

Minutes of the Audit and Risk Assurance Committee

**26th July, 2018 at 5.00pm
at the Sandwell Council House, Oldbury**

Present: Councillor Preece (Chair);
Mr Ager (Vice - Chair and Independent
Member);
Councillors Ali, Allcock, Dr Jaron, Piper and
Singh.
Mr Hussain (Independent Member).

Apology: Councillor Jarvis.

21/18 **Minutes**

Resolved that the minutes of the meeting held on 22nd
March, 2018 be confirmed as a correct record.

22/18 **Appointment of Independent Member to the Audit and Risk
Assurance Committee**

The Committee noted the appointment of Mr Jay Hussain to the
position of Independent Member for the Audit and Risk
Assurance Committee, for a four year period ending on 16th July
2022.

23/18 **Lion Farm Playing Fields**

The Committee noted an update on Lion Farm Playing Fields.

At its meeting on 23rd March 2018, members highlighted recent
social media coverage in relation to the Lion Farm Playing Fields,
which alleged that Council policies and procedures had not been
followed. The Committee requested that a report be presented at
the next meeting.

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Mr Brian Crockett, representing the local community, had requested permission to address the Committee with a number of concerns. Permission was granted, and Mr Crockett addressed the Committee with the following points:-

- Mr Crockett was aware of the media coverage and he had supported a protest;
- local residents had genuine and serious concerns in relation to the development;
- residents felt that works had already commenced, ahead of planning consent. Mr Crockett had photographs of the work already being undertaken;
- the land was not suitable for development due to toxic landfill;
- new football pitches would not be ready in a timely manner, and would not be of the same quality as the current pitches;
- traffic flow would increase, and potentially would have a negative impact on local residents' health;
- air quality would be a major risk factor, as quality was already poor.

The Audit Services Manager presented the report on the Lion Farm Playing Fields.

The actions taken by the Council had been in accordance with the relevant council procedure. It was noted that while there had been changes to policies and procedures since the option agreement had been entered into, including the introduction of a new protocol for the disposal of council owned land and buildings, the option agreement was still in accordance with these principles.

It had been recognised however, that there were some areas of governance that could have been improved in the early part of the development and that some of these issues had featured in the Wragge report.

A number of improvements had since been made with the introduction of new processes including:

- enhanced member training had improved the awareness of the need to declare interests or raise any issues of uncertainty with the Monitoring Officer;
- the need to ensure that resolutions were enacted in a timely manner;

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- a clearer record of the decision-making process to support report recommendations presented to members was essential;
- the message was re-enforced that as the scheme progressed, the requirements of the new protocol for the disposal of council owned land and buildings would need to be incorporated.

It was explained that procurement regulations did not apply to acquisition or disposal of land. Instead this fell under section 123 of the Local Government Act 1972 to secure best value.

To date there had been no disposal of any of the land by the Council. If any disposal did take place the land would be valued in accordance with section 123 of the Local Government Act 1972, and the 2013. Agreement provided for the land to be valued after planning permission was granted. This would deliver a much-enhanced capital receipt to the council due to the uplift in the land value. As previously highlighted, the council would seek expert external valuations to assist with this.

No planning application had been submitted by the developer and consultation would take place prior to submission.

Members highlighted the following issues:-

- it was difficult to move forward with this project as measures had not been carried out;
- members were unclear as to what a development option was;
- Officers explained that an option was a way in which a piece of land could be purchased, prior to planning consent being granted. Should planning consent not be granted, the buyer has the option whether they wished to proceed with the purchase of the land.

The Independent Member stated that there appeared to be a number of issues in relation to this project, and going forward, it would need to be carefully monitored in terms of procedures and policies. It was accepted that there had been some reflection regarding decision making, and asked if this had been underpinned by discussions with stakeholders.

Officers advised that stakeholder consultation was normally undertaken prior to planning consent being granted

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Members enquired as to whether the developer had a timescale in relation to this project.

Officers advised that there was provision for a secondary agreement option and that the time limit was expected to be 12 months. It was currently under discussion as to when to enter into a secondary agreement option. Members agreed that it would be better to move towards the secondary agreement quickly.

The Chair of the Committee advised officers that public perception of stakeholder's engagement was a risk, and asked if it was possible to consult much earlier in the process.

Officers advised that this would be a consideration for future proposals.

24/18

Statement of Accounts 2017/2018

The Committee received the Statement of Accounts for 2017/2018.

Due to the late submission of the Statement of Accounts, the Committee resolved to adjourned the meeting for half an hour, in order that Committee Members could consider the content of the Statement.

