

Corporate Governance and Audit Committee

Tuesday, 26th June, 2018

PRESENT: Councillor K Ritchie in the Chair

Councillors J Bentley, P Harrand,
J Illingworth, P Grahame, M Harrison,
A Scopes, J Taylor, P Truswell and
B Garner

1 Appeals Against Refusal of Inspection of Documents

There were no appeals against the refusal of inspection of documents.

2 Exempt Information - Possible Exclusion of the Press and Public

There were no items identified where it was considered necessary to exclude the press or public from the meeting due to the nature of the business to be considered.

3 Late Items

There were no late item of business.

4 Declaration of Disclosable Pecuniary and Other Interests'

There were no declarations of disclosable pecuniary interest made at the meeting.

5 Apologies for Absence

There were no apologies for absence.

6 Minutes of the Previous Meeting

RESOLVED – That the minutes of the previous meeting held on 16th March 2018 were accepted as a true and correct record.

7 Matters Arising from the Minutes

- (i) KPMG Annual Audit Letter 2016/17 (Minute No. 54 (i) referred) - The Head of Governance Services and Scrutiny Support reported that a further update would be provided by officers on the outstanding LOBO Objection under Item No. 13 on today's agenda.

The Head of Governance Services and Scrutiny Support confirmed that this committee's recommendation confirming

mandatory DBS checks for Members was considered by Member Management Committee with that committee resolving to:

- Agree with this committee's proposal that DBS checks are carried out for all Members.
 - Agree that these checks continued to be carried out on first election, and then again at every subsequent election thereafter.
 - Agree that the level of check carried out for all Members continued to be an enhanced check (without the barred lists).
 - That officers notify Group Whips of any failure to complete DBS checks asking them to deal with this through their disciplinary arrangements with an ultimate sanction including removal of the group whip.
- (ii) Annual Information Governance Report (Minute No. 55 referred) – The Head of Governance Services and Scrutiny Support confirmed that under Resolution (iv) the former Chair of this Committee had written to the Chair of Member Management Committee concerning the need for Members training on GDPR and Cyber Resilience asking that the Committee to make such training Mandatory for all members.

Members were informed that this matter was on the committee's work programme and would be considered at the next meeting on the 29th June.

In addition it was confirmed that the authority re-submitted application to the PSN Authority on the 4th June. Since that time officers have had a conversation with the Assessor concerning one specific point on the submission which required further clarification. Members were informed this conversation took place on the 15th June. Since that time no formal response regarding our submission had been received.

Further information was requested by the Committee on the status of the Council's application, with agreement that this be by way of a report to the meeting in July.

- (iii) Procurement Assurance Report (Minute No. 56 referred) – The Head of Governance Services and Scrutiny Support confirmed that further information was circulated to all Members to provide comparative information of other local authorities and their approach to Social Value in Contracts – i.e. the proportion of spend made by local authorities with local suppliers. This was circulated by email on the 2nd May. A request was made for this information to be circulated to all new Members of the Committee.

8 Annual Decision Making Assurance Report

The City Solicitor submitted a report which presented the Annual Decision Making Assurance Report.

The report provided assurances to the Committee that the systems and processes that form part of the council's decision making framework were fit for purpose, up to date, were routinely complied with and had been effectively communicated and monitored.

Officers representing the Head of Governance Services & Scrutiny Support, the Chief Planning Officer, The Head of Service (Legal) and the Head of Elections, Licensing and Registration were in attendance to answer Members questions and queries.

Members queried the decision monitoring within the Children's and Families Directorate noting that in the months of January and February there was a large number of decisions published as a result of a backlog in publishing significant operating decisions relating to both the placement of children and approvals relating to the employment of children.

Members were informed that the decisions took place in a timely manner and that the delay in publication did not negatively impact on the placement or wellbeing of children.

