

AUDIT & GOVERNANCE COMMITTEE

MINUTES of the meeting held on Wednesday, 16 September 2015 commencing at 1.00 pm and finishing at 4.05 pm.

Present:

Voting Members: Councillor David Wilmshurst – in the Chair

Councillor Sandy Lovatt (Deputy Chairman)

Councillor David Bartholomew

Councillor Yvonne Constance OBE

Councillor Tim Hallchurch MBE

Councillor Jenny Hannaby

Councillor Nick Hards

Councillor Roz Smith

Councillor John Tanner

Non-voting Members Dr Geoff Jones

By Invitation: Maria Grindley and Alan Witty (Ernst & Young)

Officers:

Whole of meeting Ian Dyson, Chief Internal Auditor, Mr Glenn Watson, Principal Governance Officer, Deborah Miller and Tim Peart (Chief Executive's Office).

Part of meeting Lorna Baxter (Chief Finance Officer) and Peter Clerk (County Solicitor & Monitoring Officer) – Agenda Item 7 onwards

Agenda Item

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Officer Attending

Stephanie Skivington (Finance)

Kate Davies (Trading Standards)

The Committee considered the matters, reports and recommendations contained or referred to in the agenda for the meeting, together with a schedule of addenda tabled at the meeting and decided as set out below. Except as insofar as otherwise specified, the reasons for the decisions are contained in the agenda, reports and schedule/additional documents, copies of which are attached to the signed Minutes.

54/15 MINUTES

(Agenda No. 3)

The Minutes of the Meeting held on 8 July 2015 were approved and signed.

Matters arising

42/15

Councillor Smith wished it to be made clear that 'in future' the Committee be consulted prior to any/all changes to governance arrangements within the Committee's remit.

55/15 THE FINAL ACCOUNTS 2014/15

(Agenda No. 5)

The Committee had before them the Final #statement of Accounts 2014/15.

Stephanie Skivington, Corporate Finance Manager, introduced the report which set out a number of minor amendments made following the audit of accounts. She pointed out that there were no changes made to the main financial statement, but that the minor changes were set out in the notes and addenda.

Councillor Tanner enquired why the figures in Annex 1 on Page 17 relating to Children and Education Services (CES) for 2013/14 had been amended, since this seemed to be historic. Ms Skivington explained these amendments had been made since the headings for CES had changed for 2014/15 and consequently the figures had to be amended.

Dr Jones queried why the Committee was requested to approve the letters of representation as he suggested that this was the role of Officers of the Council and also questioned whether the Committee could have any meaningful input into the matter.

Maria Grindley, Audit Director, Ernst & Young, explained that in her experience this was what happened across the board and that, in approving the letters of representation, the Committee was effectively telling the external auditors that, in all areas that the external auditors are not able to obtain all the information that they require, there was nothing else that the Committee knows of which it should flag. The Chairman of the Committee was also required to sign the letters.

With regards to Note 28 on Page 22, Councillor Hallchurch queried why £58.5 million was listed as Cash and whether that amount was earning interest. In response, Lorna Baxter, Chief Finance Officer, explained that there was always a need for funds to be held that are readily available should payments be required. She added that the allocation of the cash reserve was determined by the Pension Fund Committee on an annual basis and that, as a percentage, this had not changed. She also explained that the amount listed as Cash was held as deposits in banks and as such would be earning interest.

Mrs Baxter pointed out that the recommendations to the report would need to be amended to give delegated authority to the Chief Finance Officer to make any changes necessary as a result of the finalisation of the Audit and to the accounts themselves.

RESOLVED: to agree the recommendations subject to giving delegated authority to the Chief Finance Officer to make any changes necessary as a result of the finalisation of the Audit and to the accounts themselves.

56/15 LOCAL GOVERNMENT OMBUDSMAN'S REVIEW OF OXFORDSHIRE COUNTY COUNCIL

(Agenda No. 7)

The Committee considered the report on the Local Government Ombudsman's Annual Review (AG7).

Glenn Watson, Principal Governance Officer, in introducing the report, explained that each year the Local Government Ombudsman (LGO) issued an Annual Review Report about each Council in relation to the complaints made to the Ombudsman about that Council in the previous financial year. The report to the Committee informed members about the LGO's Annual Review Report for Oxfordshire County Council for the year 2014/15.

