

MINUTES of the meeting of Audit and Governance Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford, HR1 1SH on Tuesday 18 March 2014 at 10.00 am

Present: Councillor J Stone (Chairman)
Councillor NP Nenadich (Vice Chairman)

Councillors: CNH Attwood, EMK Chave, PGH Cutter, MAF Hubbard, TM James and PJ McCaull

In attendance: Mr P Jones (Grant Thornton), Mr T Tobin (Grant Thornton), and Mr M Khangura (Internal Audit Manager)

Officers: B Norman (Solicitor to the Council), P Robinson (Chief Financial Officer) and T Brown (Governance Services).

26. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Brig P Jones and DB Wilcox.

27. NAMED SUBSTITUTES (IF ANY)

There were no named substitutes.

28. DECLARATIONS OF INTEREST

There were no declarations of interest.

29. MINUTES

In relation to Minute number 23 it was asked whether the report on the waste contract variation by KPMG in December 2013 would be submitted to the Committee for consideration. The Solicitor to the Council commented that the report had been considered by Cabinet and the General Overview and Scrutiny Committee and had therefore been given appropriate discussion in public. He acknowledged that the report could also have been submitted to the Audit and Governance Committee. Members of the Committee considered that this would have been of benefit.

The Committee discussed when it would be timely for it to receive a further report on the waste disposal contract. The Solicitor to the Council updated the Committee on the negotiations which were now expected to be concluded by the end of April 2014. Members requested that a report be submitted to its meeting on 9 May.

In relation to Minute number 24 a Member commented that it had been highlighted at the Committee's meeting in November that in their report titled "Review of the Council's Arrangements for Securing Financial Resilience", included in a separate supplement Grant Thornton had incorrectly stated at page 30 of the supplement that the County's population had an average income above the national and regional average. It was asked if the external auditors had corrected this statement and they confirmed that they had done so.

Minute number 24 recorded that bringing adult social care in-house would make considerable savings. It was asked why, if this was the case, the council was continuing to contract out numerous services.

RESOLVED:

- That (a) the Minutes of the meetings held on 25 September 2013 and 26 November 2013 be confirmed as a correct record and signed by the Chairman; and**
- (b) a report on the waste disposal contract be submitted to the Committee on 9 May 2014.**

(The Chairman agreed that agenda items 6& 7 (minute numbers 31 and 32 refer) would be considered first followed by agenda item 5 (minute number 30 refers) and the urgent item (minute no 35 refers).)

30. INTERNAL AUDIT PROGRESS REPORT

The Committee considered the progress on internal audit work and key internal control issues arising from work recently completed.

The Internal Audit Manager presented the report. He highlighted paragraphs 8-10 of the report providing an update on the response being made by the Council to "Limited Assurance" reports that had been issued over the Council's Data Protection, Income Collection (Industrial Lets) and Public Health (Food Hygiene) functions. He noted that further work was required on the first two areas. In relation to the food hygiene function he observed that the Council had decided not to comply with the Food Law Code of practice. It was important that the Council kept this decision under regular review.

In discussion the following principal points were made:

- Clarification was sought on the data protection breach and whether the fact that one had occurred increased the risk of a heavier penalty if there were another occurrence. A Member commented that he understood that the Information Commissioner had been satisfied with the action taken by the Council and that there had been no fine on this occasion. The Chief Financial Officer confirmed that the Council had received a warning.
- Regarding Income Collection it was asked how the outstanding actions would be resolved. The Internal Audit Manager reiterated that recommendations had been made and progress in implementing these would be subject to a further report.
- Guidance was sought on the level of risk to the Council as a result of its failure to comply with the Food Law Code. The Internal Audit Manager commented that a risk assessment process had been agreed by the Council.
- Disappointment was expressed that Internal Audit's opinion of the Procurement function was that it was "adequate". The Internal Audit Manager confirmed that there was room for improvement. However, an action plan had been agreed and procurement specialists had been employed. Controls were in place. There was a contracts register and how contracts had been administered and the process by which they were approved was documented.

Some concern was expressed that the Council's procurement process was too bureaucratic and prevented smaller companies, such as those predominantly based in the County, from tendering for work from the Council. It was asked if, in assessing value for money, weight was given to the extent to which money paid to local firms for goods and services would be recycled within the local economy. It was noted that the Overview and Scrutiny Committee had previously looked at this issue and that the Chairman of the General Overview and Scrutiny Committee would review what had

been done, and check the provisions in the contract recently let to Balfour Beatty about using local businesses as sub-contractors.