The Head of Governance Services & Scrutiny Support said that an explanation would be sought from the Director of Children and Families as to why there were delays in the first instance, and further assurances be sought; that none of the delays impacted on children, and that arrangements were in place to prevent any reoccurrence

A further issue was raised on the publication of key decisions with Members questioning if a more expansive narrative could be included on the list of forthcoming key decisions.

A query was raised as to whether it was possible quantify if there was an increase in the number of key decision between £200k - £300k.

Members were informed that the requested information was not readily available and were reassured and supportive of the works being undertaken to explore options for greater consistency on financial thresholds used in finance, procurement and key decisions.

Members requested that the Committee be consulted on proposals as they emerge.

Referring to issues around RIPA (Regulation of Investigatory Powers). Members were informed that no applications for use of these powers had been made.

Although reassured that any applications would be legally compliant, Members were concerned that possibly not all available legal powers were

being exploited and utilised by Environmental Action, to deal with issues such as fly tipping, in a consistent manner across the City.

In view of the concerns raised by Members around service performance and that prioritisation may fall more readily within a Scrutiny Board remit; it was the view of Committee that Scrutiny Board (Environment and Communities) be requested to consider these matters further.

Referring to Planning matters, Members welcomed the appointment of a dedicated officer who had overall responsibility for maintaining the Community Infrastructure Levy (CIL) process and requested if the officer would be available to attend Community Committee meetings and Ward Members Briefings.

The Head of Development Management confirmed that the CIL officer would be available to attend such meetings.

A query was raised about the statistics for Plans Panel Decision Making with one Members suggesting that the figures for 2017/18 appeared to be incomplete.

The Head of Development Management offered to investigate the matter further and the information would be circulated to all Members of the Committee.

The Chair thanked officers for their attendance and contributions.

RESOLVED –

- (i) To note the assurance provided in the submitted report by the Head of Governance and Scrutiny Support, the Chief Planning Officer, the Head of Service (Legal) and the Head of Elections, Licensing and Registration that the decision making framework in place within Leeds City Council was fit for purpose, up to date, were routinely complied with and had been effectively communicated and monitored.
- (ii) That the Head of Governance Services & Scrutiny Support be requested to write to the Director of Children and Families seeking an explanation as to why there were delays in publishing significant decisions relating to both the placement of children and approvals relating to the employment of children, in the first instance, that none of the delays impacted on children, and that assurance that arrangements were in place to prevent any reoccurrence
- (iii) That the Corporate Leadership Team be informed of the Committee's observations with respect to the need for additional narrative to be included on the 28 day notice for key decisions

- (iv) That a further report on threshold work across procurement and finance to bring some consistency to the decision making framework would be prepared and brought back to this Committee for comment.
- (v) That the Chair on behalf of the Committee be requested to write to the Chair of Scrutiny Board (Environment and Communities) to ascertain if all available legal powers were being exploited and utilised by Environmental Action, to deal with issues such as fly tipping, in a consistent manner across the City.
- (vi) That revised statistic around Plans Panel Decision Making be circulated to Members once it becomes available.

9 Estate Governance

The Directors of City Development and Resources & Housing submitted a report which sought to provide assurance and visibility on governance arrangements to manage, maintain and make best use of council buildings.

The scope of the report also included buildings with Listed status, but excluded council houses and schools for which there were separate governance arrangements in place.

The Chief Officer Asset Management & Regeneration presented the report and responded to Members questions and queries.

Members questioned the length of time taken to identify shortfall of funding to deal with maintenance backlog and extent of resulting disrepair of some important assets.

Members were informed of some of the successful Community Asset transfers and further reassurance was provided around the continuing openness of the Council to Community Asset Transfer.

Members queried the lengthy period of time for Community Asset Transfer to take place and resulting escalation of costs for groups interested in taking on the buildings concerned. The Mechanics Institute in Horsforth was provided as an example.

