environment services have also made notable progress and the 3 outstanding EIAs are being worked on. Although the report shows that Housing & Property Services' compliance has seen a decline in the last quarter, there is now a planned review of all policies in the services. As a result the services have been given an extension of time to review their EIAs. Financial Services also have some outstanding EIAs. It was confirmed that the Equality & Diversity team is working with the services concerned to ensure that EIAs are completed without further delay.

In response to questions the following matters were clarified:

- The EIAs were not dealt with by just one person in each department but several people and training was provided when needed.
- Where services were not fully compliant, the City Solicitor confirmed that this was addressed by ensuring that training and help was given. Staff were aware that claims would result if EIAs were not properly carried out. He said that embedding the process took time but there was evidence that progress was being made.
- It was agreed that in future the report would include details of how long individual EIAs had been outstanding ie to include the dates by which EIAs should have been completed.

RESOLVED (1) that the committee notes the contents of the report;

(2) that the committee continues to monitor the compliance of the council services with the equality duty and the equality impact assessment process adopted by the council, on a quarterly basis;

(3) that the City Solicitor continues to report on such compliance to the committee on a quarterly basis.

7. Treasury Management Monitoring Report for the Third Quarter of 2013/14 (AI 7)

(TAKE IN REPORT)

Mr Michael Lloyd introduced the report and said that it was no longer going to be taken to Cabinet as well as the Governance & Audit & Standards Committee as it had been agreed that this committee was better placed to consider matters contained in the report. He advised that the purpose of the

report in Appendix A is to inform members and the wider community of the council's treasury management position at 31 December 2013 and of the risks attached to that position.

The committee's attention was drawn to paragraph 5 of the report - Borrowing Activity. Mr Lloyd confirmed that there had been no new borrowing during the first three quarters of 2013/14. With regard to investment activity Mr Lloyd said that the council held £229 million of investments as at 31 December 2013 and the investment portfolio yield for the first eight months of the year is 0.61%.

In response to a query it was confirmed that the Co-operative Bank had not been mentioned in the report as the city council's exposure is not in regard to the Co-operative Bank in terms of the investments of the city council. The city council's exposure is that the Co-operative Bank are the city council's main transactional bank.

However efforts are always made to only have a maximum of £300k being held by the bank at any one time and an average balance of £150k.

The City Solicitor confirmed that other options were also in place.

RESOLVED that the actual treasury management indicators for the third quarter of 2013/14 as set out in item 4 of the report be noted.

8. Performance Management Update - Quarter 2 - 2013/14 (AI 8)

(TAKE IN REPORT)

Ms Kelly Nash introduced the report which provides a summary of information received as part of quarter 2 reporting for 2013/14 and an indication of how work around cost benchmarking is developing. Ms Nash said that a detailed summary of issues raised are attached as Appendix A of the report and that key issues were listed in paragraph 4.2 of the report. She explained that the process for reporting on performance has now started to embed across the organisation and there is more rigour that has been the case for a few cycles. Ms Nash advised that a regular report on benchmarking would be brought to this committee and that the next cycle is likely to be even more thorough.

In response to queries the following matters were clarified:

- There was nothing about finance in this report because there were no issues of note this quarter.
- With regard to City Help Desk, it was too early to tell whether calls were being diverted away from the help desk as a result of information being obtained instead by internet searching. This item would be included in the next report. The City Solicitor said that much work is being done to update the web and this included e-commerce interactions that should result in savings to the city council.

- With regard to Revenues & Benefits in section 4.2, members noted that discretionary housing payment demand has already outstripped supply. A query was raised about whether this meant that people would not receive the benefit and Ms Nash said she would find out and report back. It was also confirmed that the words "social sector size criteria" equated to what in colloquial terms has been called "the bedroom tax". A query was also raised about what was happening to those previously in receipt of 100% council tax benefit who now received 80% council tax benefit? This would also be reported back to members.

The City Solicitor said that a paper to all members on the impact of recent benefit changes would be useful.

The City Solicitor said that the number of repossessions had not so far increased but the council did not have a "no eviction" policy.

Members were advised that a paper had been brought to Scrutiny Management Panel on the effect of welfare reforms which had been largely positive. Ms Nash said she would append the report to the further information on welfare implications that would be circulated outside of the meeting.

