

## **GOVERNANCE & AUDIT & STANDARDS COMMITTEE**

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Friday, 2 November 2018 at 10.30 am in The Executive Meeting Room - Third Floor, The Guildhall

(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 Leo Madden (in the chair)

Councillor Ian Lyon  
Councillor Hugh Mason  
Councillor Neill Young

### **Officers**

Julian Pike, Deputy Head of Finance & Deputy S151 Officer  
Michael Lloyd, Directorate Finance Manager,  
Michael Lawther Deputy Chief Executive, City Solicitor and Monitoring Officer  
Paul Somerset, Deputy Chief Internal Auditor  
David Moorman, Senior Procurement Professional

#### **65. Apologies for Absence (AI 1)**

Apologies for absence were received on behalf of Councillor Simon Boshier and Councillor John Ferrett.

The Chair, Councillor Leo Madden, welcomed everyone to the meeting and advised that it is being livestreamed and would be available to view on the website. The Chair then read out the housekeeping rules relating to evacuation procedures in the event of an emergency.

In response to a query about why Chris Ward, s151 officer did not attend this committee given his role on MMD, Julian Pike said that Chris Ward had asked him to attend as his deputy.

#### **66. Declarations of Members' Interests (AI 2)**

There were no declarations of members' interests.

#### **67. Minutes of the Meeting held on 14 September 2018 (AI 3)**

**RESOLVED that the minutes of the meeting held on 14 September be confirmed and signed by the Chair as a correct record.**

Matters Arising from the Minutes

- The Plymouth complaints figures would be included in future Ombudsman Complaints reports.
- The remaining briefing and meeting dates would be circulated to the committee as there were some new members.
- A Member of the Committee asked for more detail to be made available about transforming the IT network - such as the cost and also on outsourcing as the previous reply did not mention that or anything about exploring alternative ways of working.
- The City Solicitor agreed to find some dates during November for members to receive a briefing from Chris Ward on MMD.
- The performance management report was always in arrears so Members requested an update is provided a week before the meeting.
- Owing to a change of Chair the briefing that had been requested relating to Adults and Children's services had not taken place. Michael Lawther suggested that this could be re-arranged to take place at the next committee briefing so that members could put any questions direct to the officers.
- With regard to page 7 of the minutes regarding discharge of patients from hospital, the City Solicitor advised that he would arrange for Mr Andy Biddle to attend the next briefing session and also one of the systems interventions teams - again so that members could raise any queries direct.
- Members asked that a report be brought to the next meeting to update the Committee on General Data Protection Regulations - GDPR - and the City Solicitor agreed to invite Councillor Hugh Mason to one of the GDPR Board meetings. The City Solicitor said he would arrange for an all member briefing on GDPR if members would find that useful.
- With regard to the ORACLE system, Councillor Lyon still had concerns and the City Solicitor said he would invite him to attend a meeting to try to address any issues.
- With regard to capacity in the Internal Audit Team, it was confirmed that new software had led to efficiencies.
- With regard to scrutiny, the City Solicitor agreed to provide a briefing on the remit of this committee in relation to scrutiny.

**68. Audit Performance Status Report to 10 October 2018 (AI 4)**

(TAKE IN REPORT)

The Deputy Chief Internal Auditor, Paul Somerset, introduced the report which updates the committee on the internal audit performance for 2018/19 to 10

October 2018 against the annual audit plan, highlights areas of concern and areas where assurance can be given on the internal control framework. He advised that section 1 of the report provides a summary of progress to date for the 2018/19 planned audit activity. Appendix A of the report shows completed audits.

