

AUDIT & GOVERNANCE COMMITTEE

MINUTES of the meeting held on Wednesday, 15 March 2023 commencing at 2.00 pm and finishing at 4.03 pm

Present:

Voting Members: Councillor Roz Smith – in the Chair

Councillor Ted Fenton
Councillor Ian Middleton
Councillor Judy Roberts
Councillor John Howson (substituting for Councillor Freddie Van Mierlo)
Dr Geoff Jones

Other Members in Attendance: Councillor Yvonne Constance OBE (attended remotely), Dr Geoff Jones (Co-Opted Member) and Councillor Andrew Gant (Cabinet Member for Highway Management, for agenda item 5).

By Invitation:

Officers:

Whole of meeting Lorna Baxter (Director of Finance), Sarah Cox (Chief Internal Auditor), Kate Charlton (Interim Head of Improvement, Law and Governance) and Jonathan Deacon (Interim Democratic Services Officer).

Part of meeting Paul Fermer (Director of Highways and Operations), Melissa Sage (Head of Procurement Contract Management), Tim Chapple (Treasury Manager), Simon Harper (Head of Governance) and Declan Brolly (Senior Counter Fraud Officer).

Adrian Balmer and Maria Grindley of Ernst & Young also in attendance.

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

15/23 APOLOGIES FOR ABSENCE AND TEMPORARY APPOINTMENTS

(Agenda No. 1)

Apologies for absence were received from the Vice-Chair, Councillor Brad Baines, Councillor Nick Leverton, Councillor Freddie Van Mierlo and the Cabinet Member for Finance, Councillor Calum Miller. Councillor John Howson substituted for Councillor Van Mierlo.

16/23 DECLARATION OF INTERESTS - SEE GUIDANCE NOTE

(Agenda No. 2)

There were none.

17/23 MINUTES

(Agenda No. 3)

The Committee approved the minutes of the meeting held on 18 January 2023 and authorised the Chair to sign them as a correct record.

18/23 PETITIONS AND PUBLIC ADDRESS

(Agenda No. 7)

There were none.

19/23 FUTURE HIGHWAY MAINTENANCE CONTRACT

(Agenda No. 5)

The report was presented by Paul Fermer, Director of Highways and Operations. He confirmed that with the existing highways maintenance contract with M-Group Infrastructure (Milestone) being set to expire on 31st March 2025 there would be a substantial procurement exercise to undertake for the new contract. A robust governance process was being put in place to manage the project, including an Officer Working Group and a Portfolio Holders (Councillor Andrew Gant, Cabinet Member for Highway Management and Councillor Calum Miller, Cabinet Member for Finance) & Corporate Director Steering Group. It was being ensured that Cabinet would have full visibility of the project and they were taking formal decisions at three key stages within the project. These were the presentation and approval of proposed approach (October '22), confirmation and approval of the preferred model to develop (March '23) and approval to procure the preferred model (September '23).

In response to questions from the Committee, Councillor Gant, Mr Fermer and Melissa Sage, Head of Procurement Contract Management, made the following points:

- The paper focused on process and governance as they were applicable to this meeting. The specific details of the proposed contract options would be set out in a report to Cabinet the following week. This included the work of the external contractor DM Squared and how they ranked the options that were available. The Officer Working Group and the Portfolio Holders & Corporate Director Steering Group are both held on a monthly basis.

- Assurance was sought that risks were being mitigated in relation to bidders. Members were advised that robust policies, processes and templates had been established and whilst there was always the potential for losing bidders to legally challenge the processes, the Council's recording of its course of action would be fully documented.
- Further information was sought on the estimate that consultations support would cost in the order of £400k. It was stated in response that this took into account experience of a previous contract and benchmarking against the spending of other local authorities. It was important to have the right level of resource and capability both in terms of service and legal knowledge.
- The tender process included a first stage where the whole market was involved in order to assess interest. The top few in the scoring would be taken through to the creation of the tender bid. There would not be a competitive dialogue where there were several iterations of the tender submission. The suppliers would only submit one full tender bid. It was to be determined how many lots there were under the one tender. The specification of the tender and how many contractors were involved in the final contract was also yet to be determined as the final decision on the preferred model would be made by Cabinet. Each tenderer would be assessed on their own social value and how it would benefit the contract.
- The overall length of contract and breaks was the next stage of the process for consideration.
- The contract will cover the whole of Oxfordshire but exclude the unclassified network within the City as the City have a long standing right they have enacted (under s42 of the highways act) to undertake maintenance works. There was confidence that contract award by March 2024 was doable, taking into account the procurement strategy. The Committee was informed that for a contract of this size, there was not a commitment to future funding but to give an indication, past funding levels and volumes of work were reviewed. Contractors would need to make a judgement on the pricing in the current financial climate.