Reference was made to the Workflow table (Page 65 referred) which indicated that Community Asset Transfers could often take months/years to progress, in some cases assets suffering severe deterioration and the transfer being abandoned or resulting in a reduced capital receipt for the building.

The Chief Officer supported by a dedicated officer, confirmed a number of community asset transfer schemes were being progressed and groups were being supported to establish a sustainable business plan.

It was reported that the length of time to complete the transfer had a significant impact on the cost to groups for transfers.

Members accepted there was a balance to be struck between the sustainability of community use and the realisation of capital receipts to support the wider financial strategy, and requested that consideration be given, as part of the range of approaches adopted, to the provision of short term leases, with appropriate safeguards to the authority, for groups to enable occupation during the period in which the sustainable business case could be worked up with officers.

One Member asked if properties were purchased for investment purposes where there was no operational need.

In responding the Chief Officer confirmed that properties were purchased to provide a resilient income stream in time of shortfall in resources – income of £10.4m per annum to cross fund council services.

It was confirmed that the Scrutiny Board (Resources and Strategy) had already undertaken some scrutiny of these activities.

The Chair sought assurance as to the Council's Investment Strategy and whether the primary focus on warehousing and office blocks was sufficiently resilient to adverse changes in the economy. Confirmation was also sought on whether there was engagement with the relevant portfolio holder on the approach adopted.

It was the view of Members that further consideration be given to the breadth of the portfolio with potential to also include housing, such as student accommodation and other residential Housing to augment social housing.

The Chief Officer confirmed that Leeds investment strategy remained, unlike some other local authorities within the Leeds Boundary and that residential investment, including student accommodation was an option for the authority in the future provided those opportunities link to regeneration outcomes. It was also confirmed that the Executive Member responsible was kept updated on the Investment Strategy.

Committee asked for consideration to be given to an 'ethical landlord strategy' to reinforce the Council's ethical values when letting commercial properties within the council's portfolio.

The Chair thanked officers for their attendance and presentation.

RESOLVED –

- (i) To note the contents of the report and specifically the work that had taken place over the last nine months to review estate management, including governance

- (ii) To provide details of the average length of time for a Community Asset Transfer to be completed; with a breakdown of time from initial inquiry to occupation (including the length of time to work with groups to achieve an agreed supported business case)
- (iii) That the outcome of the Review of vacant properties on the void register be circulated to all Members of the Committee
- (iv) To provide to the Committee a list of properties that the Council owns outside of Leeds (or confirmation that there are none)
- (v) That the Chief Officer Asset Management & Regeneration be requested to engage with those Members who had highlighted specific issues in their wards.

10 Annual Assurance Report on Employment Policies and Procedures and Employee Conduct.

The Chief Officer Human Resources submitted a report which presented the Annual Assurance Report on Employment Policies and Procedures and Employee conduct.

The report sought to provide assurance that:

- The requirements of employee conduct were established and regularly reviewed
- The requirements relating to employee conduct were communicated and feedback was collected on whether expected behaviours were being demonstrated
- Employee conduct was monitored and reported.

Members discussed the issue of gifts and hospitality noting that there was a sizable reduction in the number of declarations compared to previous years, with the exception of the City Development Directorate who's declarations remained constant.

The HR Service Manager reported that follow up action would be undertaken with other directorates to highlight the reductions, provide a reminder of the requirements and ensure that there remained appropriate recording.

The Committee queried whether or not any comparison had been undertaken of our recorded data with other local authorities in terms of details of registered gifts and hospitality.

In responding the HR Service Manager said that work had not been done in Leeds but would be a feature for future assurance reports to this Committee.

Members also queried whether there were any trends in companies providing/offering gifts to employees – either the offers made to individuals or the source from which offers arose.

It was confirmed that such a review was undertaken at directorate level and that future annual reports to this Committee would include commentary on the assurances received from these assessments.

Referring to the Registers of Interest, Members noted that the number of non-responders had fallen from 92 to 53, and that these were not from a specific directorates and queried what action was taken to escalate matters.