During discussion the following matters were raised

- With regard to schools, the Deputy Chief Internal Auditor explained that it was not a requirement for schools to have internal audits but they can buy-in these services from PCC. Often an audit is requested by schools in relation to specific issues. Internal audit offer their services both to academies and mainstream schools. If there is a serious concern PCC would go in to a school to carry out an audit.
- "Last implementation date" shows the latest time by which the actions will be completed. Members asked that this column should be renamed "deadline for implementation" and a month should be included as well as the year. This would enable the Committee to decide whether or not it was a reasonable time frame.
- In response to a query, with regard to mobile phones mentioned in Appendix A, it was confirmed that the procurement of mobile phones was centralised but that they are managed individually by coordinators across directorates and differences had been identified in the effectiveness of the management trail.
- Similarly in relation to travel and subsistence, although this is centralised through the Employee Benefits System (EBS), some actions - such as having to show driving licences to managers before hiring a car - varied in terms of how diligently they were adhered to across directorates.
- With regard to the reference in Appendix A to Modern Records, members noted that the last implementation date was between October 2018 and October 2020. Members asked for more details including whether there is a plan, whether it had been costed and when the actions are likely to be implemented. The City Solicitor agreed to provide that information to members.

The City Solicitor explained that the records were referred to as being "modern" in that they are not the archived record ie non historic.

Members thanked the officers for the revised format of the report which they found very clear.

**RESOLVED that members**

- (1) noted the audit performance for 2018/19 to 10 October 2018;**

- (2) noted the highlighted areas of control weakness from the 2018/19 audit plan.

## 69. Treasury Management Mid-Year Review 2018/19 (AI 5)

(TAKE IN REPORT)

Michael Lloyd introduced the report explaining that its purpose is to recommend some minor updates to the council's Minimum Revenue Provision (MRP) policy following discussions with the council's external auditors and to inform members and the wider community of the council's treasury management position at 30 September 2018. Mr Lloyd explained the recommendations set out in section 3 of the report and advised it is before this Committee for comment and noting and would be going to Cabinet and Council for decision.

During discussion a query was raised as to whether the contents of the report represented a policy change. Mr Pike advised that there is no change in relation to repayment of debt. He advised that previously there had been an omission from the policy as it did not provide for a situation where there was insufficient value in the property to repay any debt. He reiterated that PCC was not leasing an asset but was acquiring it. It would go onto the balance sheet as an investment property. The intention is to churn the properties ie only holding properties with good provenance and long leases.

During further discussion

- It was confirmed that in relation to Appendix C, there was just one external fund manager for corporate bond holdings as it was a relatively small portfolio.
- It was confirmed that Hampshire Community Bank (HCB) and MMD shares are not reported in the treasury management mid-year review as those shares were purchased using capital powers and not Treasury Management powers.
- In response to a request that members of this committee should have before it at every meeting sight of the balance sheet, Mr Pike said that the balance sheet is only produced on an annual basis as it would not be feasible to obtain the relevant financial details to enable this to happen more frequently. Mr Pike confirmed that individual portfolio holders receive reports on the capital expenditure on schemes. So for example the Resources Portfolio holder would receive details of capital expenditure relating to MMD and it would be up to the portfolio holder as to whether or not it was put on the agenda for the formal decision meeting. However the City Solicitor said that it was not envisaged that this information should come to Governance & Audit & Standards Committee meetings.

**RESOLVED that recommendations (i) to (iv) of the report as set out below be noted**

- (i) If the carrying (market) value of an investment property falls below the original value of unsupported borrowing incurred to acquire the investment property excluding fees and other associated costs, minimum revenue provision (MRP) will be charged over the residual life of the property on the shortfall between the current property value and the value of borrowing.**
- (ii) minimum revenue provision (MRP) be provided on equity shares over 25 years on an annuity basis.**
- (iii) It be noted that there have been no breaches of the Treasury Management Policy 2018/19 in the period up to 30 September 2018.**
- (iv) the actual Treasury Management indicators for September 2018 in Appendix A be noted.**

**70. Data Security Breach Report (AI 6)**

(TAKE IN REPORT)

The City Solicitor introduced the report which informs the committee of any data security breaches and actions agreed/taken since the last meeting. He referred members to Appendix A which is the extract from the incident log for October 2018. Two incidents had been reported to the Information Commissioners Office (ICO) - one had resulted in no further action being required and one had yet to be decided.

