

MINUTES of the meeting of Audit and Corporate Governance Committee held at Council Chamber, Brockington, 35 Hafod Road, Hereford. HR1 1SH on Friday, 21 November 2008 at 10.00 a.m.

Present: Councillor ACR Chappell (Chairman)
Councillor RH Smith (Vice Chairman)

Councillors: MJ Fishley, JHR Goodwin, PJ McCaull, R Mills and
AT Oliver

In attendance: Councillors GFM Dawe, PJ Edwards and JG Jarvis

116. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor AM Toon.

117. NAMED SUBSTITUTES(IF ANY)

Councillor A Oliver substituted for Councillor AM Toon.

118. DECLARATIONS OF INTEREST

There were no declarations of interest declared.

119. MINUTES

RESOLVED: that the Minutes of the meeting held on 25 September 2008 were approved as a correct record and signed by the Chairman subject to the following amendments:

- (i) the deletion of the word 'not' in the sixth line in paragraph 3 on page 6;
- (ii) the deletion of the word 'live' in the third line in paragraph 6 on page 6;
- (iii) the deletion of the word 'not' in the second line in Resolution (a) on page 7.

120. THE EXTENT AND VALUES OF CURRENT POOLED BUDGETS

The Head of Financial Services presented a report on the extent and values of pooling of budgets under the National Health Service Act 2006 along with current thinking and planning towards further pooling. He referred to the seven Section 75 agreements between the Council and the Primary Care Trust, paragraph 12 on page 6 refers, and briefly outlined the areas covered in the agreements. He emphasised that the financial risk was not fully shared. The Council had however put considerable resources into adult social care services which would help with the

redesign of services.

The Director of Integrated Commissioning referred to the concerns of the Committee regarding comments made by the Audit Commission about agreements which had not been signed off. He informed Members signed agreements were in place although some needed updating, overall framework would be put in place within which the Section 75 agreements would be held. There would also be a need to address the risk sharing elements of expenditure and that agreements on these would be in place from 2009.

Councillor RH Smith asked if the terms and responsibilities of the current structure and agreements were entirely proper from the Council's standpoint.

The Head of Financial Services stated that they were from Council's viewpoint and that the Council's risks were clear.

Councillor Smith referred to paragraph 10 of the report and was of the view that there seemed to be some degree of tension between the Council and the Primary Care Trust (PCT) with regard to the risk sharing.

The Director of Integrated Commissioning stated that delivering the priorities of the PCT and the Council would be embedded in the Section 75 agreements. In answer to a question from the Chairman, he stated that there was no statutory way to bring the PCT and Council organisations together, so the Section 75 agreements were the key vehicle.

Dr P Ashhurst, Chair of the PCT Audit and Assurance Committee, agreed that the Section 75 agreements were the vehicle for the way forward in the integration of services but with the provision that the two statutory bodies maintain their separate responsibilities in funding and risk sharing.

RESOLVED: that the report be noted.

121. DATA QUALITY - SIX MONTH UPDATE

The Head of Policy and Performance presented a report which updated the Committee on progress against the data quality action plan as required by the Council's data quality policy. He reported that the report was positive and that the data quality position was improving. Progress, however, was not as quick as was originally anticipated in the first six months of the action-plan with more attention needed in certain areas, paragraph 5 of the report refers.

In the 24 hours prior to the Committee meeting, he had received the draft summary of the Audit Commission's 2008 audit. This showed no problems against performance indicators. The summary pointed out that the full effects of the improvements would not be seen until the next assessment and that improvements needed to continue.

Councillor Smith asked whether resources or commitment was the reasoning for the slower progress and who was driving the process.

The Head of Policy and Performance stated that data quality was a relatively new area of work but that it was not seen by some managers as top priority. He oversaw the delivery of the action plan. The Joint Management Team (JMT) had taken an interest and supported more work on data quality.