The Committee recommended that a member of the procurement team was appointed to the project team in response to lessons learned from previous contracts.

RESOLVED: That the Committee **NOTED** the governance in place and associated process being followed for the procurement of the future highway maintenance contract.

20/23 ANNUAL REPORT OF THE AUDIT & GOVERNANCE COMMITTEE

(Agenda No. 6)

A draft Annual Report of the activities of the Committee for the financial year 2022/23 had been included as an appendix for this item. It had previously been circulated for review and comment to Members. The Committee sought no further amendments to the Annual Report at the current meeting. It was noted that the Annual Report would be finalised for presentation to the May meeting of the Council by the Chair of the Audit & Governance Committee.

RESOLVED: That the Annual Report of the Audit & Governance Committee be finalised in preparation for presentation to the May meeting of the Council by the Chair of the Committee.

21/23 TREASURY MANAGEMENT 3RD QUARTER PERFORMANCE REPORT 2022/23

(Agenda No. 7)

The Committee received a report covering the treasury management activity for the third quarter of 2022/23. It provided an update on the anticipated position and prudential indicators set out in the Treasury Management Strategy Statement & Annual Investment Strategy for 2022/23 agreed as part of the Council's budget and Medium Term Financial Strategy in February 2022.

Tim Chapple, Treasury Manager, presented the report. He brought to Members' attention that the report was written against a backdrop of a financial year with significant volatility. It was measured against budgets that were approved in February 2022 when the forecast for interest rates was considerably lower than was the case currently.

Mr Chapple referred to £5m of external debt being repaid during the third quarter of the year, bringing it down to £308.38m at the end of December 2022. Another £2m was expected to be repaid before the end of the financial year. The original budget had assumed that there would be borrowing of an additional £46m this financial year but after reviewing balances over the medium term and the outlook for interest rates it had been decided it was not the right time to do so. There was now an underspend of £600k in the interest payable budget.

He re-iterated that in terms of investments, security and liquidity were prioritised above all other considerations. Balances were slightly higher than originally envisaged with the average in-house return being 1.25% in comparison to the budgeted rate of 0.35%. This had produced gross interest receivable of £4.07m for the nine months to 31 December 2022 compared to the budget of £1.16m. The in-house interest receivable for 2022/23 was currently forecast to be £6.70m, which was £5.16m above the £1.54m budget. A significant chunk of this (approximately £3.5m) would be applied to developer contributions. The remainder would be applied to revenue.

In respect of external funds, whilst some volatility was still being experienced in the capital value, they were continuing to produce income. The figure was £2.9m interest compared to a budget of £2.5m. They were forecast to be slightly above the year end budget of £3.8m.

In response to questions from the Committee, Mr Chapple and Lorna Baxter, Director of Finance, made the following points:

- The extra interest received was offset against the Council's budgetary pressures.
- The Council would have to pay a premium for LOBO (Lender's Option/Borrower's Option) and Public Works Loans Board (PWLB) early

repayments. There were occasions where LOBO loan providers wished to get rid of the loans from their books and potentially would reduce their premium. In this scenario it could become beneficial for the Council to make an early repayment. Bond yields were lower than in September 2022 and the risk of them being called was likely to have passed. There were potential opportunities for debt repayments whilst the bond yields remained at their current level.

- The Government had decided to extend the statutory override on the external funds which meant that any fluctuations from the capital value did not transfer to the revenue budget. The statutory override had been due to end at the conclusion of this financial year but it had been extended for two more years. During that period the Council would need to decide what the approach should be to external funds, including whether to reduce exposure to them in order to mitigate risk or to build up reserves to offset any future fluctuations. It was likely that there would be a recommendation in the future to build up reserves.

RESOLVED that:

- 1) the Committee **NOTED** the report; and,
- 2) Council be **RECOMMENDED** to **NOTE** the Council's treasury management activity in the third quarter of 2022/23.

22/23 SCALE OF ELECTION FEES 2023-24

(Agenda No. 8)

Simon Harper, Head of Governance, introduced the item and confirmed that the scale of fees relating to the election of County Councillors and any other poll associated with the County Council during the year was brought to the Committee in the interests of transparency. The scale of expenses set out in the annex to the report would be applicable to any by-elections held within the 2023/24 financial year. It was explained that the fees were consistent now across the county, including the five districts, due to a common position resulting from a good working relationship. The fees took into account the living wage and any pay award for local government staff and were effective from May.

