

## **Minutes of the Audit and Risk Assurance Committee**

**21 March, 2019 at 5.00pm  
at the Sandwell Council House, Oldbury**

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

**Apologies:** Councillors Jarvis, Piper and Singh.

8/19 **Minutes**

**Resolved** that the minutes of the meeting held on 10 January 2019 be confirmed as a correct record.

9/19 **Audit and Risk Assurance Committee – Terms of Reference  
Annual Review**

The Committee received draft revised terms of reference for 2019-20.

The terms of reference had been updated to incorporate additions to the model terms of reference provided by the Chartered Institute for Public Finance and Accountancy (CIPFA) in the latest 2018 edition of its Practical Guidance for Local Authority Audit Committees.

In response to members' questions, the Audit Services and Risk Management Manager reported that an external quality assessment was being arranged by another local authority, which would look at Internal Audit performance. The Chair of the Committee could also give feedback on his performance to the Council's Chief Finance Officer if he so wished.

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**Resolved** that the terms of reference for the Audit and Risk Management Committee for 2019-20 be approved for submission to the Council.

10/19

### **Monitoring the Use of Section 106 Monies**

The Committee noted a report which detailed how the use of Section 106 money was monitored by the Council.

Under S106 of the Town and Country Planning Act 1990, financial contributions could be sought from developers, by way of conditions attached to planning permissions, towards the costs of providing community and social infrastructure, if such a need arose as a result of a new development. This funding was commonly known as 'Section 106 money'.

National planning guidance set out criteria to be met in relation to the use of Section 106 funds. Agreements were requested in relation to open space and play space, affordable housing, education and traffic management.

Section 106 agreements allowed up to 10 years for funding to be spent and set out exactly when payments were due to the local authority and exactly where and on what it would be spent.

The Council's planning obligations officer monitored the spend, in consultation with relevant budget holders and monitoring reports were submitted to the Cabinet on a quarterly basis.

The Committee noted the breakdown, at a town level, of Section 106 money that the Council currently had available. Members discussed the importance of closely monitoring the receipt and expenditure of cross-border monies to ensure that Sandwell did not lose out. The Audit Services and Risk Management Manager undertook to look into this.

The Executive Director – Neighbourhoods advised the Committee that Section 106 agreements had mostly been replaced, with effect from 2014, by Community Infrastructure Levy (CIL), under the Planning Act 2008. CIL was a levy that local authorities would choose to charge on new developments in their area to support the funding of new infrastructure.

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Regulation 123 of the Community Infrastructure Regulations 2010 required councils to produce a list of infrastructure needs and definitions of the type of infrastructure which may be funded in whole or in part by CIL. To be in-line with the CIL Regulations, the CIL income received had to be divided three ways: -

- 80% general pot linked to Regulation 123 list
- 15% neighbourhood funding portion
- 5% administration charge

In response to questions from the Committee the Executive Director – Neighbourhoods reported that discussions were taking place with the Cabinet Member for Regeneration and Economic Investment about how best to ensure ward members were involved in planning the expenditure of Section 106 money and CIL money for their area. The Committee felt that the quarterly budget monitoring reports submitted to the Cabinet could also be submitted to Town meetings.

### **Resolved:-**

- (1) that the Cabinet Member for Regeneration and Economic Investment ensures that procedures are in place to secure the timely receipt and expenditure of funding in connection to Section 106 and Community Infrastructure Levy agreements, in relation to developments that have implications on infrastructure for neighbouring authorities;
- (2) that the Executive Director – Resources submits quarterly budget monitoring reports to Town Team meetings, as a method of keeping ward members apprised on the expenditure of Section 106 and Community Infrastructure funding.

11/19

### **Annual Governance Statement 2017-18 - Action Plan Update**

The Committee noted an update in relation to progress on actions set out in the Annual Governance Statement Action Plan 2017-18.

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The following areas of the Action Plan were highlighted:-

- Children's Services – Monitoring visits in January had focussed on the "front door" arrangements. The Operational Partnership Board between the Council and the Children's Trust monitored the performance of the Trust and the most recent report had concluded that good progress was being made.
- Business Continuity – an emergency plan exercise had taken place on 8 March 2019 in relation to a local chemical plant and a plan detailing lessons learnt would be reported to Executive Management Team in April 2019.
- Land Sales and Other Matters – Details would be included in the Annual Internal Audit Report and submitted to the Committee, noting the work done by Internal Audit on implementation of the Councils' strengthened arrangements for disposal of land and property.
- General Data Protection Regulation – The Council was of the view that minimum requirements, consistent with the Information Commissioner's expectations, had been met. Further ongoing improvements to the Council's information governance arrangements would continue to be made.