The HR Service Manager confirmed that weekly updates and individual chase ups were taking place and that ultimately all would be completed.

The Committee were concerned that some senior officers were not providing their annual return in a timely way and was potentially indicative of individuals and directorates not taking this requirement seriously.

The Committee reiterated their view that requests for annual returns of Registers of Interests from officers in high risk posts should be responded to immediately and without the need for chase up.

It was suggested that the Chair write to the Chief Executive to make him aware of the Committee's concern on this matter.

Members queried whether the designation of being in a politically restricted posts included restrictions in political activities outside of the Leeds MBC boundary. The HR Service Manager confirmed that this was the case.

Members questioned the increase in the number of disciplinary investigations, whether there were any concerns in the trends in data and whether TU representation was provided.

Members were informed that TU representation was encouraged at the earliest stages of the disciplinary process and that there were no specific pattern behind the increases.

RESOLVED –

- (i) To note the positive assurance provided in section 5 of the submitted report that the requirements of employee conduct were established and regularly reviewed, the requirements relating to employee conduct were communicated and feedback was collected on whether expected behaviours were being demonstrated and employee conduct was monitored and reported.
- (ii) To circulate to all Members of the Committee a breakdown by directorate of the disciplinary data by year and for this to also include the number of appeal hearings held, the level of seniority of staff involved and the length of service of those who have been dismissed

- (iii) That future annual assurance reports include data (as referred to in (ii) above) and comparisons with other Local Authorities along with assurances around the checks undertaken in respect of the sources and recipients of offers of gifts and hospitality.
- (iv) That the Chair, on behalf of the Committee be requested to write to the Chief Executive seeking his support to ensure the timely completion of the annual review of Registers of interest for staff in high risk/sensitive posts.

11 Annual Assurance Report on Corporate Risk and Performance Management Arrangements

The Director of Resources and Housing submitted a report which presented the Annual Assurance Report on Corporate Risk and Performance Management Arrangements.

The report sought to provide assurances to the Committee of the effectiveness of the Council's corporate risk and performance management arrangements: that they were up to date, fit for purpose; effectively communicated and routinely complied with.

Members discussed the Best Council Plan & Performance Management 2017/18 and requested to be provided with the – the one page document referred to at paragraph 3.1 bullet point 7 of the submitted report that would illustrate the alignment of the 2018/19 net revenue budget with the Best Council Plan outcomes.

The Committee requested that future annual assurance reports to this Committee should include as an appendix the Best Council Plan Scorecard.

In respect of both requests the Head of Intelligence & Policy confirmed the requested information would be provided.

Members also queried whether the risk management resource that had been committed to Donisthorpe Hall had been an effective use of the team's resources and had contributed to qualified improvements for example evidenced through a CQC inspection.

In responding the Head of Intelligence & Policy expressed the view that it was a good use of officer time, had been well received by Donisthope Hall, but that all requests for similar support need to be mindful of resource implications.

The Committee sought reassurance around the use of comparators to inform the council's judgement of value for money such as Core Cities and Statistical neighbours.

Members were informed that Leeds unique geography was factored into the use of these comparators.

The Committee questioned the progress made to date to provide additional guidance on Partnership risks

Members were advised that work was in progress and would be completed prior to the Autumn

RESOLVED –

- (i) That the report on the council's corporate risk and performance arrangements be received and to note the assurances in support of the Annual Governance Statement
- (ii) That Members be provided with information which would illustrate the alignment of the 2018/19 net revenue budget with the Best Council Plan 2018/19 to 2020/21
- (iii) That future annual assurance reports to this Committee should include as an appendix the Best Council Plan Scorecard.

12 Internal Audit Update Report March to May 2018

The Chief Finance Officer submitted a report which provided a summary of the Internal Audit activity for the period March to May 2018 and highlighted incidence of any significant control failings or weaknesses.