In response to a query on targeted interventions in areas of high staff sickness, it was confirmed that the working group on sickness absence had not met recently owing to difficulties in getting the relevant people together. However sickness absence has reduced to under nine days per person per year and this was much more in line with other comparable authorities. The HR, Legal & Performance service had been working across services to reduce sickness absence and this appeared to be paying dividends.

RESOLVED that the Governance & Audit & Standards Committee noted the report and commented on

- (1) **The performance issues highlighted in section 4 and**
- (2) **The cost benchmarking activity outlined in section 6.**

9. Progress on actions to address the 2012/13 significant governance issues and review of the internal corporate governance controls (AI 9)

(TAKE IN REPORT)

Ms Southcott, Strategy Adviser, introduced the report which was to update the Governance & Audit & Standards Committee on the actions relating to the 2012/13 annual governance statement and to inform members of steps taken to review the current internal corporate governance controls and to put forward a set of revised controls for 2014. Ms Southcott explained that a summary of progress made in tackling the significant governance issues can be found in Appendix A. Appendix B showed the internal corporate governance controls for 2014. Ms Southcott drew members' attention to paragraphs 4.7 and 4.8 of the report.

Following discussion, members confirmed that in the light of assurance they received from other sources eg internal audit reports, external audit reports and sources such as the corporate risk register and performance reports, they were comfortable that the current controls on supporting councillors as strategic leaders, effectively engaging with local people and other stakeholders and managing energy usage to ensure efficiency were adequate.

In response to queries the following matters were clarified:

- With regard to Appendix A Employment Committee Issues on page 1, the requirement was for 100% of staff to have PDRs but the update on progress stated that the council's arrangements were still felt to be inadequate. The Head of HR, Legal & Performance said that there were conflicting views about the efficacy of PDRs and that a report would be brought back to Employment Committee once the arrangements have been reviewed and a proposal developed.
- With regard to a query on staff completing the equalities health check being 25% of the workforce, the Head of HR, Legal & Performance said that work was being done to ensure that the training was aimed at an appropriate level as it is not appropriate for all jobs.

The City Solicitor said he would set up a meeting of the equalities project group in the next week and that equalities training would be put on the agenda.

There was a discussion concerning member training during which it was confirmed that there was no specific budget for this. In the past much training had been arranged but it was not well attended. This was not just a problem for this authority but was a general problem across all authorities. Mandatory training such as that put on for Governance & Audit & Standards, Planning etc was well attended.

The City Solicitor confirmed that there was much e-training available and the Head of HR, Legal & Performance said he would let members know what e-training and training via DVDs is available. there was a discussion around member training and political development. He also advised that a discussion paper was due to be taken to the Group Leaders' meeting.

The City Solicitor advised that if any members wished to receive reimbursement or a contribution towards travel costs in relation to off site training, members should contact the service concerned to see if there was any budget available.

RESOLVED that the Governance & Audit & Standards Committee

- (a) **Notes the progress made in addressing the significant governance issues highlighted in the 2012/13 annual governance statement;**
- (b) **Approves the new internal corporate governance control.**

10. Agenda Item re Standing Order 17 - Questions by Councillors (AI 10)

The chair introduced this item and said that it was aimed at changing Standing Order 17(1)(a) so that members submitting a question or seeking a resolution must first have contacted the relevant council officer and cabinet member and considered that they had not received a satisfactory response.

During discussion members felt that the revised wording was not in a suitable form to be adopted and that more thought should be given to this issue before it progressed further.

In addition they felt that it would be better to get a consensus from the various groups rather than taking it straight to council. Members suggested that the issue should be referred back to the Constitution Working Group.

Members felt that standing orders should be looked at again generally. Members were also concerned that the Constitution Working Group lacked continuity of membership.

A view was put forward that council was a public forum and should be opened up rather than being further restricted.

It was proposed by Councillor Michael Andrewes, seconded by Councillor Phil Smith that the item should be referred back to the Constitution Working Group to consider how to revise the standing order relating to questions at council. Upon being put to the vote this was carried.

RESOLVED that the matter be referred back to Constitution Working Group to consider how to revise the standing order relating to questions by Councillors.

11. Consideration of the political balance rules in relation to the constitution of Sub-committees considering complaints against Members (AI 11)

(TAKE IN REPORT)

The City Solicitor introduced the report explaining that the political balance rules apply across council committees unless they are dis-applied. He explained that if the committee wished to dis-apply the political balance rules in respect of its sub-committees, this would mean that wherever possible, the three member sub-committee would be made up of a representative of each of the three groups, all the time those groups are represented on the main committee. He confirmed that the decision today would only apply to Governance & Audit & Standards sub-committees. He also explained that if

any member voted against dis-applying the political balance rules, then the matter would fall and political balance rules would be applied. (This would mean that sub-committees under the Council's current political make-up would be made up of two Lib Dems and one member of the next largest political group ie a Conservative Member.)

