

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF A MEETING of Governance & Audit & Standards Committee held on Thursday 27 June 2013 at 2.00 pm in Conference Room L, 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 David Fuller (Vice-Chair)
Councillor Michael Andrewes
Councillor Phil Smith
Councillor Donna Jones
Councillor John Ferrett

Officers Present

Michael Lawther, City Solicitor and Strategic Director
Jon Bell, Head of HR, Legal & Performance
Mark Justesen, External Auditor
Iwona Defer, Equalities Officer
Ms Lyn Graham, Chief Internal Auditor
Mr David Pennery, Auditor
Megan Southcott, Strategy Adviser
Stewart Agland, Local Democracy Manager
Kelly Nash, Corporate Performance Manager
Greg Povey, Procurement Manager

31 Apologies for Absence (AI 1)

Councillor David Fuller apologised for lateness.

32 Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

33 Minutes of the meeting held on 14 March 2013 (including the exempt minute) (AI 3)

RESOLVED that the minutes of the meeting held on 14 March 2013 (including the exempt minute) be confirmed and signed by the chair as a correct record.

34 Updates on Actions identified in the Minutes (AI 4)

The following matters were clarified:

- With regard to public health training, the City Solicitor said that he and the interim Director of Public Health are putting together some training material and this would be delivered on an informal basis. He confirmed that this matter is in hand.
- With regard to whistleblowing, the matter is in the hands of the Communications team and the City Solicitor undertook to chase this up.

35 Update Report from the External Auditor (AI 5)

Mr Mark Justesen gave an overview of the work currently being done and what was expected to be done over the next year. He said that the draft accounts were due next week. Mr Justesen said that it was timely that performance management and risk management were on the agenda for the committee this time as these were identified risks to the VFM conclusion that he was currently working on. Further discussion with PCC's Head of Finance about these issues was scheduled for the following week.

The City Solicitor confirmed that quarterly meetings were held with the external auditors and that any issues were raised at these meetings.

Mr Justesen said that the overall message was that so far everything seemed to be on track.

RESOLVED that the verbal update from the External Auditor be received.

36 School Transport and Student Awards Appeal Committee - Appointments 2013/14 (AI 6)

RESOLVED that the appointment of Councillors Hall, Fuller and Young be confirmed by the Governance & Audit & Standards Committee to serve on the School Transport and Student Awards Appeal Committee for the 2013/14 municipal year, with Councillors Andrewes, Smith and Jones being appointed as standing deputies.

37 Update on the Council's Compliance with its Equality Duty and Equality Impact Assessment Process (AI 7)

(TAKE IN REPORT)

Ms Iwona Defer explained that the table shown in 3.2 compared services' compliance with the council's three year rolling EIA process as at 29 May 2013. She said that although Transport & Environment Service have now provided an updated list of the major service areas that require EIAs and have proposed timescales for their completion, Adult Social Care is now giving cause for some concern as there are a number of outstanding EIAs in major service areas. She explained that the Equality & Diversity team is working with that service to ensure completion of the EIAs without further delay.

The City Solicitor said that Adult Social Care is a matter of concern and that he would talk to the appropriate head of service. He said that if services do not comply with the EIA obligations there are cost implications. He said that this was an avoidable risk and that it was useful for this committee to monitor the position on a regular basis.

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

(2) that the committee continues to monitor the compliance of the council's services with the Equality Duty and Equality Impact Assessment process adopted by the council on a quarterly basis;

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

38 Modification to the Petitions Scheme (AI 8)

(TAKE IN REPORT)

The Local Democracy Manager introduced the report which had been written in response to a change in the legislation (meaning that the prescribed scheme was no longer compulsory) and also because of the number of petitions that were presented to full council at its last meeting.

During discussion the following matters were clarified:

- The Local Democracy Officer said that as there seemed to be some urgency to get a revised procedure before councillors at the July meeting, the matter had not been referred to the Constitutional Working Group and the report had not therefore been considered by them.
- A majority of members present felt that the democratic process would best be served by reducing the number of signatures required from 1,000 to 500. A majority of members also wished to allow petitions received on matters that had already been considered by the local authority within the preceding 24 months, to trigger a debate by the appropriate decision making body (including full council) if at least 1,000 signatures were collected.

The Local Democracy Manager revised some of the recommendations in the report in light of Members' comments. These were put before the committee and were agreed.