The report also provided information from the Head of Service (Legal) about the recent use of the council's surveillance powers under Regulation of Investigatory Powers Act (RIPA).

The Committee questioned the high number of areas receiving low assurance opinions from Management referrals and the extent to which this was a reflection of management not having the necessary skills or assurance to put things right themselves.

The Head of Internal Audit suggested that the management referrals had identified issues necessitating action and it was the independence and methodology of Internal Audit that assists management in structuring an action plan to deal with those issues.

Members also queried how many people providing services to the Council had established personal service companies through which, their services are provided to the Council.

Members were informed that the IR35 legislation relating to Personal Services Companies placed a responsibility on the council to ensure that, where an individual would have been classed as an employee if they were providing services directly, then they are paid by payroll with appropriate tax and

national insurance deductions. The Head of Finance (Financial Management) assured members that developments within the creditor payment system will help to ensure that the relevant employment status checks have been carried out to ensure that the appropriate level of tax and national insurance is deducted. The Head of Audit advised that the follow up audit would review the effectiveness of this process.

The Head of Internal Audit suggested that the issue highlighted by Internal Audit was that the employment status check required by IRF 35 may not routinely be undertaken in a consistent and robust way, however the Head of Finance (Financial Management) confirmed that it was not the council's policy to engage individuals as personal service companies. Where it was apparent that an individual was operating as a personal service company payments to that individual would be made via the payroll system.

Confirmation was sought as to whether there were any indications from the Accounts (where Employers National Insurance Contributions had not been paid) of Senior staff being engaged as a Personal Service Company.

Members were advised that this was not the reasoning for this, rather the individuals identified had reached the maximum for making contributions and so no further contributions were being made.

The Head of Internal Audit reported on a recent review of external advertising income. The review found that income was being received and monitored, and that there were recognised lines of accountability for the staff managing the external contracts. The audit resulted in a limited assurance opinion overall as the control arrangements were not configured in a manner that ensured that all income due to the council was being identified and collected.

Members sought reassurance in respect of external advertising income, specifically, whether the Council receives Value for Money from the advertising function whether income due was fully collected and whether the Council maximised the opportunities to secure sponsorship.

The Head of Internal Audit confirmed that collection of money due to the authority was within the scope of the audit work undertaken and would be further followed up later in the year. It was suggested that other aspects fell outside of the scope of the Audit undertaken to date but that an emphasis was being placed on these areas as part of the budget setting strategy for the forthcoming financial year and more generally in the Medium Term Financial Strategy due to be considered by the Executive Board in July.

Members requested that the Head of Internal Audit brings the Committee's views on maximising income to relevant Directors attention.

The Committee expressed the wish to look further at this issue when Internal Audit concluded their follow up work and bring their update to the Committee.

In conclusion the Head of Internal Audit said there were no issues identified by Internal Audit in the March to May 2018 Internal Audit Update Report that would necessitate direct intervention by the Corporate Governance and Audit Committee.

RESOLVED –

- (i) To receive the Internal Audit Update Report covering the period from March to May 2018 and note the work undertaken by Internal Audit during the period covered by the report.
- (ii) To note that there had been no limitations in scope and nothing had arisen to compromise the independence of Internal Audit during the reporting period.
- (iii) Members requested that the Head of Internal Audit brings the Committee's views on maximising external advertising income to relevant Directors attention.
- (iv) That following Internal Audit's further review of external advertising income an update report be prepared and brought back to a future meeting of this Committee

13 Publication of Draft Statement of Accounts 2017/18

The Chief Finance Officer submitted a report which presented the draft 2017/18 Statement of Accounts and the draft Annual Governance Statement, both of which were published on 1st June for the statutory public inspection period. The Statement of Accounts was included with the agenda as a separate document for the Committee and would be published on the Council's internet site. The draft Annual Governance Statement was submitted as an appendix to the report.