The City Solicitor advised that the political balance rules would be applied to the Governance and Audit and Standards sub-committees **unless** there was a formal decision to dis-apply them. He said that any vote to dis-apply the political balance rules would only remain in force until the end of the municipal year or until a future change to the political balance of the Council (as this would in turn trigger a change to the political balance on the Governance and Audit and Standards Committee.) He recommended that the Committee as a matter of course should include this item on the agenda for the first meeting of each municipal year and on the agenda of the next meeting following a change to the political balance of the Council .

During discussion the following matters were raised:

- The political balance rules were generally applied across council committees.
- A view was put forward that when there are three different groups, the political balance rules could be interpreted as trying to keep the third group out of all decisions made by sub-committees.
- When members of sub-committees are required to consider complaints against elected members, their decision should be arrived at on the case presented to them regardless of their political persuasion.
- The City Solicitor said that the political balance rules are complex.

Upon being put to the vote a majority of members did not wish to dis-apply the political balance rules in relation to the constitution of sub-committees considering complaints against members.

RESOLVED that the committee wishes the political balance rules to apply in respect of its sub-committees which are considering complaints against members.

12. Probate Applications (AI 12)

(TAKE IN REPORT)

The City Solicitor introduced the report which he explained was to seek to obtain a council resolution to appoint the City Solicitor as lawful nominee of the council for the purpose of obtaining grants of representation from the probate registry in order to recover debts owed to the council. He said that in the past a resolution of full council has been sought on an individual basis and that the report requested an extension of the powers delegated to the City Solicitor to avoid the need for a resolution of full council to be passed in every case where a debt is owed.

RESOLVED that Governance & Audit & Standards Committee recommend to council that the City Solicitor's delegation be amended by inserting the following additional delegation between paragraphs 30 and 31:

"To act in the capacity of lawful nominee of the council for the purpose of applications to the probate registry and in so doing to take such steps as shall be considered necessary to obtain a grant of representation in order to recover monies owed to the council."

13. Audit Performance Status Report to 30 January 2014 for Audit Plan 2013/14 and proposed Audit Strategy (AI 13)

(TAKE IN REPORT AND PROPOSED AUDIT STRATEGY)

Lyn Graham, the Chief Internal Auditor presented the report. She said that there were 13 new critical exceptions highlighted in the report for 2013/14 audit plan. There are 155 planned audits for 2013/14 made up of 126 new reviews and 29 follow-up audits. Of these, 94 (60%) have been completed or are in progress as at 16 December 2013. This represents 62 audits (40%) where the report has been finalised, eight audits (5%) where the report is in draft form and 24 audits (15%) currently in progress. She went on to explain that the areas of assurance are shown in Appendix A of the report ie completed audits from 2013/14 audit plan, Appendix B is the audit strategy for 2014/15 audit plan, Appendix C is the MMD critical exceptions and action plan, Appendix D is the school critical exceptions and action plan and Appendix E is the information governance arrangements and action plan.

During discussion the following matters were clarified:

- Members expressed surprise at item 17 of Appendix D relating to the loft and storage room of a school. The Deputy Chief Auditor explained what was being done to address the situation and said the Chair of Governors had resigned and three Officers of the Council had been appointed to the Board of Governors to help strengthen and develop the scrutiny role. There is also a new interim Head teacher who is aware of the issues that need addressing.
- Members raised concerns about the MMD transport audit as paragraph 6.2.1 refers to the existing exposure to the risk of fraud as reliance is placed on key individuals and the failure to safeguard assets appropriately. Reassurance was given that none of the MMD directors were involved in this and that the transport manager concerned had been prosecuted and sentenced to a term of imprisonment for fraud. It was confirmed that a follow-up audit review had already been prepared and would be brought to the next meeting of this committee.