12/19

### **Local Government and Social Care Ombudsman and Housing Ombudsman - Annual Review for the Year Ending 31 March 2018**

The Committee noted the annual report of the Local Government and Social Care Ombudsman (LGSCO) for the year ending 31 March 2018.

92 complaints and enquiries had been received by the LGSCO in 2017-18 and the Committee noted the breakdown across service areas. 18 investigations had been conducted, of which 11 complaints had been upheld. Whilst the Housing Ombudsman Service did not publish an annual report, it was reported that 34 complaints had been received in the same period, of which there had been five detailed investigations, all upheld in favour of the complainant.

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The number of complaints was not a measure of the corporate health of the Council. The LGSCO emphasised the need for the Council to use the statistical information as a means of facilitating healthy debate and discussion so that any lessons could be learned at an early stage and/or be a means of providing assurance that the council was on balance conducting itself well.

Each directorate examined all complaints and findings, including those dealt with internally and looked to understand reasons and lessons learned. From the data received, there was no single theme emerging in terms of specific areas to address, and the direction of travel was positive.

The annual report for the year ending 31 March 2019 was expected within the next few weeks and this would be reported to the Committee in the summer.

The Director – Law and Governance and Monitoring Officer undertook to circulate further detail to members on specific complaints.

13/19

### **Internal Audit Progress Report as at 31 January 2019**

The Committee noted a summary of the areas of work undertaken by Audit Services from 1 April 2018 to 31 January 2019, as set out in the Annual Audit Plan. The information included in the progress report would feed into and inform the overall opinion in the Internal Audit Annual Report issued at the year end.

Two audits had been completed since the last meeting, one of which had resulted in “Limited” level of assurance. This related to national issues between Oracle (the Council’s payroll system) and Her Majesty’s Revenue and Customs (HMRC) Service. It was noted that while this was a national issue outside of the Council’s control, the “limited” assurance opinion related to a delay in notifying employees.

Progress on the audit of the key financial systems would be reported to the next meeting.

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### 14/19 **Internal Audit Plan 2019-20**

The Committee noted the Internal Audit Plan for 2019-20.

It was reported that the Plan was focussed on the high-risk areas.

The Plan had been shared with Grant Thornton, the Council's external auditors, who would have regard to it whilst formulating the external audit plan.

The plan was fluid and could change to accommodate new or changing risks.

### 15/19 **Chartered Institute for Public Finance and Accountancy (CIPFA) Audit Committee Update 27**

The Committee noted Chartered Institute for Public Finance and Accountancy's (CIPFA) Audit Committee Update 27, issued in February 2019.

This issue detailed the National Audit Office's report on local authority governance, which had a strong focus on the role and effectiveness of audit committees.

Reference was also made to the Committee on Standards in Public Life's report on its review of standards arrangements in local authorities. If adopted by central government, the recommendations would have implications for all local authorities. The Ethical Standards Committee had considered the report at its meeting on 19 March 2019 and referred the report to the Standards Working Group for detailed review (Minute No. 19/19 refers.)

### 16/19 **Update on Information Governance Compliance**

The Committee noted a report which provided an provide an update on the Council's implementation of the General Data Protection Regulation (GDPR), now incorporated within Data Protection Act 2018 (DPA), and the National Health Service's (NHS) Data Security and Protection Toolkit (DSPT).

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The NHS Data Security and Protection Toolkit was an online self assessment tool that all organisations had to use if they had access to NHS patient data and systems. Given the Council's need to access NHS data and systems for the effective delivery of children's services and adult services, the Council's compliance with this toolkit was compulsory.

The Council's Information Governance Board (IGB), chaired by the Director - Law and Governance and Monitoring Officer, who was also the Senior Information Risk Owner (SIRO) drove activities required to imbed excellence across the Council. The SIRO also maintained oversight on information governance within the Council and monitored compliance activity. Board membership included the Data Protection Officer (DPO), the Caldicott Guardian, the Head of ICT and representatives from Audit, Risk and Insurance, Human Resource, Adult Social Care Health and Wellbeing (ASCHW), Neighbourhoods, Education, Finance and Law and Governance.