Mr Watson explained that in previous years the Ombudsman issued more detailed Annual Reports with a commentary on each authority's performance. However, following changes to the LGO's investigations procedures, this was no longer the case.

Mr Watson also added that the information in the report should come with a warning in that that information did not reflect the information held by the Local Authority with regards to the number of complaints upheld and that the LGO were currently not likely to correct their figures.

With reference to Paragraphs 8 and 9, Mr Watson pointed out that the subject areas for which Oxfordshire County Council had attracted the most referrals to the LGO reflected national trends.

Mr Watson then drew attention to Paragraph 13 of the report which gave a summary of the complaints upheld by the LGO. He explained that, contrary to the LGO's report which stated that of the 17 complaints investigated by the LGO 7 complaints were not upheld and 9 were upheld, in fact 9 complaints were not upheld and 7 were upheld. He also informed the Committee that, generally speaking, the action or remedy required of the Local Authority in those cases that were upheld was not substantial.

To put this into a broader context, Mr Watson explained that during 2014/15 the Council had received 131 complaints relating to Adult Social Care, 104 relating to Children and Education Services and 282 Corporate Complaints. The relatively small number of complaints that reach the LGO demonstrated the robustness of the Council's own complaints procedure. However, he added that lessons will continue to be learned and that complacency would not become an issue.

Peter Clark, County Solicitor and Monitoring Officer, added that he agreed that the Council had a robust system in place in order to handle complaints and pointed out that there were no common themes of mistakes being repeated in the report.

Dr Geoff Jones pointed out that more than half of the complaints received by the LGO regarding Oxfordshire County Council were referred back to the Council and should not be regarded as signed off as the Council would still have had to investigate those complaints.

A number of Members expressed their concern that, although they had confidence in the Council's complaints procedure, the fact that the figures in the LGO's report were inaccurate meant that the Council should use caution when assessing its own performance against them.

The Committee noted that it would be the last meeting for Peter Clark as Monitoring Officer. The Chairman and members paid tribute to Mr Clark and wished him well in his new role as Head of Paid Service.

RESOLVED: to note the report and to request that Peter Clark, County Solicitor and Monitoring Officer, write to the LGO to express the Committee's dissatisfaction with the accuracy of the information provided by the LGO in its Annual Review.

57/15 ERNST & YOUNG - ANNUAL RESULTS

(Agenda No. 6)

Maria Grindley, Audit Director, Ernst & Young, introduced the external auditor's Annual Results reports for the year ending March 2014. She highlighted that there was still outstanding work to be completed before the Annual Results could be signed off, but that this was likely to be completed during the week following the Committee meeting. She added that a notice would be circulated to the Committee once this was completed.

Ms Grindley drew attention to Pages 20-21 of the addenda which highlighted significant value for money risks. She added that additional work with regards to assessing value for money risks had been carried out in response to the County Council's decisions on the position of the Chief Executive.

Councillor Lovatt questioned whether the recommendation at the bottom of Page 21 of the addenda with regards to the Council's decision to join the Integrated Business Centre (IBC) partnership with Hampshire County Council, indicated that the external auditor had major reservations about the decision.

Ms Grindley explained that it was not for the external auditors to provide an opinion on whether the decision to join the IBC was a good one or not. Rather, the recommendation reflected the concerns that Ernst & Young had regarding the lack of market testing that was carried out by the Council before the decision was made to join the IBC.

Lorna Baxter, Chief Finance Officer, added that this was a lesson to be learned, but emphasised that the decision of the Council was to join a partnership to provide back office functions, rather than outsource those functions completely. However, she accepted that the Council could have done more to tease out what other authorities may have been able to offer.

Dr Jones added that the report read as though it was advocating that those back office functions should be privatised within the next 5 years and that the Council would be criticised were that not to happen.

With regards to Page 20 of the addenda, Councillor Hards queried whether it was possible to give an overall view of risks associated with securing financial resilience since certain risks can be imposed upon the Council from outside of the organisation.

Ms Grindley answered that, as external auditors, Ernst & Young would require assurance that the Council was taking into account everything that it was aware of and being realistic with its medium term financial planning. Ernst & Young would comment on how well the Council assessed the likelihood and impact of such external risks.