RESOLVED that the committee recommends to council

- (1) that the petition scheme be changed so that Petitions for debate submitted with the support of at least 500 signatures, be reported to and considered by the relevant decision making Body of the Council, (or the Full Council if the petitioner so wishes even if the Full Council is not the relevant decision making body). This is on the basis that the Local Authority through any part of its political management structure (eg Full Council, Cabinet or Portfolio holder) has not already considered the matter which is the subject of the petition within the preceding 24 months of its submission.**
- (2) That further to 1. above, for petitions received on matters that have been considered by the Local Authority within the preceding 24 months following submission, at least 1000 signatures would be required to trigger a debate by the appropriate decision making Body of the Council, including the Full Council, if the petitioner so wishes, even if the Full Council is not the relevant decision making body.**
- (3) That the City Solicitor be authorised to make the requisite changes to the scheme and associated supporting documents to reflect the above:**
- (4) That Standing Order 13 (f) be amended by the inclusion of the following words in brackets after "receive and debate written petitions" (submitted from the public at least 12 days before the meeting and which contain at least 500 signatures and are on issues either (a) within the power of Full Council or, (b) the petitioner has requested it be debated by Full Council even if Full Council is not the decision making body; this is on the basis that the Local Authority, through any part of its political management structure, has not previously considered the matter which is the subject of the petition within the preceding 24 months following submission.**

That for petitions concerning issues which the Local Authority has already considered within the preceding 24 months following petition submission, at least 1000 signatures would be required to trigger a Council debate if the matter is within the powers of the Full Council, or the petitioner so requests.

(Full Council debates will commence with the lead petitioner being given 6 minutes to present their petition, followed by the Administration proposing its response to the petition and the normal rules of debate applying).

39 Annual Internal Audit Report for the 2012/13 Financial Year (AI 9)

(TAKE IN REPORT)

The Chief Internal Auditor introduced the report and said that 100% of the revised annual audit plan had been completed. She said that seven more critical exceptions had been raised and that these were set out in paragraph 6 of the report with the agreed action to address them.

In response to questions the following matters were clarified:

- In relation to the home to school transport forecast overspend, the chair of the committee asked how PCC's budget compares with those of other comparable authorities and suggested that a report might be taken to the Cabinet Member for Education & Children either to increase the budget available or to reduce the overspend. The chair also requested a report back to this committee. City Solicitor to progress.
- With regard to legionella, the Chief Internal Auditor said that in the past there was no corporate consistent approach but that now this has been introduced. The main concern was around the area of schools. The City Solicitor said that a letter would be sent to schools including the new policy and this requires headteachers to respond in writing to include details of how they intend to deal with this matter. Academy schools have opted out and foundation schools will be excluded. The City Solicitor said that the authority could only seek to influence the schools to take responsibility and realise it is down to them. The groups responsible now have regular meetings. The Chief Internal Auditor confirmed that there was regular reporting under risk management.
The Head of HR, Legal & Performance said that health and safety came within the HR function but it was also Asset Management related. He said that there was a need for some joint working as legionella fell within several areas of responsibility which the new policy seeks to address. The City Solicitor said that ultimately he and the Chief Executive have responsibility for health and safety issues.
- The Chief Internal Auditor said that the reason that domiciliary care audit had been deferred to 2013/14 was because of a lack of availability of key staff in social care. Members requested more detail on the reasons for deferring audits to be included in reports to this committee.
- Members expressed concern about the MMD accounting system. The Chief Internal Auditor said that a three year programme had been agreed and this year's audit would be reported to the Governance & Audit & Standards Committee. The Chair and Councillor Jones agreed to meet with the Board of MMD to seek further assurances.

RESOLVED that

- (1) Members note the Audit performance for 2012/13;**
- (2) the highlighted areas of control weakness for the 2012/13 Audit Plan are noted by Members;**
- (3) Members note the Annual Audit Opinion on the effectiveness of the system of internal control for 2012/13;**
- (4) Members note the Audit Plan for 2013/14.**

40 Update on the Development of the 2012/13 Annual Governance Statement (AI 10)

(TAKE IN REPORT)

Meg Southcott, Strategy Adviser introduced the report and said that it provided an update on progress being made against the key governance issues highlighted in the 2011/12 Annual Governance Statement and on the development of the Annual Governance Statement for 2012/13. She explained that the authority has a duty to produce and publish an annual governance statement in accordance with the Accounts and Audit (England) Regulations 2011. She said that progress will continue to be reported to this committee on a regular basis and would also be monitored by the Corporate Governance Group on a quarterly basis.

