

Minutes of the Audit and Risk Assurance Committee

**18th January at 5.00pm
at the Sandwell Council House, Oldbury**

Present: Councillor Preece (Chair); Mr M Ager (Vice-Chair and Independent Member); Councillors Allcock; Gavan; Dr Jaron; Jarvis; Piper and Sandars.

1/18 **Minutes**

Resolved that the minutes of the meeting held on 19th October 2017, be confirmed as a correct record.

2/18 **Certification of Grants & Returns 2016/17**

KPMG's certification work on Housing Subsidy Benefit claim had not identified any issues or errors and they certified the claim unqualified without amendment.

Therefore, KPMG had made no recommendations to the Council to improve its claims completion process. There had been no recommendations made last year and there were no further matters to report related to KPMG's certification work.

3/18 **External Audit Plan 2017/18**

The Committee received a report which set out the work that KPMG (the Council's external auditor) would deliver in terms of auditing the authority's financial statements for the period 2017/18.

The significant risks highlighted by KPMG fell into the following categories:

- Valuation of PPE (Property, Plant and Equipment);

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- Pension Liabilities;
- Faster Close.

An additional area of audit focus had been the formation of a separate entity in response to the statutory direction to form a Children's Services Trust.

KPMG added that materiality for planning purposes had been set at £10 million. They had been obliged to report uncorrected omission or misstatements other than those that had been 'clearly trivial' to those charged with governance and this had set at £0.5 million.

KPMG's risk assessment in regard to the Council's arrangements to secure value for money identified the following value for money significant risks:

- delivery of budgets;
- Children's Services.

KPMG drew the Committees attention to the issue of elector challenges. The Local Audit and Accountability Act 2014 gave electors the following rights:

- the right to inspect the accounts;
- the right to ask the auditor questions about the accounts;
- the right to object to the accounts.

KPMG confirmed that an objection had been received which had led them to looking at the cost and legality of the Councils Prospective Financial Information arrangements.

KPMG added that they had investigated similar objections at seven separate authorities and the situation had been found to be similar across several other authorities. The objection resulted in a delay for KPMG to sign off the accounts, though any delays would be kept to a minimum.

KPMG highlighted to the Committee that their team consisted of highly experienced staff who had managed to deliver a high level of service without the cost to the Council being increased for the last three years.

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The Committee asked officers to clarify what KPMG's involvement with the Children's Trust would be. It was confirmed that though the Trust was independent, but owned by the Council, certain audit aspects would become consolidated.

4/18

The Local Government Ombudsman's Annual Review.

The Committee considered a report which provided a summary of the complaints and enquiries received and dealt with by the Local Government Ombudsman in relation to the Council for the year ending 31st March 2017.

Members noted that a total of 153 complaints and enquiries had been received in 2015/16, compared to a total of 142 in the previous year.

The Panel further noted a breakdown of complaints and enquiries in relation to service areas, and the outcome of each Ombudsman investigation.

It was confirmed by officers that lessons learnt from these complaints and the subsequent investigations would be fed back to the team in question and used to improve service delivery.

5/18

Strategic Risk Register and Assurance Map 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.

The Committee considered one key change to the register. The forthcoming General Data Protection Regulations (GDPR) had been raised from amber to red. This was due to the proximity of the implementation dated and further knowledge of the content of these regulations.

Members asked whether forthcoming regulations would have a significant impact on them. Officers confirmed that they would and reassured members that a training package and further communications would be rolled out shortly.

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The Chair requested that a full report be brought to the next meeting of the Committee detailing the Council's preparedness for GDPR.

The Chair asked for assurance that the Children's Trust was prepared to go live in April 2018, and that there would be no further delays. Officers stated that there was a great deal of confidence that this would be the case. The bulk of the contractual documentation had been drafted, and taking the assumption that the final dialogue sessions went well, it should mean plans were on track. Discussions had so far progressed very well and had been very cordial. Though it was difficult to guarantee the April deadline 100%, due to the situation not solely being in the Council's hands, Officers were as confident as they could be.

Officers also confirmed that the Children's Trust had agreed to produce their own statutory accounts, and make their own arrangements initially for internal audit. However, after the first twelve months, the Children's Trust planned to buy back their internal audit function from the Council.

The Trust would have its own Finance and Human Resource leads, and that an Interim Director of Resources was due to start in the near future.

6/18

Directorate risk register update - Adult Social Care, Health and Wellbeing.

The Committee considered the Council's Strategic Risk Register - Adult Social Care, Health and Wellbeing to gain assurance that risks to the delivery of the Council's key priorities were being managed.