Ms Grindley informed the Committee that, as it was a necessity of her role as an external auditor with Ernst & Young to rotate between organisations following a period of time, this would be her last meeting with the Committee and that, as of the next meeting of the Committee, Mr Mick West would attend as a representative of Ernst & Young. Ms Grindley took the opportunity to say thank you to the Committee.

RESOLVED: to note the report and to thank Maria Grindley, Ernst & Young, for her work with the Committee.

58/15 INTERNAL AUDIT 2015/16 PROGRESS REPORT

(Agenda No. 8)

The Committee had before them a report (AG8) which provided an update on the Internal Audit Service including; resources, completed and planned audits, and an update on counter-fraud activity.

Ian Dyson, Chief Internal Auditor, in introducing the report, explained that the proposed restructuring of the current resources of the Internal Audit Service had been completed and that consequently three distinct teams had been created with the following responsibilities; to protect the role and independence of the Internal Audit function; to provide a strategy and resource for the management of Counter-Fraud; and to create capacity to manage the corporate responsibility for Risk-Management and a new Business Assurance function.

Mr Dyson explained that a recruitment process was still underway within the team and that the team has also commissioned Zurich, the Council's insurers, to provide 100 days of assurance assistance.

Mr Dyson also told the Committee that conversations with Oxford City Council were at an advanced stage in respect of counter-fraud support within the Customer Service Centre and with regards to Blue Badges.

With reference to Paragraph 13 on Page 51, Councillor Bartholomew queried the severity of the case of counter-fraud that had been passed to the Police and questioned at what stage the investigation was at. In response, Mr Dyson explained that the case had been discussed at the meeting of the Audit Working Group and

that, while the financial element of the case was below £10,000, there were other significant implications. Mr Dyson added that he was hesitant to go into detail about the case as it was a current open investigation. Councillor Bartholomew stated that he was satisfied that the Audit Working Group was looking into the case.

Mr Dyson explained that the Audit of the disposal of ICT equipment was highlighted as 'Red' due to concerns over possible losses of data. He told the Committee that a Senior Manager had been requested to attend the next meeting of the Audit Working Group in order to address these concerns.

Mr Dyson added that a number of counter-fraud investigations were on-going and that details of these investigations would be reported to the October meeting of the Audit Working Group.

With regards to the National Fraud Initiative (NFI), Mr Dyson explained that the matches of the 2014/15 exercise had been released and that a process to allocate reviews of over 6000 'priority one' matches was under way. He added that this was not an unusual amount of matches to be returned.

Looking forward, Mr Dyson explained that he anticipated that matters arising from the recent implementation of IBC processes, specifically relating to the file upload system for payments, will need to be examined by the Internal Auditors. He added that flexibility had been left within the team's workload to look at such matters.

Councillor Smith stated that her concern regarding the issue of payments through the IBC was that the Council did not have a policy in place to address and rectify the problems that late payments on the part of the Council could cause to smaller organisations.

Mr Dyson stated that he believed the problems to be 'teething problems' as opposed to complete failures, but acknowledged that teething problems could have significant impacts and reiterated the need of assurance on action being taken.

Dr Jones queried whether, given the current work load of the Internal Auditors, Internal Audit work was still at a level that the Committee was happy with and that that function was not diminishing.

Mr Dyson responded that he understood the concern that true Internal Audit work could be seen as being diluted. He added that he believed that the team had become a 'go-to unit' due to its good work and that too much of the team's work involved offering advice and support. Mr Dyson was concerned about the need to protect the independence of Internal Audit. He added that a move towards systems-based compliance checking was separate to Internal Audit work.

Councillor Bartholomew queried whether the audit review of the Highways Contract with Skanska (P.57) had started. Mr Dyson replied that it had started but that it was at a very early stage. Mr Dyson added that terms of reference had been agreed and that the target was to update the Committee on that audit at the January meeting.

Councillor Hallchurch questioned who carried out the audits relating to ICT, to which Mr Dyson answered that a qualified ICT Auditor was contracted to undertake that work.