The Information Commissioner had made it clear that all public bodies needed to ensure compliance but also recognised that information governance was an ongoing initiative. Public bodies needed to embed continuous improvement, which involved a mind-shift change, and therefore it was important that councils approached information governance in that way.

The Council had implemented a number of actions and introduced measures that demonstrated proactive steps towards full DPA 2018 compliance. There was also an action plan in place to enable all outstanding actions to be completed in a timely manner so that the Council would be compliant with both the NHS Toolkit (by 31 March 2019) and the DPA 2018 (by 31 March 2020). The action plan was structured around the Information Commissioner's Office's (ICO) "Steps to Compliance" guide.

The Action Plan also acknowledged the role of elected members as data controllers and it was essential that members also understood their information governance obligations.

Training plans were in place for both employees and elected members to ensure that everyone understood their responsibilities around information governance. A briefing note from the Local Government Association had also been circulated

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to elected members last year. The Chair asked that the briefing note be circulated to members before the May elections, and immediately after the election to any new members, to ensure that they understood their obligations. It was highlighted that the Council was ultimately responsible for any upheld complaints and financial penalties could be imposed if the failings were significant.

### **Resolved:-**

- (1) that the Director – Law and Governance invite all independent members to attend the member training on the requirements and responsibilities around information governance;
- (2) that the Director – Law and Governance re-circulate the Local Government Association's briefing note on the General Data Protection Regulation to all elected members and independent members without delay, and to any new elected members without delay after the election on 2 May 2019.

17/19

### **Strategic Risk Register Update**

The Committee noted an update on the Council's strategic risks and risk assessments.

The Strategic Risk Register did not include all of the risks that the Council faced but represented the most significant risks (as set out in the Council's Corporate Risk Management Strategy) that could potentially impact on the achievement of the Council's corporate priorities and the Vision 2030. Other risks were captured within directorate, operational, programme, project or partnership risk registers in line with the Council's corporate risk management framework and strategy. The report presented the assessment of risks at a given point in time and as such will not necessarily reflect the most current/up to date position of each risk.

A summary of the Council's strategic assurance map was also presented, detailing where the Committee could gain assurance



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against the strategic risks. This was regularly updated alongside the monitoring and reviewing of the strategic risk register.

There were currently 18 risks on the register. The Committee noted the reduction in the rating of some risks, which would be moved to their respective directorate risk registers. Executive Management Team regularly reviewed the Strategic Risk Register and directorate risk registers and risks were escalated from or de-escalated to directorate risk registers as necessary.

The Committee discussed the ongoing risk in relation to the demand for children's social care. This was a national issue, which was not unique to Sandwell, and had been highlighted by the annual survey of Section 151 officers as one of the biggest risks facing local authorities. It was anticipated that the Children's Trust would have a significant budget deficit at the end of 2018-19 and discussions were taking place with the Council about how that deficit would be met. The Executive Director – Resources reported that the Government's Comprehensive Spending Review would be delayed until an agreement had been reached on Britain's exit from the European Union, which meant that there was uncertainty around budgets for the coming financial year.

The Council would be supporting the Trust to develop a medium-term financial strategy that would ensure that it was financially stable. The Committee requested that the draft strategy be presented to a future meeting for review.

**Resolved** that the Sandwell Children's Trust's Medium Term Financial Strategy be presented to the Audit and Risk Assurance Committee for review.

18/19

### **Neighbourhoods Directorate Risk Register**

The Committee noted a summary of the Neighbourhoods Directorate Risk Register.

There were currently 11 risks on the register. Executive Management Team regularly reviewed the Strategic Risk Register alongside the directorate risk registers and escalated risks as necessary.

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Members enquired about whether account had been taken of any latent risks in respect of the asbestos regulations that came into effect in 2012.

**Resolved** that a written response be provided to members in respect of any latent risks in respect of the Control of Asbestos Regulations 2012.

### 19/19 **External Audit Plan**

The Committee noted the final External Audit Plan for 2019-20, which had been prepared by the Council's external auditors, Grant Thornton.

### 20/19 **Audit Progress Report and Sector Update**

The Committee noted a report setting out progress on work of the Council's external auditors on delivering its programme of work for 2018-19. The report confirmed that all work was on track.

The report also provided a summary of emerging issues and developments, and a number of challenge questions for the Committee to consider.

### 21/19 **Work Programme 2018/2019**

The Committee noted the status of its work programme for 2018/19.

(Meeting ended at 6.46 pm)

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