During discussion the following matters were clarified:

- With regard to Appendix A page 3 concerning CRB checks, it was confirmed that there are now restrictions on who these apply to. If forms are completed and sent in when not appropriate, this could result in fines being issued. The City Solicitor confirmed that although CRB changes from 1 September had been communicated to strategic directors, revised guidelines for managers had not been issued to all services at a corporate level because further information is still awaited from the Disclosing and Barring Service (DBS). The Head of HR, Legal & Performance said that work is taking place with those individual services that are more affected. He said that the updated DBS service will come into force on 17 June 2013 and that a report would be going to Employment Committee to authorise the new process. The City Solicitor said that he would check that Councillor Neill Young had been updated on matters to do with CRB checks/DBS as he had raised the issue previously and had asked for an update.
- It was confirmed that the LAMP programme was not totally on course but that the Employment Committee had regular updates on this.
- With regard to looked after children issues, although this is a major area of concern, this is dealt with primarily by the Safeguarding Board rather than the Governance & Audit & Standards Committee.

- In response to a query about engaging with PCC's customers, it was confirmed that the last MORI poll had been done approximately five years ago but that these were no longer routinely carried out. The Head of HR, Legal & Performance said that community engagement fell within the Customer, Community & Democratic Services area and that this matter could be addressed to that head of service, Louise Wilders.
- It was confirmed that there was no specific budget for member training.

RECOMMENDED that the Committee

- (1) Notes the progress made against the 2011/12 annual governance issues;**
- (2) Notes the process followed to identify significant governance issues and consider the content of the draft 2012/13 Annual Governance Statement.**

41 Performance Management Update (AI 11)

(TAKE IN REPORT)

Kelly Nash, Corporate Performance Manager introduced the report which updates members on work in relation to corporate performance monitoring since the last reporting period with a specific focus on work around value for money provided by the authority. She said that PCC has spent time reflecting on arrangements that will be required to discharge corporate performance management responsibilities in the light of changes to national monitoring arrangements including the review of risk management arrangements.

She explained that service heads had been asked to summarise their service's approach and judgements around value for money according to a set of lines of enquiry set out by Strategic Directors Board. A process had now been followed whereby almost every service head had presented their plans and value for money work so far, to the Strategic Directors Board. Service heads would be asked to report against their presentations on a quarterly basis.

During discussion the following matters were clarified:

- With regard to Appendix 1, these corporate performance indicators were subject to further development and change throughout the quarterly performance cycle.

- It was explained that 5.4 of the report outlined how it was envisaged that a comparison could be made across services but that this would always be difficult as it would not be a like for like comparison. However information about service costs and performance over time would in itself provide a valid point of comparison. It was also very difficult to compare PCC's performance as against other councils as things are carried out differently. The City Solicitor said that it was worth noting that many of our services come out as being low cost when such comparisons were made.
- Under the Customer, Community & Democratic Services section, members asked what the proportion of staff who feel well informed and proud to work for the council was currently and why it had been decided to aim to increase this by 5%.
- Members were pleased that regular reports on outcomes of value for money work would be presented to this committee.

RESOLVED that the committee noted the report and commented on the further work proposed in section 5, with a specific focus on issues of Value for Money, as in paragraph 5.4.

42 Risk Management (AI 12)

(TAKE IN REPORT)

The Chief Internal Auditor introduced the report and said that risk management is seen as an essential part of governance and a review of risk management arrangements concluded that the focus should be on embedding a risk awareness culture. She said that the idea of evolving and embedding a risk culture means that risks are considered and managed as part of everyday activity including specific targets and performance objectives. A fundamental core set of principles are encapsulated in the revised draft risk management policy and procedures attached at Appendix A of the report. The Chief Internal Auditor explained that it is suggested that there should be a move away from having a corporate risk register to having a risk directory that will record all the significant risks facing the organisation derived largely from operational sources and that the draft policy and procedures defines significant risk in paragraph 2.4.2.

Members welcomed the staff awareness training set out in 2.2 of the policy but felt that staff should also be made aware of the positive side of risk management.

RESOLVED that the committee approves

- (1) The draft Policy and Procedures;**
- (2) The next steps towards embedding a risk culture,**
- (3) A review in 6 months' time of progress**

43 Proposed Revision to the Terms of Reference of the Health Overview and Scrutiny Panel (AI 13)

(TAKE IN REPORT)

The City Solicitor explained that the purpose of the report is to consider proposed revision to the terms of reference of the Health Overview & Scrutiny Panel (HOSP) which need to be updated following recent changes in legislation and also to reflect the fact that Portsmouth Local Involvement Network (LINK) no longer exists.

The City Solicitor advised that as a change to the terms of reference amounted to a constitutional change this requires approval from full council.

RESOLVED that the Committee recommends to full council that the proposed changes to the terms of reference of the Health Overview and Scrutiny Panel, as set out in attached appendix 2, be approved.