The City Solicitor advised that human error is at the root of most of the breaches and that ongoing training was in place to try to counteract this. During discussion

- It was confirmed that in relation to the incident where the Royal Mail had delivered an envelope to an incorrect address, this had been taken up with Royal Mail.
- The Corporate Information Governance Panel (CIGP) that meets with people across the council is the group that decides on action to be taken in relation to data breaches. So for example where several issues are identified as occurring within one department or where a common problem is identified across a particular group, the matter will be addressed in relation to that group as directed by the CIGP.

**RESOLVED that Members noted the breaches by reference to Appendix A that have arisen and the action determined by the Corporate Information Governance Panel (CIGP).**

**71. Compliance with the Gifts and Hospitality Protocol (AI 7)**

(TAKE IN REPORT)

The City Solicitor introduced the report which updates members on any issues regarding compliance with the gifts and hospitality protocol and to advise on remedies. During discussion

- Members said it was commendable that staff were diligent about recording gifts and hospitality received.
- It was confirmed that the policy was in place to avoid any accusations of undue influence.
- It was confirmed that each case is judged on its merits but in most cases the matter does not proceed to decision stage as officers tend to refuse gifts and hospitality unless to refuse would cause offence.
- A query was raised relating to page 57 of the documents pack, where reference was made to 3 people being invited to attend the SHIFT Awards 2017 event in London. Steve Groves refused the invitation but no information is given about whether Meredydd Hughes and Adam Hardwick accepted or refused. The City Solicitor said he would find out and report back whether or not the other two accepted

#### **RESOLVED**

**(1) that the committee considered whether or not to make any recommendations for change;**

**(2) that in the absence of any changes, the report is noted.**

#### **72. Consideration of the Political Balance Rules in relation to the Constitution of Sub-Committees considering complaints against members (AI 8)**

(TAKE IN REPORT)

The City Solicitor introduced the report which asks the committee 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 rules shall apply to the initial filtering panel. The City Solicitor went on to explain that the decision is one which only this committee can make and must be made without any of the members present voting against it.

**RESOLVED unanimously that the political balance rules are dis-applied in respect of Governance & Audit & Standards sub-committees which are considering complaints against members and also the same arrangement should apply in respect of initial filtering panel membership.**

#### **73. Proposed Change to Constitution Part 3: Rules of Procedure - Policy and Review Panels (Overview and Scrutiny) Procedure Rules (AI 9)**

(TAKE IN REPORT)

The City Solicitor introduced the report and explained the reason for the small change being suggested in paragraph 4.

The chair of the committee withdrew this item with the committee's agreement as they did not wish to propose any change.

**74. Revisions to the Statutory appointments section in the Constitution (AI 10)**

(TAKE IN REPORT)

The City Solicitor introduced the report explaining that the current statutory appointments includes under the Chief Executive's functions, the authority to deal with both the receipt of declaration of resignation of office and receipt of notice of casual vacancy from two local government electors in accordance with sections 84 and section 89 of the Local Government Act 1972 respectively. However, the statutory appointments function is silent on addressing other Councillor vacancy related issues which arise under sections 86 and 87 of the Act as detailed in section 3 of the report. He explained that the report requests that the statutory appointments set out in the recommendations to the report be recommended to full council as a constitutional change.

**RESOLVED that the Committee recommends to Council that the Constitution be amended to reflect the inclusion of the following.**

<b>Local Government Act 1972 Section</b>	<b>Function</b>	<b>Responsible Officer</b>
<b>86</b>	<b>Declare vacancy in office</b>	<b>CX</b>
<b>87</b>	<b>Give public notice of a casual vacancy</b>	<b>CX</b>

**75. Exclusion of Press and Public (AI 11)**

The Chair, Councillor Leo Madden, proposed 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 exempt appendices in item 12 on the grounds that the appendices contain information defined as exempt in part 1 of schedule 12A to the Local Government Act 1972. This was agreed.