The Executive Director – Resources, apologised for the lateness and explained that it was due to a shorter statutory timescale for the Statement of Accounts to be approved by Committee.

The Committee adjourned at 5.37pm and reconvened at 6.07pm.

In accordance with the Accounts and Audit Regulations 2015, the Council's 2017/18 draft Statement of Accounts was approved by the Council's Section 151 Officer on 31st May 2018.

The Committee was advised that KPMG had noticed a late inaccuracy in the section relating to the calculation of the pensions by the Council's actuaries Barnett Waddingham and therefore requested that the finalised version of the Statement of Accounts be agreed with the Chair and Vice Chair.

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The Committee noted that the level of the General Fund Balance stood at £75.20m. This included £24.883m of surplus that was being carried forward to invest in front-line services and £36.142m that had been earmarked for specific purposes.

The level of free balances was £11.219m, which equated to 4.78% of net general fund expenditure, and was in line with Council policy of maintaining free balances of between 3% and 5% of net general fund expenditure.

The Committee noted two significant changes, Vision 2030 and the Local Government Association peer challenge, and given the cost of implementing ambitions, and meeting the Local Government Association's challenge, Committee members asked if there were sufficient resources in place.

Officers reported that it would be a challenge, however, they were confident that using new and innovative ways, the costs would be met to deliver Vision 2030 and LGA peer challenge, making it achievable and realistic.

Resolved that the finalised version of the Statement of Accounts 2017/18 be agreed by the Executive Director – Resources in consultation with the Chair and Vice Chair.

~~25/18~~ ~~Annual Audit Letter 2017/2018~~

~~The Committee received the Annual Report Letter 2017/2018.~~

26/18 **KPMG – External Audit ISA 260 Report 2017/2018**

The Committee received a report which outlined the key issues identified by KPMG during its audit of the Council's financial statements for the year ended 31st March 2018 and its assessment of the Council's arrangements to secure value for money in its use of resources. It had been concluded that, with the exception of Children's Services, the Council had made proper arrangements to secure economy, efficiency and effectiveness in its use of resources.

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The auditors proposed to issue an unqualified audit opinion on the Council's financial statements.

It was also reported that KPMG were currently handing over to the new external auditors, and would work closely with them during the handover.

The Audit Services Manager informed the Committee that relevant staff training had taken place to address fraud as a specific area of risk, and results had so far been positive.

Officers expressed their thanks for all the hard work that KPMG had undertaken over the years.

27/18 Annual Governance Statement 2017/2018

The Committee received the Governance Statement for 2017/2018 which was published alongside the Council's Statement of Accounts.

The Committee noted that the Governance Statement was a statement which set out the extent to which the council had complied with its Code of Corporate Governance, and detailed areas where the council had significant governance issues arising, and included an action plan detailing the actions that were being or would be taken to address these areas of weakness.

To support the preparation of the statement, each Director and Cabinet Member had completed an assurance statement which had fed into the Governance Statement and any weaknesses identified had been included within the Statement.

The Committee noted that the key governance issues identified were as follows:-

- Children's Services;
- resilience of the Medium Term Financial Strategy;
- land sales and other matters;
- compliance with Contract Procedure Rules and allocation of grants;
- business continuity

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- General Data Protection Regulations and the Data Protection Act 2018
- Cyber Security.

The Committee was advised that a plan detailing the actions that were being taken to address these areas had been prepared and included within the Statement. Updates on the progress made in implementing these actions would be presented to the Committee throughout the year.

The Committee asked the Monitoring Officer about outstanding Standards issues and cases. The Monitoring Officer reported that it was anticipated that a number of outstanding cases would be dealt with at September's Ethical Standards and Member Development Committee.

The Committee enquired in relation to cyber security, whether there was an opportunity to undertake collaborative working across the West Midlands Combined Authority. The Executive Director – Resources, advised the Committee that a separate report on cyber security would be submitted to a future meeting of the Committee.

Resolved that the Executive Director – Resources submits a detailed report in relation to cyber security.

28/18

Annual Internal Audit Report 2017/2018

The Committee received the Annual Internal Audit Report for 2017/2018 which provided an opinion on the adequacy and effectiveness of the Council's governance, risk management and control processes. The report noted that Internal Audit had provided a 'reasonable assurance' on the adequacy and effectiveness of these arrangements.

Resolved:-

- (1) that a separate report in respect of PFI Riverside be submitted to the next meeting;
- (2) that the Annual Internal Audit Report be received.