RESOLVED that members

- (1) Note the audit performance for 2013/14 to 16 December 2013;**

- (2) Note the highlighted areas of control weakness for the 2013/14 audit plan;**
- (3) Note the changes in the audit plan;**
- (4) Approve the proposed audit strategy for the use of audit resources for 2014/15.**

14. Anti-Fraud and investigations update (AI 14)

(TAKE IN REPORT)

The City Solicitor explained that as an experiment, Appendix A which detailed completed investigations between November 2012 and October 2013 had been redacted to enable it to be published on the website rather than being classified as an exempt appendix that could not be published. However he said that members may need to raise queries about the redacted parts of the document in which case provision had been made on the agenda for the committee to move into exempt session if they wished to do so.

The Deputy Chief Internal Auditor introduced the report and said that the committee had agreed to receive these reports every six months. She explained that there had been nine investigations since the last report to the committee in November 2012 and these were detailed in Appendix A. She explained that special investigations were reported to this committee once all the disciplinary and appeals processes are exhausted.

During discussion, the following matters were clarified:

- With regard to case 2 - social worker, it was confirmed that the social worker concerned could be working elsewhere but that would be up to the Health and Care Professions Council (HCPC).
- With regard to item 5, it was confirmed that the recommendations outlined in paragraphs 5.37 to 5.41 were being followed up with a report going back to the Investigation Steering Panel to progress.
- It was confirmed that with regard to the concessionary travel tokens, travel tokens are no longer given and therefore this issue would no longer arise. It was confirmed that the only tokens used now by PCC were believed to be laundry tokens in Housing.

RESOLVED that members

- (1) Note the contents of the investigations report detailed as exempt in Appendix A.**
- (2) Note the anti-fraud, bribery and corruption action plan, Appendix B.**

15. Procurement Management Information (AI 15)

(TAKE IN REPORT)

Jon Bell, Head of HR, Legal & Performance presented the report which is a regular update to members of this committee on steps being taken to demonstrate that PCC is achieving value for money from its contracts for goods and services. He explained that the report updates members on progress made by services up to the end of October 2013 and provides members with a progress report to monitor the situation (outlined in Appendix 1 - year to date performance). An explanation of those service areas where conformance requires improvement is detailed in Appendix 2 which is exempt. He explained that conformance has improved year on year from 97% in October 2012 to 98% in October 2013 and year to date conformance is at 98%. He said that had contracts been entered correctly on Intend without admin errors the conformance figure would have been 99%.

Members requested that in future Appendix 1 should include an extra column to state how many contracts the figures related to in order to give a more realistic picture. Currently, if a service had only two contracts and one was non-compliant, this may give an unrepresentative picture. The Head of HR, Legal & Performance said that he would ensure that this was done in future.

RESOLVED that members

- (1) Note PCC has surpassed the target of 95% conformance and achieved 98% for October 2013; and**
- (2) Note the performance of PCC's suppliers and contractors and action in progress to address poor performance.**

16. Data Security Breach Reporting (AI 16)

(TAKE IN REPORT)

The City Solicitor introduced the report and said that many improvements had been made resulting in fewer breaches. However mistakes were still made occasionally. He advised that if members wished to discuss any of the breaches outlined in the exempt appendix the committee would need to move into exempt session. Members felt able to consider the report and breaches in open session.

RESOLVED that members of the committee note the breaches that have arisen and the action determined by the Corporate Information Governance Panel (CIGP).

17. Complaints received into alleged breaches of the Code of Conduct by Members of the Council (AI 17)

(TAKE IN REPORT)

The City Solicitor presented the report which was to update members of the committee on current progress in relation to complaints which allege that councillors may have breached the council's code of conduct. He said that on the whole the process was working well and that it was right to give people the opportunity to complain if they had concerns. He said that predominantly the results of the investigations were that no further action be taken but that much could be learnt from the complaints made.

The City Solicitor said that with regard to item 3, the requested review hearing had now taken place and that the review sub-committee (that was made up of three different Members from those on the original sub-committee) upheld the original decision.

The City Solicitor said that the aim is to deal with complaints as quickly as possible. He said that under the old procedures, there was no requirement to publish the meetings on the website and that this new process sometimes slowed matters down.

During discussion the following matters were raised:

- The chair requested that all members be given a paper copy of information that related to each councillor so that they could arrange for this to be updated as necessary.
- With regard to the use of electronic devices, members were advised that this matter was being considered at a future meeting of the Scrutiny Management Panel and would also be considered at a Constitution Working Group meeting in the future. It was suggested that the Lord Mayor and the Deputy Lord Mayor could be invited to that particular meeting so that their views could be put forward.

RESOLVED that members of the committee noted the report and considered if any further action is required by them.

The meeting concluded at 5.00 pm.

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Chair