**RESOLVED that the meeting move into exempt session for the consideration of the exempt appendices relating to item 12.**

The Chair explained that provision had been made on the agenda to consider the exempt appendices in item 12 in exempt session but that he would keep the meeting in open session during discussion of the non-exempt parts of the reports.

A discussion took place about whether it was necessary for Appendix 1 to be exempt. The City Solicitor agreed to review appendices marked as exempt for these procurement reports going forward. He also agreed to review after

the meeting whether Appendix A could be made open and published on the website with the other papers.

## **76. Procurement Management Information report (AI 12)**

(TAKE IN INFORMATION ONLY REPORT)

David Moorman, Senior Procurement Professional, introduced the report which was divided into 8 sections and which had 5 appendices.

He summarised each section of the report.

### **Section 1 - compliance with contract procedure rules**

This table reports on all invoices paid against purchase orders with a value of £5,000 or more in **July 2018**.

### **Section 2 - waivers awarded this quarter**

This table presents a summary of those contracts added to the contract register during Q2 2018/19 which have a waiver associated with them. Although broadly in line with previous reports, 40% of contracts are awarded on the back of a waiver. More detail on the 51 waivers is contained in Appendix 2.

### **Section 3: spend with waiver**

The table and graphs provide a breakdown by directorate of the actual spend during Q2 2018/19 on contracts which have waivers associated with them (regardless of when the waiver was approved).

### **Section 4: spend by contract size**

The graphs present the actual spend by directorate in Q2 2018/19, and how this is broken down into spend under high and medium value contracts.

### **Section 5: top 20 suppliers**

The table shows the council's top 20 suppliers and provides details of the nature and value of the contracts with them.

### **Section 6: suppliers paid over £100,000 in Q2 by directorate**

The tables show those suppliers who have been paid over £100,000 in Q2 2018/19 by directorate. They are arranged in descending order of value by directorate.

### **Section 7: supplier performance**

### **Section 8: Supplier Performance Monitoring**

This section shows contracts which have never had a KPI score and contracts that had not had a KPI score in 12 months.

During discussion

- Members commented that 40% of contracts were awarded on the back of a waiver which they did not believe was the "regular" way to award contracts

- .....
- Members asked for a detailed explanation of some of the figures included in section 5. In some cases (such as Knights Brown Construction Limited) the lifetime contract value figure was less than the value of spend in quarter 2 and members wanted to know why this should be. David Moorman and the City Solicitor undertook to provide an explanation to members.
  - Members asked whether in the case of Knights Brown Construction, the spend would be solely from PCC or as part of a wider contract with the Environment Agency. The City Solicitor undertook to find out and report back to members.
  - Members asked for an explanation of how the amount entered as the lifetime value of the contract was estimated. Is there a policy which governs this? For example on page 88, Comensura Ltd, HR Legal and Performance directorate, the value of spend in Quarter 2 is recorded as £939,227 with the lifetime of contract amount being entered as £10,000,000. The City Solicitor said he would find out and report back to members.
  - Members wanted to know more detail about section 2 waivers where they depart from the contract procedure rules - such as concerning obtaining 3 bids. There could be many reasons why 3 bids were not obtained - such as the market not being sufficiently interested in the contract to bid for the business. Members asked that such information should be included in future reports perhaps as an extra column in the first table.

At 12.50pm, the Chair advised that the business would move into exempt session to allow for discussion of the exempt appendices..

During exempt session, it was re-iterated that going forward anything marked exempt in the procurement information report should be reviewed by the City Solicitor or his deputy to confirm its exempt status. Mr Moorman said that care had to be exercised particularly with Appendix 1 to avoid the risk of legal challenge.

Mr Moorman provided explanations for non-conformance in Appendix 1 and advised that most would be addressed by means of introducing a waiver.

With regard to Appendix 4, members asked that an assessment of how the contracts were being performed should rest with more than one person - preferably one person more senior than the other.

Appendix 5 would always be exempt as it contained the confidential minutes of an internal meeting.

The meeting concluded at 1.00 pm.

Councillor Leo Madden  
Chair

