

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Friday, 1 February 2019 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.)

Present

Councillor Leo Madden (in the chair)

Councillor John Ferrett
Councillor Ian Lyon
Councillor Neill Young

Officers

Michael Lawther Deputy Chief Executive, City Solicitor and Monitoring Officer
Julian Pike, Deputy Head of Finance & Deputy S151 Officer
Michael Lloyd, Directorate Finance Manager
Jon Bell, Director of HR Legal and Performance
Elizabeth Goodwin, Chief Internal Auditor
Paul Somerset, Deputy Chief Internal Auditor
Greg Povey, Assistant Director of Contracts, Procurement and Commercial Finance & IT
David Moorman, Senior Procurement Professional
Helen Magri, Corporate Information Governance Officer
Gina Perryman, Access & Equality Advisor

External Auditor

Helen Thompson, Associate Partner, Ernst & Young
David White, Manager, Assurance - Government and Public Sector, EY.

1. Apologies for Absence (AI 1)

The Chair welcomed everyone to the meeting and read out the evacuation procedure. He advised that he intended to vary the order of items on the agenda. For ease of reference, the minutes will be kept in the original order.

Apologies for absence were received on behalf of Councillor Hugh Mason and Councillor Simon Boshier. Councillor Neil Young apologised that he would have to leave the meeting at around 12.30pm.

2. Declarations of Members' Interests (AI 2)

There were no declarations of members' interests.

3. Minutes from the meeting held on 2 November 2018 (including update on actions arising) (AI 3)

Updates from the minutes of the last meeting.

With regard to the quarterly performance management report, members noted that the report that had gone to the briefing was different from that which was sent out for the main meeting. A request was made that in future the report should be divided into sections A,B,C etc with the pages in each section so that it was easy to see where changes had occurred.

In relation to the updates, the City Solicitor advised that Members had been sent a consolidated briefing note concerning the queries outlined in the minutes and the information would be appended.

- With regard to the IT network it was confirmed by Greg Povey that this had been dealt with and could be found in the consolidated responses. He would be happy to meet with any Member to discuss the matter further if that would be helpful.
- In response to a request for more detail on the occupational therapy query, the City Solicitor said that Andy Biddle would be able to provide that information and had attended the briefing meeting to answer members' queries. He has offered to meet with any member to discuss this matter further.
- With regard to MMD, it was agreed that a date would be agreed with Councillor Lyon to meet with those who could provide the relevant information. The other members would be told about the date in case they also wished to attend.
- With regard to ORACLE, Councillor Lyon would be invited to the next meeting of the relevant Board. Once a convenient date had been agreed, the Chair asked that all members of the committee be notified in case any of them also wished to attend.
- Minute 68 - With regard to the RAG (Red Amber Green) ratings, Members again asked that Directors should not decide on these ratings unilaterally. In addition, Members requested that the previous RAG rating should also be included in the report.
- Minute 71 - It was confirmed that the briefing note covered the query relating to the SHIFT Awards.

- Minute 72 - In response to a query about why MMD had not been complying with the Gifts and Hospitality protocol, the City Solicitor advised that at the time when the protocol was set up, MMD was not owned by PCC. However MMD was now being brought into line with PCC.
- Min 75 - With regard to the Procurement report, it was agreed that as much of the report as possible would be made open going forward.
- Min 76 - In response to a comment that there had been many waivers on the grounds that the tender did not result in 3 bids, a Member suggested that perhaps PCC should be targeting small and medium firms as this might produce a better response. Mr Povey said that the process was reviewed thoroughly and often and he was happy to meet with Councillor Lyon to go through the process in detail..
- It was confirmed that the query relating to Knights Brown Construction had been covered in the consolidated briefing notes.

RESOLVED that the minutes of the meeting held on 2 November 2018 be confirmed and signed by the Chair as a correct record.