Councillor Constance enquired as to why the E&E Planning Audit had been rescheduled and when it was due to start. Mr Dyson explained that the Audit had to be rescheduled due to staffing matters and that, while he was unable to say in which Quarter the audit work would be carried out, it would be done this year.

Councillor Hannaby stated that she now felt that Officers were doing excellent work with regards to Planning and that she would be happy for other audits to be given a higher priority. Mr Dyson responded that, while information from Officers provided a degree of assurance, this did not provide real assurance that control systems were in place.

RESOLVED: to approve the Q3 Internal Audit Plan.

59/15 REPORT ON THE AUTHORITY'S POLICY FOR COMPLIANCE WITH THE REGULATION OF INVESTIGATORY POWERS ACT 2000 AND USE OF ACTIVITIES WITHIN THE SCOPE OF THIS ACT

(Agenda No. 9)

The Committee had before them a report (AG9) which provided an overview of the use of activities falling with the Regulation of Investigatory Powers Act 2000 by Oxfordshire County Council in the period from April 2014 to March 2015.

Kate Davies, Team Leader, Trading Standards, introduced the report and explained that the Regulation of Investigatory Powers Act 2000 ('the ACT') regulated the use of covert activities by Local Authorities. It created the statutory framework by which covert surveillance activities may be lawfully undertaken. She added that the Act was in place to ensure that Authorities comply with the Human Rights Act.

Ms Davies explained that the use of covert surveillance under the Act was subject to the approval of a Magistrate who must take into account the necessity of the action to be taken, the proportionality of the action and the potential for collateral intrusion into the privacy of others not related to the investigation before granting approval.

The Committee heard that during 2014/15 the Council authorised covert surveillance on 4 occasions, three of which were related to investigations carried out by Trading Standards and one relating to an internal investigation. Ms Davies also informed the Committee that the Council had collected subscriber details on 22 occasions but that these all related to the same case.

Members took the opportunity to congratulate the Trading Standards department on its work.

Dr Jones pointed out that the Policy attached to the report stated that the Committee would receive a quarterly report on the use of the Act, but that, although the Committee had delegated that function to the Audit Working Group (AWG), as Chairman of that group he had never received such a report.

Ian Dyson, Chief Internal Auditor, answered that if there were any actions to report, they should be reported to the Chairman of the AWG and if it is deemed necessary they should then be put on the agenda for the AWG. However, since there was often little to report, it was likely that this had lapsed.

Peter Clark, County Solicitor and Monitoring Officer, stated that this needed to be reinstated and added that, since the Monitoring Officer would authorise requests for a Magistrate's approval for use of the Act, the Monitoring Officer should report to the Chairman of the AWG after each instance.

Councillor Bartholomew enquired why the use of routine test purchases was not reported. Ms Davies explained that intelligence regarding underage sales had to be responded to as appropriate and that this may include a visit to the trader or a report to the Police. She added that the Code of Practice only enabled the use of covert surveillance after overt action had failed. However, she added that this guidance had recently been amended to enable Authorities to consider the use of covert actions at an earlier stage and that the Council was planning to carry out underage test purchases in the near future.

Mr Clark concluded that the use of covert surveillance needed to be carried out with a clear intention and that the results of each investigation must be disclosed whatever the findings.

Following a question relating to the investigation set out in Paragraph 11 of the report, Ms Davies confirmed that the sentencing of those found guilty of offences under consumer protection legislation was now scheduled for the end of September 2015.

RESOLVED: to note the periodic and annual use of RIPA by Oxfordshire County Council subject to receiving an Annual Update report.

60/15 GOVERNANCE ARRANGEMENTS

(Agenda No. 10)

The Committee had before them a report (AG10) which was submitted in response to the Committee's request at its last meeting for assurance that the Council's corporate governance arrangements would continue to be fully managed. This was in response to the impending departure of the current Chief Executive at the end of September 2015, the Council's intention to appoint Mr Peter Clark as the Head of Paid Service and, consequently, to appoint Mr Nick Graham as the Council's Monitoring Officer.

Glenn Watson, Principal Governance Officer, in introducing the report, explained that the changes in the coverage of responsibilities were set out in the table on Pages 81 – 82 of the agenda. He added that the Head of Paid Service was not legally permitted to fulfil the role of Monitoring Officer. As such, Mr Nick Graham, the current Deputy Monitoring Officer, would fulfil that role. Mr Watson assured the Committee that he did not believe that there was a reduction in the Council's robust governance arrangements and that, in some areas, this had been strengthened.