- The Chairman noted that it was Mr Khangura's last meeting and thanked him on behalf of the Committee for his work and wished him well for the future.

RESOLVED: That the report and the Committee's comments upon it be noted.

31. GRANT THORNTON AUDIT PLAN

The Committee considered the external auditors audit plan for the financial year ended 31 March 2014.

Mr P Jones presented the report. He highlighted the following sections:

- (page 31 of the agenda papers) Developments relevant to your business and the audit
- (page 34-35) Other Risks identified including operating expenses, employee remuneration, welfare expenditure and property plant and equipment.
- (page 36) the value for money conclusion
- (page 37-38) – the results of interim audit work.

In discussion the following principal points were made:

- Page 31 of the report referred to transfer of assets to academies as a development that would need to be subject to financial reporting. It was observed that the Council would be likely to engage in many asset transfers, not just to academies.
- Concern was expressed about the implications of national plans to integrate health and social care with the implementation of the Better Care Fund. The Auditor commented that as part of the value for money work the Council's progress in planning for the Better Care Fund would be monitored. This would also take into account the approach of the Council's principal partners.

RESOLVED: That the report and the Committee's concerns about the implementation of the Better Care Fund be noted.

32. GRANT THORNTON AUDIT AND GOVERNANCE COMMITTEE UPDATE

The Committee considered a progress report from the external auditors on how they were discharging their responsibilities and on relevant emerging national issues and developments.

Mr P Jones presented the report. He highlighted the following sections:

- (page 50 of the agenda papers) - progress at 27 February 2014
- (page 51) – Audit Commission research – Tough Times 2013
- (page 52) – Local Audit and Accountability Act – noting the provision for local authorities to choose their own external auditors from 2016/17 or potentially from 2019/20 if all the current contracts were extended.
- (page 53) – the Better Care Fund
- (page 54) – the challenging final local government finance settlement 2014/15 with a further cut in spending power for local authorities.

- (page 55) – “2016 tipping point? Challenging the current”, the third report by Grant Thornton in an annual series assessing whether local authorities had the arrangements in place to ensure their sustainable financial future.
- (page 56) – alternative delivery models in local government – are you making the most of them?
- (page 57) the first impressions of the impact of welfare reform
- (page 61) Business Rate appeal provisions – noting that a successful appeal in one part of the country could have implications for others.
- (page 59) Private Finance Initiative (PFI) accounting – whilst not a significant issue, work was being carried out to ensure that the Council was accounting properly for the costs of its few PFI schemes. Mr Tobin commented that discussions had taken place with accounting officers and a training day had been arranged.

In discussion the following principal points were made:

- The “2016 tipping point” report was discussed. The Chief Financial Officer noted that the report considered the concept of tipping point scenarios such as decision paralysis where authorities failed to make the decisions necessary to manage financial and other challenges. Another scenario was where balancing the budget might mean that statutory duties could not be met, noting for example the potential pressure on adult social care expenditure, or matters that arose outside the Council’s control. His view of the council’s financial position was that some tough decisions had been made. There was a three year financial plan in place. This plan would deliver services for 2014/15 and provide for some replenishment of the Council’s reserves. By 2016/17 there was, however, the possibility that if something major were to occur issues over the Authority’s resilience could arise.
- The Solicitor to the Council commented that the current legal position was that a lack of resources was no defence against a failure to meet a council’s statutory duties. However, the Courts were becoming more understanding of the difficult financial position facing local authorities in determining judicial reviews of service reductions.
- In response to a question about the Council’s own “tipping point” the External Auditor commented that unitary authorities as a whole were underfunded compared with metropolitan authorities and the stresses they faced as a result of a reduction in Government grants were therefore more severe. The Chief Financial Officer had informed the Committee that the next two years could be funded. However, the longer term would be very challenging for local authorities and it was likely that consideration would need to be given to structural changes including mergers and, potentially, the relationship between health and local authority structures.
- The Chief Financial Officer confirmed that the Council did have a register of assets and the auditors assessed its accuracy because the assets appeared on the Council’s balance sheet. It was noted that there was the possibility of a number of community asset transfers and that these had the potential to give rise to accounting errors. The external auditors’ stated that their previously expressed concerns about the asset register had reduced.

RESOLVED:

That (a) the report be noted; and

- (b) **a report on the implications of the “2016 tipping point report” by Grant Thornton be made to the Committee.**

33. REVIEW OF THE STANDARDS PROCESS

The Committee considered alternative options for the operation of the Council's Standards process.