4. 2018/19 Audit Planning Report (AI 4)

(TAKE IN "INFORMATION ONLY" REPORT)

Helen Thompson, Associate Partner, Ernst & Young, introduced the report and said that as it is long and detailed she proposed to focus on the overview of the strategy on page 25. She advised that the risks identified are broadly similar to those last year.

The first significant risk is an overarching risk, the risk of management override which is required to be addressed on all audits under international auditing standards - there is always going to be a way of circumventing procedures and management is in a unique position to perpetrate fraud because of its ability to manipulate accounting records directly or indirectly and prepare fraudulent financial statements by overriding controls that would otherwise appear to be operating effectively.

The second significant risk is the risk of fraud in revenue and expenditure recognition, through inappropriate capitalisation of revenue expenditure.

Valuation of Land and Buildings and Investment Property, PFI Accounting and Pension Liability are all areas where attention is focused as there is a significant element of management estimation or judgment to get to the values included in the financial statements.

With regard to the Minimum Revenue Provision (MRP) this is a charge to the General Fund and is a complex calculation that will be reported back in the Audit Results report.

Ms Thompson advised that the final area of focus is in relation to two new accounting standards which had been introduced - IFRS 9 and IFRS 15. The audit team will need to review and evaluate the Council's assessment of the impact of these new standards on the Council's accounts. The impact is expected to be limited for local government bodies.

With regard to page 36, which covers the Value for Money conclusion, the External Auditor's risk assessment has considered both the potential financial impact of the issues they have identified, and also the likelihood that the issue will be of interest to local taxpayers, the Government and other stakeholders. This has resulted in the identification of no significant risks at the planning stage of their audit, but they will keep this assessment under review and update the Governance & Audit & Standards Committee as soon as possible if risks are identified during the remainder of their audit.

Ms Thompson further advised that the timing of the year-end audit is under review.

In response to questions

- With regard to the risk of fraud through inappropriate capitalisation of revenue expenditure, the external auditors said that in the majority of cases it would be clear but after first speaking to officers, the external auditors would use their own judgment with supporting evidence. Where capital spend was involved, there would be an expectation that there would be an asset to which the spend was clearly attributable.
- With regard to MRP, officers confirmed that the aim is to align the MRP to the life of the asset - 50 years being the maximum - in line with government guidance. There is no direct link between assets and loans.
- It was confirmed that IFRS16 that covers leases has been deferred to at least 20/21 and Officers stated that this does not therefore affect the accounting for PCC's loan of cranes to MMD in the current year.
- It was confirmed that officers' assessment is that MMD is not quantitatively nor qualitatively significant enough to require the preparation of group accounts. Officers in PCC make that decision and external audit review it. If there was a failure to agree, then ultimately this could result in External Audit issuing a qualified audit opinion.
- With regard to the pension fund deficit referred to on page 33, the External Auditors advised that the majority of local authority schemes are in deficit to some degree. However, most funds have improved and there are mechanisms in place to return the schemes to a fully funded position. Also the debt would not crystallize until there were no

more members in the fund. Contribution rates are reviewed every three years.

- With regard to BREXIT , External Audit is interested to check that consideration is being given in the council's medium term financial planning to various options depending on various outcomes such as the amount of external borrowing, how long this is fixed for etc.

Jon Bell reassured members that a great deal of planning is going on in relation to BREXIT such as through the local resilience forum.

The 2018/19 Audit Planning report was noted.

5. Audit Performance Status Report to 9 January 2019 (AI 5)

(TAKE IN REPORT)

The Deputy Chief Internal Auditor introduced the report. Key points of note include that the audit is 72% complete or in progress.

He drew the Committee's attention to paragraph 5.4 of the report that contains a schedule of when the planned reviews at Mainland Market Deliveries (MMD) would be carried out and the results communicated.

Paragraph 5.5 lists the amendments to the Audit Plan and paragraph 5.9 details the categories of exceptions raised to date.

