

GOVERNANCE & AUDIT & STANDARDS COMMITTEE

MINUTES OF THE MEETING of the Governance & Audit & Standards Committee held on Friday, 26 June 2015 at 2.00 pm at the 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 Simon Boshier (in the chair)
Councillor Ian Lyon (Vice-Chair)
Councillor John Ferrett
Councillor Steve Hastings
Councillor Hugh Mason
Councillor Phil Smith

Officers

Michael Lawther, City Solicitor
Lyn Graham, Chief Internal Auditor
Jon Bell, Director of HR, Legal & Procurement
Elizabeth Goodwin, Deputy Chief Internal Auditor
Paddy May, Corporate Strategy Manager
Robin Rimmer, Procurement Manager
Robert Miller, Counter Fraud Officer
Mark Justesen, External Auditor (Ernst & Young)

1. Apologies for Absence (AI 1)

There were no apologies for absence.

2. Declarations of Members' Interests (AI 2)

There were no declarations of interests.

3. Minutes of the Meetings held on 13 March and 17 April 2015 (AI 3)

RESOLVED that the minutes of the meetings held on 13 March and 17 April 2015 be confirmed and signed by the chair as a correct record.

4. Updates on Actions identified in the Minutes

The chair advised that with regard to minute 25 - Contract Management Review on page 4, he had asked that Mr Povey defers his update report to the January 2016 meeting of the committee.

In response to a query, the City Solicitor said that he would check whether a letter had been sent to all members about the situation concerning the

appointment of an advocate in connection with the item on Adult Safeguarding Practice and would provide an update to members.

With regard to minute 29 - Councillor Training and Development the following feedback was provided

- Planning training did not specifically deal with how the system works and members asked that this be looked at.
- Licensing training had been excellent.

The Chair asked that Claire Upton-Brown, and Nickii Humphreys be invited to attend the next meeting to provide an update on training in their respective areas.

5. Sector Update from External Auditor (AI 4)

(TAKE IN REPORT)

The external auditor, Mark Justesen introduced the sector update which covers issues that may have an impact on the local government sector and the audits that the external auditor undertakes.

In response to a query Mr Justesen said that he would source the document on Lessons for major service transformation referred to on page 3 of the sector update, and arrange for it to be circulated to members.

During discussion the external auditor explained that the update is a generic document. There are no longer regulator-imposed performance indicators in place, as used to be the case, and the external auditor's role in considering performance management is limited to whether appropriate arrangements for monitoring performance are in place - not whether the organisation is meeting performance targets.

6. External Auditor's Progress Report June 2015 (AI 5)

(TAKE IN REPORT)

Mr Justesen explained that the purpose of the report was to provide the committee with an overview of progress with the 2014/15 audit plan and to ensure the external audit is aligned with the committee's service expectations.

Mr Justesen advised that the work of the external auditor is slightly ahead of target for 2014/15.

During discussion the following matters were clarified

- With regard to the harbour accounts audit, the Department of Transport has not set a deadline for these to be produced so no statutory duty is being breached by the council by not producing them. However it is part of the external audit role to continue to mention that the harbour accounts need to be prepared and audited.

Members noted the report.

7. Changes to the designated independent person dismissal procedures (AI 6)

(TAKE IN REPORT)

Mr Paddy May, Corporate Strategy Manager introduced the report and explained a change to the procedures that must be followed for the dismissal of designated posts (head of paid service, monitoring officer or chief finance officer) using a designated independent person and to seek from this committee a recommendation to council to amend the council's officers employment procedure rules in Part 3D of the Constitution to reflect these new procedures. The report also asked members to agree that a copy of the report should also be sent to Employment Committee for information.

Mr May said that the wording at 9(a) in italics is superfluous and will be removed. During discussion the following matters were raised

- The Deputy Chief Executive said that currently the council has two independent persons and there was probably a need to increase this number.
- Mr May drew members' attention to paragraph 4.2 of the report that explains the involvement of independent persons in any disciplinary process against the head of paid service, monitoring officer or the chief finance officer.
- It was confirmed that when the current independent persons were appointed, the process did not envisage that part of their role would be an involvement in a disciplinary process against senior members of the council. Members asked whether it would be prudent to contact the independent persons and find out whether they are both willing and able to carry out the new role.
- It was confirmed that nothing in the revised statutory procedures overrules established principles of fairness in the eyes of the law. The appeals process for the officers concerned would be via an employment tribunal. Exactly how the new process would work in practice is likely to be tested through the courts. However essentially the changes affect three statutory posts and the occasions when a disciplinary process would need to be used are likely to be rare.