Councillor Tanner expressed his concern that there appeared to be no timeframe set with regards to the Senior Management Review that would be taking place following the departure of the Chief Executive and that this could lead to a period of uncertainty. Mr Clark assured the Committee that the County Council Management Team (CCMT) would be working closely together with Members to discuss the shape of the Council and its management structure and that this would commence shortly. However he added that it would not be easy to give a timeframe but hoped that a review would have been carried out before Christmas and a structure proposed within the following two months.

Dr Jones stated that his concern was that he had not got a sense of whether the CCMT was working performing well or not. Mr Clark responded that the paper was not presented in order to give details on the performance of the Council. He explained that the Performance Scrutiny Committee continually assessed the performance of the Council and that, as far as he was aware, the Council was performing at the same level that it had been in the previous 12 months. Mr Clark added that as a consequence of the Chief Executive leaving the Council, there was a need to take stock and produce working arrangements as to how the Council will move forward. As far as performance was concerned, Mr Clark stated that the same structures were in place.

Councillor Hannaby explained that she was anxious that Councillors and politicians were not involved with the proposed governance arrangements and Senior Management Review.

Mr Clark reiterated that as Head of Paid Service, his role would not be that of the Chief Executive. He stated that he was there to lead the CCMT through the uncertain times and ensure that the Council remains held together. He added that taking on the role of Head of Paid Service was not a back door method to become Chief Executive and that, personally, he had given up a lot of what he valued in his profession in accepting the role. However, it was a necessity.

With reference to the function of the Head of Paid Service as outlined in Page 80, Councillor Constance queried how the role of the Head of Paid Service differed to that of the Chief Executive and also whether, in agreeing to the recommendations, the Committee was pre-empting the future management structure.

In response Mr Clark explained that the Chief Executive was charged with a complete leadership role to effect change, irrespective of views. Whereas the Head of Paid Service must ensure that others are acting properly and that the Council's functions are discharged effectively. He added that the Committee was not pre-empting an early decision as the appointment of the Monitoring Officer and Head of Paid Service was for Full Council to determine.

Referencing the function of the Constitution outlined in Page 81, Councillor Bartholomew moved, and Councillor Smith seconded, to charge the Monitoring Officer to look for a sensible way forward within the Constitution with regards to large reports being attached to the Council's agendas. This came following the recent Full Council meeting where the agenda contained over 1000 pages. It was proposed that

such large reports be made available on request only. Following debate, the motion was put to the vote and it was:

RESOLVED: (nem con) to:

- (a) note the limited amendments to senior officer responsibilities for governance outlined in paragraph 10 of the report;
- (b) that in future large committee reports should not be appended to the Agenda sent to Members of the Committee, but be available upon request.

61/15 COUNTY RETURNING OFFICER APPOINTMENT

(Agenda No. 11)

(Peter Clark, Chief Legal Officer and Head of Law and Culture, left the room for the duration of this item)

Glenn Watson, Principal Governance Officer, in introducing the report, explained that, as a result of the current Chief Executive leaving the Council at the end of September 2015, it is a legal requirement for the Council to appoint a new County Returning Officer. The Council is required to appoint a County Returning Officer under Section 35(1) of the Representation of the People Act 1983. The Returning Officer is responsible for the arrangement of elections to the County Council.

Mr Watson told the Committee that under the Council's Constitution, the Audit & Governance Committee retained delegated responsibility for appointing the Council's Returning Officer and that it was for the Committee to appoint a suitably qualified person to fulfil the role. Mr Watson explained that the responsibilities of the post were set out in Paragraph 4 of the report.

Mr Watson added that Mr Peter Clark, having also served as Deputy Returning Officer, had significant legal and managerial experience of overseeing the Council's elections and that on the basis of his experience the Committee was recommended to appoint Mr Clark as the County Returning Officer.

Councillor Smith enquired who was responsible for appointing the Deputy Returning Officer. Mr Watson explained that it is the Returning Officer who made that appointment.