Paragraph 6.1 refers to Appendix B which covers no assurance audits and follow ups and provides some more details re MMD, Procurement and IT and disposal.

During discussion

- It was confirmed that Financial Rules waivers listed in paragraph 5.10 are not detailed to the Committee as the Committee is placing reliance on its in- house professionals to investigate and assess the risks and reasons why the prescribed route is not used on any particular occasion. Internal Audit will be involved and it would then go to Mr Julian Pike or Mr Chris Ward. Mr Julian Pike confirmed that waivers are very few and far between. Usually there is an alternative way of complying with the Financial rules in any particular instance.
- With regard to the reference on page 70 concerning the investigation of numerous allegations of bribery, the Chief Internal Auditor said that historically there had been a flurry of allegations. However for at least the last 3 years, perhaps longer, there had been no whistleblowing in this area. The reason the matter has been mentioned in this appendix is that the information was recently included in a report that went to MMD directors to make them aware historically of some issues and their vulnerability in not having a transparent process. The Chief Internal Auditor said she would be mindful in future of what is included in these reports.
- With regard to the statement contained in Appendix B under "Procurement Framework" that there is a "requirement to seek comparative quotes for procurements over £30k", it was confirmed that this financial level was set by the Board. One Member commented that the figure seemed high and asked whether it could be revisited.

- With regard to the narrative on page 76 about the possibility of having security etchings added to high value items being deemed too expensive at £6 per item, it was confirmed that this was because etching affected the income that could be derived from selling items on. Without security etching this could raise £60k. Only one laptop had been lost amounting to a £600 loss. Therefore it was much more cost effective not to add security etchings. Members said that this explanation should have been added to the narrative.

As a general matter, the Chief Internal Auditor said that it was not the role of Internal Audit to make recommendations to services as a result of audit findings. The rationale is that services are the experts in their area and have a greater understanding about how best to deal with issues that have been identified than Internal Audit. Also a service would be more likely to act on a plan they have devised themselves rather than something imposed on them. Therefore Internal Audit tend to leave the services to determine the way forward. If the matter continued to be of concern, then Internal Audit could escalate the matter to External Audit and possibly also to this committee. Internal Audit has no power to compel services to do anything. Similarly, Internal Audit will not confirm to services that they condone any particular way of dealing with an issue.

RESOLVED

(1) That Members noted the Audit Performance for 2018/19 to 9 January 2019.

(2) That Members noted the highlighted areas of control weakness from the 2018/19 Audit Plan.

6. Treasury Management Monitoring Report for the Third Quarter of 2018/19 (AI 6)

(TAKE IN REPORT)

Michael Lloyd, Finance Manager, introduced the report which informs members and the wider community of the Council's Treasury Management position, ie. its borrowing and cash investments at 31 December 2018 and of the risks attached to that position. The report provides assurance that there have been no breaches to the Treasury Management Policy and have operated within the treasury management indicators agreed by the Council. Mr Lloyd advised that the report had been expanded to try to answer some issues raised at the last city council meeting. He reported that there had been no new borrowing this financial year and that as at 31 December 2018 £384m invested at an average rate of 1.11% (Table A5)

In response to questions, it was confirmed that

- The position with regard to Building Societies mentioned on page 88 is that the larger societies tend to be rated and the smaller ones tend to be unrated. Usually unrated building societies are more conservatively managed than the rated societies. Before PCC invests in unrated societies PCC looks at the available data. There are smaller investment limits for unrated societies. Credit rating agencies

monitor rated societies. Generally, there is a better rate of return from unrated societies.

- With regard to a query on the property investment portfolio (page 90), it was confirmed that if there were to be a fall in property prices of 35%, PCC would have to set aside additional funds to repay the debt as it would have to be paid out of revenue. In terms of revenue, PCC would only suffer significant loss if the tenant went out of business and another tenant could not be found.
- reference to "other" on page 89 refers principally to money set aside to repay debt under the Minimum Revenue Provision (MRP) Policy. This amount will not necessarily increase next year as making MRP increases it, but paying principal reduces it.
- Section A3 includes tables showing the Council's overall interest on borrowing including average interest rates. As at 31 December 2018, this shows borrowings amounted to £554m plus £1m through finance leases and £65m through private finance initiative schemes.