It was clarified in response to Members' questions that consideration had been given in the scale of the fees to the requirement for voter ID to be provided from May. There was the potential need for more election staff to be employed to handle this additional requirement. The situation would be assessed at the district council elections in May.

RESOLVED: That the scale of election fees for the financial year 2023/24, as set out in the annex to the report, be **NOTED**.

23/23 OXFORDSHIRE CODE OF CORPORATE GOVERNANCE

(Agenda No. 9)

Kate Charlton, Interim Head of Improvement, Law and Governance, presented the paper. She stated that in 2016, CIPFA and SOLACE had produced an updated

guidance and a framework entitled “Delivering Good Governance in Local Government: Framework 2016 Edition” which set out principles for local authorities to have a structured approach as to how they achieve good governance. The updated Oxfordshire Code of Corporate Governance was included as an annex to the report. The report also set out in Appendix B how the Council had demonstrated it was meeting the principles of good governance. Approval was sought for the Oxfordshire Code of Corporate Governance.

Two matters were raised by Members of the Committee. Firstly, it was understood that the ‘Actions and behaviours taken by the Council that demonstrate good governance’ in Appendix A of the report were taken from the CIPFA and SOLACE guidance and framework. However, it was queried whether the wording could be amended from ‘Determine the wider public interest associated with balancing conflicting interests between achieving the various economic, social and environmental benefits, through consultation where possible, in order to ensure appropriate trade-offs’ so that the environment was prioritised. Ms Charlton stated that she would consult the Director of Law & Governance on this point and provide a response to the Committee.

Secondly, a concern was expressed in relation to another CIPFA & SOLACE recommendation in Appendix A, ‘Ensuring Members and staff have access to appropriate induction tailored to their role and that ongoing training and development matching individual and organisational requirements is available and encouraged’ as to whether the induction training was sufficiently comprehensive to cover the range of work a councillor does and whether the training had been impacted by the impact of Covid. Ms Charlton responded that the Director of Law & Governance planned to review Member training.

The Chair commented that she had requested that the Director of Law & Governance forwarded the Oxfordshire Code of Corporate Governance to Cabinet Members due to its importance.

RESOLVED: That the Committee **APPROVED** the Oxfordshire Code of Corporate Governance.

ACTION: The Interim Head of Improvement, Law and Governance to consult the Director of Law & Governance on the possible re-wording of ‘Actions and behaviours taken by the Council that demonstrate good governance’ in Appendix A of the report taken from the CIPFA and SOLACE guidance and framework and provide a response to the Committee.

24/23 ERNST & YOUNG UPDATE

(Agenda No. 10)

A verbal update on the status of the 2020/21 and 2021/22 audits was provided to the Committee by Adrian Balmer of Ernst & Young (E&Y), the external auditors. He stated that infrastructure assets were the final substantive issue relating to the 202/21 audit. CIPFA had released their technical bulletin. Additional guidance had been shared with the Council’s Finance team and it was hoped that a response would be received early next week which would help E & Y make an assessment on the

concluding position in terms of infrastructure assets. It was intended to complete and sign off the pension fund audit for 2020/21 at the same time as the 2020/21 main audit.

In respect of the 2021/22 audit, Mr Balmer stated that the majority of the samples had been sent to the Finance team and it was hoped that the remainder would be with Finance by the end of the week.

He added that a report was expected from E&Y's internal specialist shortly on the review of land and buildings valuations which was seen as an area of significant risk. A fuller update on the initial findings of the internal specialist would be provided at the next Committee meeting in May.

Ms Baxter explained that it was very challenging for the Finance team working on three different years of audits simultaneously, moving towards the end of the 2022/23 financial year. Until the 2020/21 audit was signed off, the 2021/22 audit was still in draft form. She raised the point that the statutory override in relation to the infrastructure assets was only a temporary solution and significant work would be required to ensure a long term, permanent solution was found. It would be necessary for local authorities to capture specific information with updates on the assets. It was likely that the Council's Highways and Property teams would have to record additional information.

In response to a question from the Committee, Mr Balmer advised that a change which had come into effect from 2021 and had to be taken into account for the 2020/21 and 2021/22 audits was the requirement for external auditors to give a value for money commentary. Where a significant weakness was identified in arrangements it was necessary to notify the Committee at the earliest opportunity. To date there were no matters of this nature that needed to be brought to the Committee's attention. An updated commentary would be provided for future years.

RESOLVED: That the Committee **NOTED** the update.