Councillor Lovatt asked to whom the Returning Officer was directly responsible. Mr Watson explained that as the Returning Officer was personally responsible for election matters, the Returning Officer was responsible to the Electoral Commission.

A number of Members stated that, while they were happy for Mr Clark to be appointed to the role, they were concerned that the recommendation to the report did not make clear that the appointment was on an interim basis until the review into the senior management structure of the Council was concluded.

Mr Watson added that it was for the Audit and Governance Committee to appoint and reappoint to the post as it felt fit. However, Members stated that they were keen for

the recommendation to reflect that the appointment to the post should reflect the outcome of the review into the senior management structure of the Council.

RESOLVED: to appoint Mr Peter Clark, the current Chief Legal Officer, as the interim County Returning Officer for the Council, with effect from the cessation of the current Chief Executive's employment with the Council until the conclusion of the Senior Management Review.

62/15 UPDATE ON HAMPSHIRE PARTNERSHIP

(Agenda No. 12)

Lorna Baxter, Chief Finance Officer, gave an update to the Committee on the implementation of the Partnership arrangement with Hampshire County Council for the provision of HR and Finance Services through the Integrated Business Centre (IBC).

Mrs Baxter told the Committee that the implementation of IBC services was a significant business change and that, during the first two weeks after the go-live date, more than 17,000 users had signed in to the system, 2,000 invoices had been added and 4,000 travel expenses had been claimed through the system.

Mrs Baxter added that adopting the new processes had been particularly challenging for schools since there was only a short opportunity for schools to process their payroll following the end of the summer holidays. Despite this, Mrs Baxter stated that she stood by the decision to delay the go-live date and added that a significant amount of support was being provided for schools. This included 15 help sessions in June with a further 70 arranged to provide one to one support.

Mrs Baxter explained that there were still issues that needed to be resolved but that her view remained that it would take around 6 months for the new system to completely bed in. She added that the processes provided by the IBC were functioning as they should. However issues arose when processes at Oxfordshire County Council were not followed correctly.

Councillor Hards stated that issues involving payments for schools were of a critical concern and queried where schools should turn for advice. Mrs Baxter stated that the Council was working closely with schools to provide a significant amount of information on where to direct issues.

Councillor Hards added that when issues are raised with the IBC, as far as the user could tell, nobody was dealing with them. Mrs Baxter stated that it had been fed back to Hampshire County Council that customer service and times were not as expected.

The Committee received the presentation.

63/15 REPORT FROM THE AUDIT WORKING GROUP

(Agenda No. 13)

Ian Dyson, Chief Internal Auditor, introduced the report on the September meeting of the Audit Working Group (AWG). He informed the Committee that no material issues had arisen from the item on the Oxfordshire Fire and Rescue Service Risk Register.

..... With reference to the Internal Audit Update, Mr Dyson explained that one Priority One Action had not been met and that the Senior Manager had been requested to attend the next meeting in order that the AWG understand the reasons why the Action had not yet been met and to determine whether the delays were appropriate to the level of risk.

Councillor Smith thanked Mr Dyson and Dr Jones, Chairman of the AWG, for the in-depth meeting and stated that she was pleased to note that Deputy Directors would attend the meeting to answer probing questions.

Members expressed their concern that the audit of the disposal of ICT equipment had resulted in a Red opinion. They expressed doubts as to whether the Council knew where all of the equipment is and stressed the importance of such matters to the Council's reputation.

Mr Dyson explained that it was difficult to get absolute assurance as to the location of all ICT equipment, but stressed that there were restrictions on email accounts, on the content of emails and on who and what could be accessed on the ICT Network. He added that the ICT policy ensured that there was personal responsibility over the use of ICT equipment.

Councillor Hallchurch added that the only way of ensuring that all ICT equipment was disposed of safely was to destroy the Hard Drive of the devices.

The Committee AGREED to note the report.

64/15 AUDIT & GOVERNANCE COMMITTEE WORK PROGRAMME

(Agenda No. 14)

The Committee had before them the Committee's Work Programme for 2015.

The Committee AGREED the Work Programme for 2015, subject to the following additions:

18 November 2015

- Special meeting of the Audit Working Group –
1:00 – 2:00 pm, for a private session with the External Auditor.
- SCS LEAN and IT system update.

..... in the Chair

Date of signing

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