The Deputy Chief Executive (Interim) informed the Committee that it was his role to drive the data quality process and that JMT were in receipt of regular data quality reports. There were significant improvements but there was a need for more work by services to ensure that all services treat data quality with the appropriate priority. With the necessary directions from management and the improvement to systems, data quality management would improve further.

Councillor Smith referred to paragraph 10 of the report regarding employee training and the need to pursue this area.

The Head of Policy and Performance informed Members that the Assistant Chief Executive Human Resources had informed all key managers of the need to amend job descriptions and identify staff who would benefit from training with regard to data quality.

Councillor Smith referred to the pre-Crookall culture of the way in which some officers responded on issues and took the view there were signs with regard to data quality that the culture was clinging on.

The Deputy Chief Executive (Interim) stated that in data quality an approach is being set out and actions would be taken in appraisals and reviews. There was a need to move in areas of poor performance. Procurement had also been tightened. There was recognition that there is a significant cultural change in data quality as well as the culture of change in the PCT and Council joint working. He was of the view that managers want to perform for the Council and he did not consider that the pre-Crookall culture was clinging on.

Dr P Ashurst, Chair of the PCT Audit and Assurance Committee, stated that with regard to culture change, the PCT was undergoing intense scrutiny on World Class Commissioning, commissioning services, the procurement of services and the data quality agenda in the procurement process.

The Assistant Chief Executive Legal and Democratic reminded the Committee not to bring into discussion areas which were not on the agenda. He advised that if Members were aware of non-compliance on procurement that such matters should be reported to the Section 151 officer.

In answer to a Member's question, the Head of Policy and Performance reported that he planned to re-issue the Data Quality Action Plan with revised target dates and he would circulate this to the Committee. Providing there was adequate support across the organisation he anticipated being able to complete the actions by April 2009.

RESOLVED: that

- (i) progress against the data quality action plan be noted;**
- (ii) the plan be fully completed by the next annual review; and**
- (iii) a revised Data Quality Action Plan with revised target dates be circulated to the Committee.**

122. USE OF CONSULTANTS

The Head of Financial Services presented a report on the Council's use of consultants in 2007/08. He referred Members to the Strategic Monitoring Committee

(SMC) report on the use of consultants, attached as an appendix to the report, which was key to the discussion. He emphasised that there had been occasions when the term consultancy had been used when in fact interim management arrangements had been the correct definition. He made reference to an example in ICT where the definition of consultancy had been used incorrectly, paragraph 5 of the SMC report refers. Paragraph 8 of the SMC report contained the definition of consultancy agreed by that Committee. He made reference to the Value for Money questionnaire which had been completed by service areas with the results detailed in paragraph 14 of the SMC report. The findings were that consultants had been appropriately used and appropriate procedures had been followed and value for money had been achieved. He stressed strongly that there was nothing wrong with using consultants and referred to Hereford Connects where Capita had carried out testing and that they had been excellent value for money. In summary, he emphasised that tendering processes were being adhered to with regard to the use of consultants.

The Chairman asked if there was a preferred list of consultants and also questioned the use of former employees as consultants.

The Head of Financial Services informed the Committee that there was an approved government list of consultants. However, managers did take advice on which consultants to use, such appointments being in accordance with standing orders.

Councillor PJ Edwards referred to need for consultants costs to be charged in a uniform way. With regard to paragraph 11 of the report, Councillor RH Smith stressed the need to confirm budgetary cover before engaging consultancy support.

The Head of Financial Services agreed and stated that the coding of consultancy charges had been tightened up.

RESOLVED: that the report be noted.

123. PLANNING OBLIGATIONS AGREEMENTS

The Planning Policy Manager presented a report which reviewed arrangements for Planning Obligation Agreements. He referred to information which had been requested by the Committee, paragraph 4 of the report refers. He drew Members attention to paragraphs 5 to 14 of the report which gave details of the planning obligations. He emphasised that planning obligations are used to address the impact of any development. Therefore, the planning file would contain details showing where Section 106 monies would be utilised. He informed Members that copies of the Section 106 agreements were held by the Legal service and the Land Charges section.