RESOLVED that

- (1) The new process for dismissal of a designated person (set out in paragraphs 4.1-4.3) be noted;**
- (2) That the Committee recommends that Full Council agrees the Officers' Employment Procedure Rules in Part 3D of the Constitution be amended to reflect the change in process. The proposed changes are attached as Appendix 1 of the report.**
- (3) That the director of HR, Legal and Procurement be tasked with the creation of any such panel if it is required;**

- (4) That a copy of this report be sent to Employment Committee for information.**

8. Annual Governance Statement monitoring 2014/15 (AI 7)

(TAKE IN REPORT)

The Corporate Strategy Manager, Mr Paddy May introduced the report which was to update members on progress against a number of issues identified as governance risks in the 2013/14 Annual Governance Statement and to highlight matters of relevance in preparing the 2014/15 statement. Mr May drew members' attention to paragraph 5.4 which listed exercises designed to support the review of effectiveness and asked members for their comments which included the following.

- Data breaches were regarded by the Committee as a serious issue and the Chair of the committee asked that regular reports continue to be brought to this committee.
- With regard to FOI requests, the Chair said he would like to see more detail in the appendix - for example the actual number of requests and a breakdown of how many came from the media or organisations and roughly how much time is taken in answering the queries. The vice-chair also asked that qualitative information be made available. The Chief Internal Auditor said that actual time taken was not captured as FOI requests were sent out by the team and time taken was only recorded if it was more than a specific number of hours. Members asked that the information given to the committee at least contained information on whether the time taken for individual requests was under or over a specific number of hours.
- The Chair of the committee asked for some indicative figures on the numbers of media or organisations who were putting in freedom of information requests (as opposed to the general public).

The City Solicitor said that information could be brought to the committee which showed how effective PCC is in completing requests in time. Penalties for failing to complete requests in time could be imposed by the ICO (where the failure was serious enough) and could include an improvement plan being imposed upon PCC.

It was confirmed that where information is publicly accessible then the Freedom of Information Act does not apply.

The City Solicitor confirmed that the problem often lay in the type of requests made. There is a limit of 18 hours work per request before a charge can be made but sometimes, where it is in the public interest, more than 18 hours work may be done in connection with a particular request.

The Deputy Chief Internal Auditor said that the 2014/15 audit had been done and although this did not include costs, it did provide some useful statistical information on FOI matters.

RESOLVED that the Governance & Audit & Standards Committee

- (1) Noted and agreed the recommendations relating to each of the governance issues set out in section 4.1; and**
- (2) Reinforced their expectations in relation to corporate governance for 2015/16 as set out in paragraph 5.5 of the report.**

9. Annual Internal Audit Report for the 2014/15 Financial Year (AI 8)

(TAKE IN REPORT)

The Chief Internal Auditor apologised that the wrong report had originally been circulated to members and that the corrected report would be uploaded onto the website after the meeting. [This has since been done]. The Deputy Chief Internal Auditor introduced the report and said that its purpose was to give the annual audit opinion on the effectiveness of the control framework based on the internal audit findings for 2014/15 and highlight areas of concern and to advise members of the audit plan for 2015/16.

Members' attention was drawn to the new areas of concern outlined in paragraph 6 of the report. This shows that financial compliance is not really improving and the Chief Internal Auditor said that Audit are planning to find out the reasons for non-compliance with financial rules.

In response to queries the following matters were clarified

- The Chief Internal Auditor said that high risk items were included in the body of the report but it was difficult often to quantify them. Specific risks appeared on the corporate risk register. Under each exception, the audit report shows what the risk is. The Chief Internal Auditor said that they could investigate how this could contain more information and could bring a report back to a future meeting. However monetary value is not easy to identify for example if the city council could be sued, the amount of the damages would have to be guessed. The Chief Internal Auditor said that the proper place for risks was in the risk register and that this could be reported on in addition at the next meeting. The risk report forms part of the performance management report.
- Members were concerned about the high risk and critical risk exceptions outlined in section 6 of the report. In particular members were concerned about the critical risk exception mentioned in 6.6.1 regarding the storage of disclosure and barring service checks on a central HR database. The Director of HR, Legal and Procurement drew members' attention to the agreed actions to try to resolve this critical risk as set out in 6.6.2. He said that the situation was improving

and that constant reminders to capture details within the central record are being made.