The Solicitor to the Council presented the report. He commented that there were a number of possible ways forward and he was not suggesting that there was a perfect answer.

The principal feature of his proposal was that the Standards Panel should be retained but in future should consider only written submissions. The Localism Act had changed the nature of the standards regime, providing for a limited range of less severe sanctions to be determined locally and removing the national Standards Board. In these circumstances it seemed appropriate to seek to make the standards process less intensive and achieve a more proportionate use of resources.

In discussion, Members, some of whom had been subject to a standards process, considered that, although the standards regime had changed and the sanctions available were less severe, the reputational risk to those who were the subject of a complaint was significant. They acknowledged the need to avoid an onerous, resource intensive process that inevitably entailed delay, but considered that the subject of a complaint should have a right to be heard by the Standards Panel, to be exercised at the individual's discretion.

Members did not consider that the complainant should have the right to be heard by the Standards Panel. They considered that this would, in effect, continue the current unsatisfactory, bureaucratic process. Once the complaint had been made it was for the Council to investigate in the way it saw fit.

It was requested that a report be made to the Committee periodically on how the subjects of complaints responded to any sanctions imposed by the Committee.

RESOLVED:

That (a) subject to consultation with the appointed independent persons and Herefordshire Association of Local Councils (HALC), a revised complaints process be recommended to Council which includes:

- **retention of the standards panel; and**
- **that the standards panel in future considers only written evidence unless the subject of the complaint requests to exercise their right to be heard by the Panel;**

(b) delegated authority be given to the Solicitor to the Council, in consultation with the Chairman of the Audit & Governance Committee to agree the final draft complaints process, following consultation, for recommendation to Council; and

(c) the outcome of how subjects of complaints responded to any sanctions imposed by the Committee be reported periodically to the Committee.

34. STATUS OF ROSS-ON-WYE COMMUNITY GOVERNANCE REVIEW GROUP

The Committee received a report clarifying the status of the group conducting the Ross-on-Wye Community Governance Review as that of a working group.

The Solicitor to the Council presented the report. He observed that a working group was better suited to the task than the Sub-Committee which had originally been proposed and which was not in line with the provisions in the Constitution.

It was noted that, further to the Committee's meetings in September 2012 and September 2013, where membership of the Sub-Committee had been discussed, the Councillors who had been involved in meetings of the group to date, as set out at paragraph 3.5 of the report, would complete the review.

Councillor PGH Cutter, as Chairman of the Working Group, gave a short progress report on the review.

Members thanked the officers supporting the review: Bill Norman, Solicitor to the Council, and Hazel Lavelle, Democratic Services Officer, for their work.

RESOLVED: That it be noted that the group set up to conduct the Ross-on-Wye Community Governance Review is a working group reporting to the Audit & Governance Committee.

35. URGENT ITEM - INFORMING THE AUDIT RISK ASSESSMENT FOR HEREFORDSHIRE COUNCIL

(In accordance with Section 100B (4) (b) of the Local Government Act 1972, as amended, the Chairman agreed to consider this item as a matter of urgency to allow it to be considered in accordance with the timescale requested by the external auditor.)

The Committee considered the external auditors' report on the risk assessment for the Council.

Mr T Tobin presented the report. He explained that as part of the risk assessment procedures the auditors were required to obtain an understanding of management processes and the Committee's oversight of: fraud, laws and regulation and the going concern assumption in the financial statements. The report included a series of questions on each of these areas and the response from the Council's management. The Committee was asked to consider whether these responses were consistent with its understanding and whether there were any further comments it wished to make.

In discussion the following principal points were made:

- It was asked how the Committee could assess the risk of fraud by one of the Council's partners if that partner claimed commercial confidentiality. The external auditor commented that disclosure was required and did not view this as a hindrance.
- The robustness and consistency of decision making and how this could be assessed was discussed. The external auditor commented that Members and Directors had to seek that assurance and individual pieces of audit work would supply evidence.
- The external auditor noted that the Comprehensive Performance Assessment Process had been abolished and there was no similar evidence based method of rating authorities. In considering how Herefordshire was performing regard could

however be had to the annual audit letter. Herefordshire's last Annual Audit Letter had contained more issues of concern than most other councils. The external auditors had tried to make clear to the Committee in that letter where there were areas for improvement.

RESOLVED: That the management response to the risk assessment and the report be noted.

The meeting ended at 11.50 am

CHAIRMAN