25/23 DRAFT AUDIT PLAN 2021/22

(Agenda No. 11)

Mr Balmer addressed the Committee on the key points of the draft audit plan for the main 2021/22 audit. These were set out in E&Y's 'Oxfordshire County Council Draft Audit Planning Report' in the agenda papers and included the following:

- Significant risks continued to be land and building valuations and the incorrect capitalisation of revenue expenditure. There was also an inherent risk around the valuation of the defined benefit pension scheme. The report referenced the ongoing work on infrastructure assets, reflecting the fact that the 2020/21 audit was not concluded yet.
- In respect of the overview of the audit strategy, it was highlighted that IFRS 16 (the new leases standard) had been deferred until 2024/25 and therefore would not impact the 2021/22 audit.
- The approach to the new Code which stipulated the requirement for the value for money commentary.

- How the audit materiality was determined.
- There were no specific changes to the scope of the audits. It was mainly a substantive audit with some focus on controls. Some of the areas where there was a reliance placed on controls were accounts receivable, accounts payable and cash.
- The use of a team of specialists in E&Y's audit team who had been in post for a number of years and had built up knowledge over a number of years to be able to work through any residual issues with Council officers. E&Y would also be using their internal valuation specialists and actuaries to support in work relating to pensions disclosure and the liabilities position on the pension scheme.
- The 2021/22 audit had been started in January 2023. The plan was to report to the Committee this summer when in a position to close out some of the key areas of the audit.
- The FRC Ethical Standard and ISA (UK) 260 "Communication of audit matters with those charged with governance", requires external auditors to communicate on a timely basis on all significant facts and matters that bear upon their integrity, objectivity and independence. It was noted that in the report E&Y had no stated issues in relation to this.
- Due to the 2020/21 audit not having been concluded, E&Y was not in a position yet to confirm the fee for the audit. The scale fee was referred to which is determined by PSAA. In the event there was any additional fee charged it would be brought back to the Committee for its oversight.

RESOLVED: That the draft audit plan for the main 2021/22 audit be **NOTED**.

26/23 CONSTITUTION CHANGE - EMPLOYMENT RULES PART 8.4 C

(Agenda No. 12)

Members of the Committee received a report asking them to recommend to Council to approve proposals for amendment to the Employment Procedure Rules Part 8.4 in the Councils Constitution. Ms Charlton clarified that this specific part of the Constitution dealt with the appointment, disciplinary action and dismissal of chief officers. The chief officers are the head of paid service, a statutory chief officer, a non-statutory chief officer and a deputy chief officer. They were all defined in legislation which sets out how a council should deal with the appointment, disciplinary action and dismissal of chief officers.

Ms Charlton explained that the amendment to the Constitution was required because this section of the Employment Procedure Rules did not comply sufficiently with the current legislation which had changed in 2015. She added that the Chief Executive / Head of Paid Service in the Council's Scheme of Delegations had the delegated authority to appoint or dismiss any chief officer which was contrary to the legislation. The revised Employment Procedure Rules were designed to follow not just the legislation but also best practice of other local authorities.

The Committee was advised that the broad delegations that the Chief Executive had for appointment and dismissal had been deleted and these had been replaced with very specific delegations. An example that was given of the specific delegations that were drafted and in keeping with the legislation was paragraph 4.2 of the Officer

Employment Procedure Rules. This dealt with the appointment of deputy chief officers. The Head of Paid Service was able to appoint a deputy chief officer without having to go before a member panel providing the appointment followed the necessary steps that were set out and which were in keeping with the statutory process.

The Committee also noted that the Chief Executive as the Head of Paid Service had now been given the delegation to appoint to interim posts for chief officers. This would ensure that the statutory functions of the Council were adequately filled in the event a chief officer left and whilst a recruitment process was taking place. The Council were required to appoint the Chief Executive / Head of Paid Service.

In response to questions from the Committee, Ms Charlton clarified that in the event that the Head of Paid Service was required to make an appointment of an officer, including a chief officer, to an interim post and this was required between the Council elections and the Annual General Meeting and it was not possible to consult with both the Chair and Deputy Chair of the Remuneration Panel, emergency powers could be used. This could include consulting Members who had been in post previously. She also clarified that the law was in place for dismissing a head of paid service but it had not previously been prescribed in the Council's rules. There had been cases of lawful challenges regarding the dismissal and disciplinary action of chief executives and statutory chief officers because councils had not complied with the 2015 legislation.

RESOLVED: That the Committee recommend to Council to approve the proposals for amendment to the Employment Procedure Rules Part 8.4 in the Councils Constitution.