- The Chair commented that non-recording of data (ie where an action was done, but not recorded as having been done) was a persistent theme in many reports coming to this Committee.
- With regard to section 6.4 of the report concerning declarations of interest, the Deputy Chief Executive confirmed that members had a statutory duty to complete declarations of interest. However there was no corresponding statutory duty for employees to complete a declaration of interest. The Deputy Chief Executive said that he was revising the employee code of conduct and the Chair of the committee asked for sight of the draft revised code before it was finalised.
- The Deputy Chief Internal Auditor provided clarity on section 6.3 of the report. She said that significant changes in the debt recovery team had meant that the data necessary to test the processes had not been made available. The Chair asked that the next report coming to the September meeting of the committee should include an update on progress made. He said that if at the briefing meeting satisfactory progress had not been made, he would invite Chris Ward to explain why.
- With regard to 6.5 - Corporate Project Management, it was confirmed that a review of the Corporate Project Board's structure and purpose was being carried out and that it was intended to discuss the results with political group leaders. The membership of the board was confirmed as being the Chief Executive, the Deputy Chief Executive, the Section 151 Officer, the Chief Internal Auditor and the Director of HR, Legal and Procurement.
- With regard to 6.11 of the report, the Deputy Chief Internal Auditor advised that schools used to be audited on a three year cycle. Now PCC offers service level agreements but although schools have to operate within financial guidelines, the city council cannot force them to purchase the city council's audit services. It was confirmed that attempts to engage with Ofsted over this issue had been unsuccessful. It is open to PCC to remove the governing body of a school that does not comply with financial rules and take over the school's budget but this requires approval from the Secretary of State. Internal Audit have been back to the school concerned several times and would report back to this committee in due course.
- With regard to Corporate Assets and Business Standards - Management of Markets, it was confirmed that Market Inspectors referred to in 6.9.8 of the report will have received appropriate training.

RESOLVED that

- (1) Members noted the Audit Performance for 2014/15;**

- (2) **Members noted the highlighted areas of control weakness for the 2014/15 Audit Plan;**
- (3) **Members noted the Annual Audit Opinion on the effectiveness of the system of internal control for 2014/15;**
- (4) **Members endorsed the Audit Plan for 2015/16.**

10. Revision to Planning Code (AI 9)

(TAKE IN REPORT)

The Deputy Chief Executive introduced the report advising that following the changes brought about by the Localism Act 2011, the council adopted a new code in 2012 and this was further revised at the May 2015 council meeting. The attached planning code reflects the updating which has taken place in the most recent version of the code of conduct presented to council but is otherwise unchanged.

During discussion the following matters were clarified

- Members felt that the changes in 5.1 and 5.2 need to be made clear to councillors as this represents a change to what happens currently. The changes seem to introduce more involvement by the Monitoring Officer. Michael Lawther agreed to write to all members to draw their attention to these changes.
- Members mentioned small changes that should be made to the revised code for example a change in formatting in 4.9 and as there is no 4.10, should change 4.11 to 4.10 and agreed that the City Solicitor could make minor changes to the code before it went to council.
- The City Solicitor advised that he hoped to bring to the next meeting of Governance & Audit & Standards Committee the revised Constitution before it went on to full council. Members asked to be kept informed about progress on the Constitution and asked that consideration be given to providing members of the committee with the revisions over the summer. The Chair of the committee said he would then take a view on whether to hold a separate meeting to consider the Constitution as it was likely to be a lengthy meeting.

RESOLVED that the committee recommend to council that the planning code be approved and incorporated into the Constitution (subject to minor typographical errors being corrected.)

11. Consideration of the political balance rules in relation to the constitution of Sub-committees (AI 10)

(TAKE IN REPORT)

The City Solicitor explained that the report has been brought to this committee to consider whether it wishes to disapply the political balance rules in respect of its sub-committees which are considering complaints against Members. He explained that it had been agreed that the sub-committees would be cross-party as far as reasonably practicable but that any decision not to apply the political balance rules shall come to an end if there is any change in the make-up of a committee where they have been disappplied. It was therefore necessary to consider again whether the committee wishes to disapply the political balance rules in respect of its sub-committees which are considering complaints against members.

The Chair suggested that the political balance rules should be disappplied and the committee unanimously agreed.

RESOLVED that the committee unanimously decided that it wished to disapply the political balance rules in respect of its sub-committees which are considering complaints against Members.

The meeting concluded at 4.00 pm.

Councillor Simon Boshier
Chair