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29/18 **Audit and Risk Assurance Committee Annual Report 2017/2018**

The Committee gave consideration to the Annual Report of the Audit and Risk Assurance Committee which detailed the areas of work undertaken by the Committee during 2017/2018.

Resolved that the Annual Report of the Audit and Risk Assurance Committee 2017/2018 be approved and presented to the next meeting of the Council.

30/18 **Annual Counter Fraud Report**

The Committee was updated on counter fraud activities and partnership working across the West Midlands.

The report noted the outcome of the latest data matches from the Cabinet Office's National Fraud Initiative exercise which had identified 65 cases of fraud and error totalling £472,779 based on a national figure calculator for social housing fraud cases which were included in this figure, alongside details of fraud investigations undertaken on:

- Business Rates avoidance
- Social Housing and Right to Buy
- Adult Social Care and Direct Payments
- Schools Admission
- Blue Badges

It was further reported that the number of Single Person Discount (SPD) that had been removed following investigation was 118. The financial value of these removals amounted to £62,469. The number of penalties issued was 113, for which the financial value was £7,910.

The Committee congratulated the Counter Fraud Unit on its work to deliver an effective service on prevention and detection of fraud.

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31/18 **Council update on allegations of fraud, misconduct and related issues**

The Committee considered an update on a number of investigations and reviews relating to concerns that had been raised alongside the Wragge and Co (now Gowling WLG) report, some of which went back several years and only came to light following more recent investigations.

It was reported that these investigations and subsequent reports to the Committee underlined the Council's commitment to investigate any allegations in an open and transparent way. The Council was determined to deal with any allegation properly, professionally and appropriately. In order to address these issues, officers had conducted thorough internal reviews and investigations across the Council.

A review had been completed on concerns raised in relation to:-

- the disposal of land at Plant Street;
- the disposal of Farley House and Langley Hall.

The findings from these two reviews had been shared with the Council's Monitoring Officer. Following consideration of these matters it was determined that there was insufficient evidence to find a breach of the Members' Code of Conduct.

The Committee asked what measures were in place to prevent these incidents from happening in the future. The Audit Services Manager advised the Committee that a number of recommendations had been agreed in relation to these issues and changes in procedure had been made. Furthermore, many of the individuals involved in these allegations no longer had a connection with the Council.

32/18 **Strategic Risk Register and Assurance Update**

The Committee gave consideration to the Council's Strategic Risk Register in order to gain assurance that risks to the delivery of the Council's key priorities were being managed.

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It was reported that there were currently 18 significant risks, of which six were red, 11 were amber and one was green.

The key changes to the risks reported were as follows:

- there had originally been a risk around the Children's Trust, however, this had since closed since the Trust went live in April;
- the assessment of risk 4c - Demand for Children's Social Care) has increased to 16 (red).
- the assessment of risk 21a -Compliance with the General Data Protection Regulations (GDPR) has reduced to amber. It was further reported that the risk in relation to school place planning had gone from amber to red, and that dialogue with the Department for Education (DfE) was ongoing. Further information would be presented to the Committee at its next meeting;
- the assessment of risk 42a – Cyber Security has reduced to amber;
- Risk 50- Commonwealth Games Aquatic Centre was assessed as red due to issues that had come to light that have yet to be resolved.
- new risks in respect of the Implementation of the Peer Review Recommendations and the Better Care Fund and Public Health Grant had been identified for inclusion in the risk register

33/18

Risk Register Update - Resources

It was reported that ownership individual directorate risks were assigned to service managers, who had responsibility to:

- consider and agree the risk description;
- assess the current risk score based upon the controls in place and the assurances they have received on the adequacy and effectiveness of these controls;
- implement mitigating actions to reduce the risk scores where necessary, in order to deliver the target risk score by the target date.

It was further reported that the Executive Director was responsible for keeping Cabinet Members informed of the relevant risks that fall within their portfolio and the implementation of mitigating actions.

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Further ongoing reviews of the directorate register were then undertaken by the Directorate Management Team on a regular basis.

The Committee asked how the loss of experience of knowledge was addressed, when employees left the Council through the Planned Leavers Scheme. The Executive Director – Resources advised members that managers had a three-year timescale in which to train existing employees to ensure they had the necessary skills to carry out their duties.

34/18 **CIPFA Update**

The Committee noted the latest publication issued by CIPFA which focussed on the development of the Annual Governance Statement.

35/18 **Work Programme 2018/2019**

The Committee noted its work programme for 2018/2019 and that there were currently no changes. Members agreed that items would be added to the programme as required.

(Meeting ended at 7:55pm)

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