Councillor R Mills referred to the perception that the Head of Planning and Transportation Services had the responsibility to account for Section 106 monies received but that this aspect was questionable.

The Head of Planning and Transportation Services informed Members that the Supplementary Planning Document (SPD) contained the policy which had been approved by Council and was followed in respect of Section 106 agreements. There was a clear route to which the monies would be used and the service departments were the recipients of the monies so that they track receipt and expenditure. The SPD suggests, however, that there should be a more central and corporate procedure on tracking and receipt of the monies. The Service had not yet appointed a Monitoring officer who would provide the new procedure. Due to the current economic climate, the appointment had been delayed. Arrangements were being put

AUDIT AND CORPORATE GOVERNANCE COMMITTEE FRIDAY, 21 NOVEMBER 2008

in place to appoint the officer to be in post in April 2009. After discussions with the Director of Resources, it had been agreed that the Monitoring officer would have a centralised role linking up the various issues arising from Section 106 agreements.

Councillor A Oliver wanted to make reference to a particular Section 106 agreement.

The Assistant Chief Executive Legal and Democratic advised the Committee that it was not the remit of the Committee to discuss individual Section 106 agreements.

In answer to a Member's question, The Head of Planning and Transportation Services stated that Section 106 agreements set out the projects where such monies would be spent.

The Chairman asked what would happen if developers decided not to adhere to the contents of a Section 106 agreement.

The Planning and Policy Manager informed the Committee that a housing developer, for example, would not be able to sell properties on a site if they did not adhere to the Section 106 agreement. The Council could if necessary pursue the non compliance of a Section 106 agreement through the Courts.

The Head of Planning and Transportation Services stressed that it was important that Section 106 agreements were complied with. The agreements were flexible to the extent that they could be amended where circumstances prevail in a development. In the current economic climate, some developments remained at the planning approval stage for some time and, therefore, did not provide the trigger point for the Section 106 agreement to take effect. Payments were being secured as a consequence of the SPD although, due to the economic downturn, few developments were commencing and therefore, since April 2008 no Section 106 monies had been received. He also emphasised that his service ensured that local communities and parish councils were consulted with regard to the needs of the area.

The Planning Policy Manager reminded Members that copies of Section 106 agreements were kept on the planning file appertaining to a development and were public documents available for perusal by members of the public.

Councillor RH Smith referred to a report received from the Chief Internal Auditor which referred to a most unsatisfactory audit finding on Section 106 agreement procedures in February 2004 and similar findings of further audit work had been highlighted in July 2005 and 2006/07. He considered that the questions before the Committee were now corporate governance issues. He also considered that the Committee wanted confirmation that comprehensive and accurate records exist of Section 106 agreements enacted and approved both before and since the approval of the SPD, that planning obligations were being discharged and for the purposes defined in the respective agreements and that there was a clear and satisfactory mechanism being applied whereby ward members and town and parish councils were consulted. He was, however, of the view that planning officers should decide ultimately where monies will be expended. He was also of the view that the Planning Policy Manager had satisfactorily answered these questions.

In answer to a question, Councillor JG Jarvis informed Members that approximately 90 per cent of Section 106 agreements were put before Committee and that the remainder were dealt with by officers in accordance with delegated powers.

The Director of Regeneration informed Committee that a new planning system would be implemented in August 2009 which would give important help to the new

AUDIT AND CORPORATE GOVERNANCE COMMITTEE FRIDAY, 21 NOVEMBER 2008

Monitoring officer. He expressed the view that local Members and parish councils needed to discuss and set out priorities as to where they consider Section 106 monies should be spent before developments are considered by the Council.

The Planning Policy Manager informed the Committee that he was unaware of any historic Section 106 agreement monies which had remained unpaid.