44 Exclusion of Press and Public (AI 18)

It was proposed by Councillor Terry Hall, seconded by Councillor David Fuller, that in view of the contents of the remaining items on the agenda the Committee is RECOMMENDED to adopt the following motion:

“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 remaining items on the grounds that the report(s) contain information defined as exempt in Part 1 of Schedule 12A to the Local Government Act, 1972”.

Upon being put to the vote this was CARRIED.

45 Data Breaches and associated remedial action (AI 14)
(TAKE IN REPORT)

The City Solicitor outlined the data breaches that had arisen during 2013 and the actions taken. He explained that a potential data breach is presented to the Corporate Information Governance Panel which he chairs, by the service in which the breach occurred. The Corporate Information Governance Panel determine the severity, remedial actions and need for onward reporting to the Information Commissioner's Office (ICO). The City Solicitor advised that eight potential breaches had been reported to the Corporate Information Governance Panel. The City Solicitor said that the ICO could issue fines of up to £500,000 for serious breaches of the Data Protection Act and Privacy and Electronic Communications Regulations. He said that any breaches put the city council at risk of the unbudgeted cost of a financial penalty which would have to be met from the service responsible for the breach. The City Solicitor advised that so far, the authority has not been fined for any data breaches.

RESOLVED that Members of the Committee note the breaches that have arisen and the action determined by Corporate Information Governance Panel.

46 Regulation of Investigatory Powers Act 2000 (RIPA) (AI 15)

(TAKE IN REPORT)

The City Solicitor introduced the report and said that its purpose was to update members on the authority's use of regulatory powers for the period from March 2013 and the changes required to the policy following a visit by the OSC Inspector as well as the outcome of that visit.

He advised that one Regulation of Investigatory Powers Act (RIPA) application regarding a blue badge fraud had been made since the last report to the committee in March. Following an inspection by the Office of Surveillance Commissioners (OSC) on 4 April 2013, there had been further minor amendments required to the policy and the changes had been provided to all relevant staff. The OSC Inspector has issued their report which found that all previous recommendations had been actioned, that PCC has raised their compliance to a higher level and made one recommendation regarding recording of surveillance details and product at the cancellation stage.

The City Solicitor said that although this was a good news story, the Office of Surveillance Commissioners had not agreed to allow their report and letter to be made open to the press and public in spite of a request that this be permitted. However an extract from the covering letter is included in the open report at item 7.

RESOLVED that the Committee

- (1) Notes the RIPA applications authorised since March 2013,**
- (2) Approves the required changes to Policy as a result of the OSC Inspection regarding the inclusion of the 4 proportionality tests, recording of dates and times of surveillance, update of Code of Practice references and removal of urgency provisions,**
- (3) Notes the OSC inspectors report from 4 April 2013 inspection.**

47 Procurement Management Information (AI 16)

(TAKE IN REPORT)

Greg Povey, Procurement Manager introduced the report which updates members on steps being taken to demonstrate that PCC is achieving value for money from its contracts for goods and services. The report updates members on progress made by services up to the end of April 2013 and provides members with a progress report to monitor the situation as shown in open appendix 1. He said that conformance has improved year on year from 93% in April 2012 to 98% in April 2013 and year to date conformance is 98%. He said that had contracts been entered correctly ie without admin errors then the conformance figure as at April 2013 would have been 99%. Category business partners from Procurement are working in partnership with services to implement solutions to resolve non-conformance and reduce administration issues.

Mr Povey said that the results of the contracts being monitored are set out in 4.2 of the report.

He said that there are seven contracts where the suppliers are performing to an unsatisfactory level and remedial action was taken and these were set out in exempt appendix 3.

Clarification was provided to members in respect of queries raised by them in relation to the exempt appendices.

RESOLVED that

- (1) members note we have surpassed the target of 95% conformance and achieved 98% for April 2013.**
- (2) That members note the performance of our suppliers and contractors and action in progress to address poor performance.**

48 Southsea Community Leisure Limited Internal Audit Report (AI 17)

(TAKE IN REPORT)

A query was raised by Councillor John Ferrett about the need for appendix A - exempt internal audit follow-up report February 2013 - to be exempt. The City Solicitor said that he would consult with Southsea Community Leisure Limited to ask them whether they would be prepared to agree to allow appendix A to be made open. The City Solicitor made clear that currently appendix A was exempt.

Councillor Phil Smith said that the report affected all wards and not just St Jude's and Eastney & Craneswater as mentioned in the heading of the report.

Following further discussion members agreed the recommendations other than adding in the words "if required" at the end of the recommendation.

RESOLVED that given a number of improvements are still to be implemented and those which have been cannot yet be assumed to be embedded a further follow-up audit is undertaken in the autumn of 2013, if required.

The meeting ended at 5.00 pm.

Chair