The Directorate incorporated the following service areas:

- Adult Social Care;
- Public Health;
- Prevention and Protection;
- Environmental and Regulatory Services.

The Committee was informed of four red risks which were to be reviewed in early 2018.

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7/18 Annual Governance Statement 2016/17 Action Plan Update.

The 2016/17 Annual Governance Statement was presented to the Audit and Risk Assurance Committee on 17th August 2017. The statement highlighted a number of governance issues encountered during the year and an action plan to mitigate these was also presented to the Committee.

8/18 Internal Audit Progress Report Q2

The Committee considered a report which summarised areas of work covered by Audit Services for the period from 1st April to 31st December 2017.

This report detailed the audit work undertaken during this time period and included:

- the areas subject to review (auditable area);
- the level of audit need assigned to each auditable area (high, medium or low);
- the number and type of recommendations made as a result of each audit review;
- the number of recommendations accepted by management;
- the level of assurance given to each system under review;
- details of any key issues arising from the above.

9/18 Council update on allegations of fraud, misconduct and related issues.

The Committee was updated on the ongoing investigations into allegations of fraud, misconduct and related issues.

At the January 2017 meeting, the following matters had been considered:

- land sales to Councillor Bawa and Councillor Hussain regarding Compulsory Purchase Orders on their homes;
- housing allocations to members of Councillor Hussain's family;
- Councillor I Jones and Councillor Rouf's involvement in the disposal of a plot of land;

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- the allocation of a council property to Councillor Frear;
- former Councillor Rowley's involvement in the disposal of a number of council owned containers to a member of the public and his involvement in the hire of marquees.

The following matters had then been referred on to the Monitoring Officer for consideration to be dealt with Standards Allegations under the Localism Act 2011. Certain determinations had been put on hold until the judicial review application had been dealt with. The Monitoring Officer had consulted with the Council's independent person and agreed that it was in the public interest for these matters to be formally investigated given the serious nature of the allegations.

- land sale to Councillor Bawa and Councillor Hussain regarding Compulsory Purchase Orders on their homes;
- housing allocations to members of Councillor Hussain's family;
- Councillor I Jones and Councillor Rouf's involvement in the disposal of a plot of land.

The five items referred to within the first set of bullet points had been forwarded on to the Economic Crime Unit at the West Midlands Police for their consideration. The Council received an anonymous letter during that time which raised a number of concerns, this had also been referred to the police. Certain proceedings had been put on hold to await the outcome of the investigation.

After extensive meetings with police, Officers were informed of the differences in evidence thresholds between criminal law and civil law. The threshold used within criminal law was that of beyond reasonable doubt, which meant that no other logical explanation can be derived from the facts except that the defendant committed the crime, thereby overcoming the presumption that a person is innocent until proven guilty.

In civil law, the threshold was that of balance of probability, where one party's case was needed only to be more probable than the other. These standards had been set by the Crown Prosecution Service and the Director of Public Prosecution.

After the police had followed a detailed review of the material held by the council, they had reached a determination that there was insufficient evidence to meet the threshold to record a crime.

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However, it was stated that this would not prevent the council from pursuing any action that it deemed appropriate if it identified any breaches of standards or misconduct.

The standards investigations of those incidents referred to in the second set of bullet points continued.

It was established that Officers had no awareness of any live investigations by the police, and this would be expected were any proceedings ongoing.

Officers confirmed that certain allegations referred to issues outside council boundaries, but within those of other organisations; some of these had been forwarded on already and others would follow after they had been investigated further. These organisations referred to included the police.

The Committee highlighted the time and effort that Officers had committed to these investigations and asked for clarification of when the process may be resolved. Officers reassured members that the quality of their day to day work had not suffered due to the investigation; however, a timescale as to the process ending was difficult to define. Some cases had already been allocated to the standards process, whilst others continued to be investigated. Significant progress had been made.

The outcomes were to be reported back to the Committee where appropriate.

Members considered that the Audit and Risk Assurance Committee should ensure that a letter be composed and forwarded on to the Director of Public Prosecution and the Home Secretary. The Committee expressed that it was not in the interest of the electorate that legal action, related to misconduct in public office, should have been so difficult to pursue. Prosecutors should, in future, be more willing and empowered to take action. It was suggested that current legislation be reviewed.

10/18 Work Programme 2017/18

The Committee noted its work programme for 2017/18, and requested for it to be updated.

11/18 Any other business

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The Committee enquired whether any progress had been made towards the appointment of an additional Independent Person.

Officers explained that though a person had been interviewed, they had been unable to appoint. A further recruitment exercise was planned.

The Committee stressed the importance of this role and felt that a continued effort should be made.

(Meeting ended at 5.50pm)

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