The Chairman asked that the Monitoring officer be requested to attend the May 2009 meeting of the Committee.

RESOLVED: that

- (i) the current arrangements for Planning Obligations be noted and that a further report be submitted at the end of the current financial year, and**
- (ii) the Planning Monitoring officer attends the May 2009 meeting of the Committee.**

124. UPDATED ANNUAL GOVERNANCE STATEMENT FRAMEWORK 2008/09

The Chief Internal Auditor presented a report which updated the Annual Governance Statement Framework in line with the Code of Governance approved by Council on 31 October 2008.

RESOLVED: that the updated framework for gathering evidence supporting the Annual Governance Statement as set out in appendices 1 and 2 to this report be approved.

125. UPDATE ON AUDIT AND CORPORATE GOVERNANCE COMMITTEE RESOLUTIONS AND RECOMMENDATIONS - MAY 2007 TO JUNE 2008

The Chief Internal Auditor presented a report which identified the resolutions and recommendations made by the Audit & Corporate Governance Committee between May 2007 and June 2008 that required further monitoring because:

- (i) The position reported to the Committee by the responsible officer was satisfactory but the matter was not yet concluded – ‘open and ongoing’ items.**
- (ii) The position reported to the Committee by the responsible officer was not satisfactory.**

He made particular reference to paragraph 7 of the report which set out the position of the remaining Recommendations and Resolution which were not yet closed.

RESOLVED: that the report be noted.

126. SECOND INTERIM AUDIT ASSURANCE REPORT 2008/09

The Chief Internal Auditor presented a report which provided the Committee with an update on progress in making the planned improvements to the internal control environment and progress with the Annual Audit Plan for 2008/09.

Councillor RH Smith informed the Committee that he and the Chairman were content that the recommendations referred to in paragraphs 26 and 29 of the report were issues that had now been dealt with satisfactorily. With regard to item 9 on page 87, he questioned whether this should be revisited. However, the Chief Internal Auditor informed members that employees and managers had been issued with clear guidance on how to make and authorise travel and subsistence claims in accordance with the Council's terms and conditions of employment and circulated a copy of the guidance for Members information.

The Assistant Chief Executive Legal and Democratic referred to item 42 on page 90 regarding election expenses and informed the Committee that negotiations would be entered into with the Herefordshire Association of Local Councils as to the costs of local elections in 2011. What was before the Committee was a basic update on the way in which the issue was moving forward. He reminded Members that the election process was the remit of the Returning Officer who makes accounts available to the Electoral Commission. Also, that although it was the responsibility of the Returning Officer to make sure elections take place, it was not that Officer's responsibility to ensure that finances were in place. The Council had a statutory duty to promote elections and the Strategic Monitoring Committee had made suggestions in this regard. Performance Indicators would be put in place in 2009. He would make enquiries of the Commission with a view to the accounts being made available to Members.

With regard to a Member's question, the Director of Resources informed the Committee that the Employee Code of Conduct was in place.

The Chief Internal Auditor informed the Committee that the Code was specific about entertainment given by officers and that this had to be signed off by Directors.

The Assistant Chief Executive Legal and Democratic informed the Committee that there was a White Paper currently on the review of the Member's Code of Conduct which would bring into being a statutory code of conduct for Members and this would include some of the issues raised.

Councillor Smith requested that item 71 on page 92 of the report should be re-opened as this has not yet been reported to Committee.

RESOLVED: That subject to the following the report be noted:

(i) item 71 regarding Learning Disability Inspection and Action Plan on page 92 of the report be re-opened and a report be submitted to the Committee.

The Chairman informed Members that it was the last meeting of the Committee that Sonia Rees, Director of Resources, would be attending before leaving the Council for a post with the Audit Commission. He thanked her for all her hard work whilst being with the Council.

The meeting ended at 12.40 p.m.

CHAIRMAN