Various comments on the format of the report were made including

- On page 83 perhaps the first graph could be denoted "A" and then the graphs lettered consecutively for reference purposes. Members asked that the average interest rate in each of the columns in Table "B" should be included in future
- It would be useful to the Committee to know how much loans are costing PCC.
- Tables B and C do not say what percentage of borrowing is fixed and what percentage is variable and this would be useful going forward.
- It would be useful to include an explanation in future to make clear what "other" refers to (page 89).

Mr Lloyd said that this is a complex area and the report tries to give the Committee the information it wants in an accessible form. It tries to strike the right balance in terms of the information provided.

RESOLVED

(1) That it be noted that there have been no breaches of the Treasury Management Policy 2018/19 in the period up to 31 December 2018

(2) That the actual Treasury Management indicators as at 31 December 2018 set out in Appendix A be noted

7. Performance Management update - Q2, 2018-19 (AI 7)

(TAKE IN REPORT)

Jon Bell, Director of Legal HR and Performance, introduced the report as Kelly Nash had sent her apologies as she had to attend another council meeting. He advised that the report follows the usual format and that the key themes covered in the report are set out in paragraphs 3.5 to 3.8. Where possible he would be happy to answer members' questions today, but otherwise he would arrange for written answers to be circulated after the meeting.

Jon Bell drew members' attention to the proposal set out in section 4 of the report to streamline it and focus more on providing information within the remit of this committee. He said this would give balance and focus to the information being presented. It was proposed that the report format would be unchanged for the next meeting, but that the new format would be introduced with effect from the new municipal year.

The Chair agreed that it would be beneficial to have a streamlined report and that the new Governance & Audit & Standards Committee members could consider the revised format at the first meeting of the new municipal year.

Members commented

- That the amount of information in this report has increased dramatically from some years ago when sometimes there was one line from one directorate
- That part of the thinking behind expanding the information included in the report was to provide opposition spokespersons with information to enable them to raise pertinent questions at portfolio meetings
- That from the perspective of members of the public it may well be useful to have this information, but from the committee's point of view the amount of information is overwhelming.
- That they were in support of a new format and it would then be up to committee members to request additional information should they consider it necessary.

Jon Bell said that there used to be strict requirements to publish performance data and although this could still be done, he would not wish to record data merely to publish it. If members wanted particular data to be published then that could be arranged.

The Chair commented that the summary appendices were very good but that acronyms should be removed.

During discussion

- A suggestion was made that the Risk Register could become the first appendix as it provided a good overview. Perhaps a scoring system for items on the register would be helpful to determine areas of focus - such as - high risk 3, medium risk 2 and low risk 1. Then anything with a score of 6 or more should be looked at.
- Members asked that the previous RAG (red amber green) rating should be included in future to show the trend
- Members queried whether the RAG rating was always appropriate as there were occasions where the information recorded covered areas where the city council has no control.
- Members expressed concern about some of the RAG ratings given - such as on page 109 where although only one of the three age ranges

met the target, the rating for all three was given as amber rather than being given different ratings.

With regard to the RAG ratings being determined by the directors themselves, Jon Bell confirmed that there are processes in place to provide a degree of challenge - such as by Kelly Nash and through the Corporate Governance Board.

In summary, Jon Bell said that the proposal is for the revised report format to focus more on how the council is performing against its key priorities and this is the intention going forward. It was agreed that at the next meeting, as well as the usual report, a sample or template of the proposed new report format would also be provided.