27/23 AUDIT WORKING GROUP UPDATE - 8 FEBRUARY MEETING

(Agenda No. 13)

The Committee heard from the Chief Internal Auditor, Sarah Cox and the Chair of the Working Group, Dr Geoff Jones, in relation to the Audit Working Group meeting held on 8 February 2023. It was confirmed that in terms of the outcomes for the two items on the meeting agenda, Internal Audit of GDPR 2021/22 and Oxford North Capital Scheme financial approvals, the Committee was reasonably satisfied and encouraged that the necessary improvements were being made and the outstanding actions would continue to be addressed and implemented.

The Chair reminded Members of the Committee that they were all invited to attend the Audit Working Group meetings, even if they were not the four Member representatives of the Working Group.

RESOLVED: That the Committee **NOTED** the report.

28/23 COUNTER FRAUD UPDATE

(Agenda No. 14)

The Committee received a report setting out the quarterly summary of activity against the Counter Fraud Plan for 2022/23, the Plan having been originally presented at the July 2022 Committee meeting.

Sarah Cox, Chief Internal Auditor, stated that the implementation of the new team structure was close to being finalised but some more work was required, including in terms of job descriptions and HR processes. Progress was being made in relation to counter fraud investigations and 'Business As Usual'. More time was being spent on proactive work, including training and awareness sessions. Data analytics work was being developed and would be a greater feature of Counter Fraud and Internal Audit activity over the year ahead. Important work over the next quarter included reviewing matches and undertaking any necessary investigations in relation to the National Fraud Initiative. Results would be reported back to the Committee at the July meeting. There continued to be proactive on street work three to four times a year to promote the Council's response against blue badge misuse.

Ms Cox offered to provide to Members of the Committee more detail on the current cases and on the work with Legal to develop processes at a future Audit Working Group meeting. There were aspects that were not suitable to report in a public meeting. Committee Members agreed that such a discussion would be useful.

It was noted that the Counter Fraud Team now received, logged and triaged all whistleblowing reports. It was requested that more in depth analysis was provided at the Audit Working Group meeting about the team's responses to whistleblowing cases. Ms Cox responded that she would discuss what details could feasibly be disclosed with the Director of Law & Governance. It was also agreed that Ms Cox would consider with the Director of Law & Governance how much detail could be provided on the counter fraud sum recovered and what percentage this was of losses overall.

RESOLVED that:

- 1) the Committee **NOTED** the summary of activity against the Counter Fraud Plan for 2022/23; and,
- 2) Counter Fraud and Internal Audit activity be discussed in more detail at a future Audit Working Group meeting.

ACTION: The Chief Internal Auditor to consider with the Director of Law & Governance whether more in-depth analysis could be provided on responses to whistleblowing cases at a future Audit Working Group meeting and also how much detail could be provided on the counter fraud sum recovered and what percentage this was of losses overall.

29/23 RENEWAL OF THE APPOINTMENT OF INDEPENDENT PERSONS

(Agenda No. 15)

The Committee was provided with a report giving notice of the extension of the appointment of Mr Martyn Hocking and Mr Nicholas Holt-Kentwell to the role of Independent Persons for Oxfordshire County Council for a second term of two years from 14 July 2022 to 13 July 2024.

The Committee was advised by Mr Harper that Mr Hocking and Mr Holt-Kentwell had been consulted by the Director of Law & Governance and Monitoring Officer on a number of governance issues, had experience as magistrates and were committed to high standards of conduct in public life.

Members of the Committee recommended that the process for the appointment of future independent persons commenced soon due to the difficulty of recruiting suitable candidates. They also recommended that consideration was given to the potential for conflict of interest in the roles of the independent persons. This could include for instance an independent person sitting with a Member on a panel and then being asked to adjudicate on a decision relating to that Member on a remuneration panel.

Ms Charlton advised that currently, the regulations were not specific over the extent to which the persons had to be independent. It was lawful that in the event there was perceived to be a potential conflict of interest, the Council was able to consult independent persons from another local authority. Mr Harper added that the Council also employed other independent persons and co-optees who were represented on committees, including Dr Jones on the Audit & Governance Committee. The matters raised at the current meeting would be included in a review which was intended to look at consistency of approach towards the appointment and role of independent persons.

RESOLVED: The Committee **NOTED** the extension of the appointment of Mr Martyn Hocking and Mr Nicholas Holt-Kentwell to the role of Independent Persons for Oxfordshire County Council for a second term of two years from 14 July 2022 to 13 July 2024.

ACTION: The matters raised by the Committee regarding the potential for conflict of interest in the decision making of the independent persons be included in the review intended to look at consistency of approach towards their appointment and role (Simon Harper and Kate Charlton).

..... in the Chair

Date of signing