RESOLVED that the Committee

(1) Noted the report

(2) Noted the continued improvement in quality of reports from directorates;

(3) Agreed if any further action is required in response to performance issues highlighted

(4) Noted that reports for 2019/2020 will be provided in a streamlined format, as set out in section 4 of the report.

8. Data Security Breach Report (AI 8)

(TAKE IN REPORT)

Helen Magri introduced the report which provided an overview of breaches that have occurred. She advised that there had been no new responses from the Information Commissioner's Office (ICO) since the last report and that it seems to be taking around six months to receive a response from them. She advised that there had been two new reports to the ICO since the last meeting.

During discussion the following matters arose

- None of the reports that had been made by PCC to the ICO in the last few years had required further action.
- There has been a large increase in the volume of reports being made to the ICO by councils following government guidance. There is a requirement to report breaches within 72 hours (or risk fines being imposed) which often means there is not enough time to fully investigate the incident before the report is made which could turn out to be unnecessary.
- Following feedback from other authorities, it seems likely that the ICO is being inundated by reports which is slowing down the process.
- The ICO have also advised that there is no need to report minor breaches.

RESOLVED that Members of the Governance & Audit & Standards Committee note the breaches (by reference to Appendix A) that have arisen and the action determined by the Corporate Information Governance Panel (CIGP).

9. General Data Protection Regulation Programme Report (AI 9)

(TAKE IN REPORT which is for information only)

Helen Magri introduced the report which provided details of the work already undertaken and ongoing to ensure the Council's compliance with the General Data Protection Regulations and Data Protection Act 2018.

Section 3 of the report sets out all the actions underway to ensure compliance. However, there is still much to be done for example in terms of looking at all the Council's contracts and considering implications following BREXIT.

RESOLVED that Members of the Governance & Audit & Standards Committee noted the actions taken.

10. Report on complaints received into alleged breaches of the Code of Conduct by Members of the Council for the calendar year 2018 (AI 10)

(TAKE IN REPORT)

The City Solicitor introduced the report which shows the number of complaints received against members for 2018. He advised that the number of complaints continued to be low. He said that the process was working well and that he was not proposing to make any changes.

In response to a query, the City Solicitor advised that on each occasion the complainant received a copy of the Decision Notice so would be aware of the result. This would be followed up to see whether or not the Decision Notice had been complied with. The City Solicitor advised that there are limited sanctions available in the event that the Member does not comply with the Decision Notice.

It was agreed that in future the appendix would refer to the "Subject Member" rather than the gender of the Member concerned.

RESOLVED that Members of the Committee

(1) Noted the report

(2) Considered whether any further action is required by them.

11. Whistleblowing Report (AI 11)

(TAKE IN REPORT)

The City Solicitor introduced the report which provided information about the number of whistleblowing incidents. The policy is publicised and refreshed throughout the year and is open to staff and PCC contractors to use.

The Whistleblowing Panel is made up of Michael Lawther, Jon Bell, Chris Ward or his deputy and the Chief Internal Auditor or her deputy.

4 of the matters raised have been concluded and one is continuing. The matters are normally looked at by Internal Audit but are sometimes referred for management investigation.

In response to a query about whether there were any additional incidents that had been raised but where it had been decided there was no further action, the City Solicitor said there had not been any. Incidents were only considered under this policy which would raise public concern about the Council's processes. Sometimes matters were raised under the Whistleblowing policy that should not have been so would be re directed appropriately.

It was confirmed that the identity of the whistleblower was not revealed. There had not been any occasion where the identity of the whistleblower had been revealed even where the incident had been referred elsewhere but this would need to be considered on a case by case basis. If it became necessary to reveal the name of the whistleblower in order to progress the investigation, this could not happen without their consent so the process may stall.

It was confirmed that there is a filtering process to decide what is and what is not an incident that should be dealt with under the Whistleblowing Policy.

The Chair asked that in future every whistleblowing case should be included and this was agreed.

RESOLVED that the Committee

(1) Noted the report

(2) Considered whether any further action is required by them.

12. Constitution Part 4D - Protocol for Member / Officer relations (AI 12)

(TAKE IN REPORT)

The City Solicitor introduced the report advising that the Group Leaders had a concern that officers are on occasions perhaps not always as helpful as they could be to all members. Changes to the protocol would make it clear that council officers work for all elected members and should be providing equal support to them and should extend that support (when in relation to PCC matters) to elected Members of Parliament. That is what he had tried to achieve on page 365.

During discussion some changes to the wording were suggested and agreed

Para 6.6.4

Delete the word "may" in the second line and replace with the word "should"

Para 6.6.2

Delete the words at the start of this paragraph from "unless" to "authorised" inclusive and replace with -

The Chief Executive reserves the right to preclude officers from attending political group meetings, that includes persons who are not members. However where the Chief Executive has not precluded

Para 6.6.6

After the words "Member thereof" insert the words "without the express consent of those political group members who confided in the officer during their discussions".

RESOLVED that Members

(1) Considered the proposed amendments as set out in the appendix: Paragraph 6: 'Officers and party political groups'.

(2)

(a) Recommended adoption by Full Council on 12 February 2019 to approve the proposed changes shown as track changes in the Appendix; and

(b) Agreed that if approved by Full Council, the City Solicitor may make the proposed amendments to the Protocol for Member / Officer relations in Part 4D of the Constitution.

13. Delegated Authority to City Solicitor to settle claims (AI 13)

(TAKE IN REPORT)

The City Solicitor introduced the report. The present limit to the delegated authority granted to the City Solicitor to settle claims on behalf of the Council is £50,000. There has been a recent increase in the insurance excess limit from £50,000 to £75,000 making it prudent to increase the City Solicitor's authority to settle claims in line with this increase. There had been recent occasion to seek specific authority under Standing Order 58 due to the current limit on the City Solicitor's delegated authority. Revising the limit to the delegated authority will avoid the need to invoke Standing Order 58 and therefore assist with the smooth running of the Council.

The City Solicitor confirmed that this was not being requested in connection with any particular claim.

A Member commented that he had not seen a schedule of claims settled being brought to this Committee. The City Solicitor said he would be happy to provide that.

RESOLVED that Members

(1) Considered the proposed amendments set out in the report

(2)

(a) Recommended adoption by Full Council on 12 February 2019 to approve the proposed increase to the delegated authority granted to the City Solicitor to £75,000 to settle claims on behalf of the Council; and

(b) Agreed that if approved by Full Council, the City Solicitor may make the appropriate amendments to the Delegation to Directors in the Constitution.

14. Update on Equality impact assessment monitoring (AI 14)

(TAKE IN "INFORMATION ONLY" REPORT)

The Access and Equalities Advisor, Gina Perryman, introduced the report that was for information only. She advised that the council makes use of its Equality Impact Assessment process to identify any potential equality issues and any measures that can be used to eliminate or mitigate any disproportionately negative impact. EIAs are used to provide a mechanism for members to question prior to a decision being made.

The council has a well-established Equality Impact Assessment (EIA) process which contributes to the Equality Duty as set out in paragraph 3 of the report. Where required committee reports have a completed EIA attached before they go forward for decision and since changing the process in 2016 there are now no omissions of EIAs.

EIAs form only one of the mechanisms that assist the Council in meeting its responsibilities under the public sector equality duty and they are not a legal requirement in themselves.

EIAs that were not part of a committee report (such as those connected with a project) will be published on the council's website on a year rolling programme.

Appendix 1 provides a list of EIAs completed in 2018.

The Committee noted the update on the Equality Impact Assessments undertaken in 2018.

15. Date of Next Meeting (AI 15)

The date of the next meeting was confirmed as being Friday 8 March 2019.

The meeting concluded at 1.20 pm.

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Councillor Leo Madden
Chair