The report also provided an update on the outstanding elector objection arising from the 2016/17 statement of accounts public inspection period. Members sought assurance with respect to the Council's exposure to Lender Options Borrower Option (LOBO) loans

Members were informed that all of the Council's LOBO loans had fixed interest rates. The lender does have the opportunity to review loans at set points and propose a higher interest rate. The Council could then either accept the new rate or repay the loan without incurring any breakage costs. In the event of a lender option being exercised, the Council would look at the most beneficial outcome, repaying the loan if cheaper alternative funding was available.

The Principal Financial Manager confirmed that such Council loans were managed through the Treasury Management Strategy within which there were parameters which managed the extent and risk of the Council's exposure.

In response to a query from a Member, the Principal Financial Manager confirmed that if the Council wished to repay a LOBO loan when a lender option had not been exercised then it would incur breakage costs, as it would on Public Works Loan Board (PWLB) or other borrowing.

The Committee challenged the pace at which the LOBO objection from the local elector had been progressed by KPMG and the priority that had been given by KPMG to resolving the matter as quickly as it might have. The committee were concerned that the 2016/17 audit remained to be signed off by KPMG at a time when the 2017/18 accounts were coming forward.

Robert Fenton representing KPMG confirmed that they were working to ensure that as far as they could they should be able to finalise the 2016/17 accounts by the end of July and, in response to a Member query regarding whether the matter had been escalated within KPMG, it was confirmed that the LOBO objections had been prioritised within the company.

The Committee sought further information relating to the full scheme costs of PFI programmes set out in the Accounts and the arrangements for the transfer of PFI assets to Academies.

The Principal Financial Manager confirmed that full scheme costs for PFI schemes as set out in the Accounts along with the PFI Grants applicable to them would be circulated to the Committee.

The Committee queried the presentation of financial data relating to contributions to the Better Care Fund and whether how this had been presented was accurate in relation to Leeds West CCG and Leeds North CCG.

The Principal Finance Manager advised that there appeared to be a possible drafting error on the draft accounts which would be reviewed and rectified if appropriate when the final accounts were presented to the Committee.

The Committee also requested a briefing session on the accounts in advance of the July meeting.

Officers provided an assurance that the necessary arrangements would be made to accommodate the requested briefing session.

Members queried the group narrative in the accounts and whether Civic Enterprise Leeds (CEL) required to be referenced.

Officers reported that it was their understanding that CEL was operating as part of the Council rather than needing to utilise the structure of the company (of the same name) that had been established.

Members asked whether the reserves and debt position were sufficient to meet the risks facing the Council and whether a review had been undertaken of other opportunities to limit our taxation liabilities.

The Chair emphasised how important robust and fit for purpose governance was to the effective delivery of the Council's objectives.

The Head of Governance and Scrutiny Support confirmed that the issues arising from the meeting would be reflected in the revised Annual Governance Statement to be presented to the committee in July 2018.

RESOLVED –

- (i) To note the 2017/18 unaudited Statement of Accounts as certified by the Responsible Financial Officer, which were now available for public inspection
- (ii) To note the draft Annual Governance Statement which had been published alongside the draft Statement of Accounts for public inspection
- (iii) That full scheme costs for PFI schemes as set out in the Accounts along with the PFI Grants applicable to them would be circulated to the Committee.
- (iv) That arrangements be made for a Briefing Session on the accounts in advance of the meeting on 30th July 2018.

14 Work Programme 2018/19

The Head of Governance and Scrutiny Support presented a report of the City Solicitor which set out the ongoing Work Programme for 2018/19.

Members requested that following items be included on the Work Programme:

- The Transition of External Audit functions from KPMG to Grant Thornton and to include consideration of the Council's expectations of the External Audit function and the coverage, particularly in light of the findings of the parliamentary inquiry into Carillion. (November)
- The status of the Council's application to the PSN Authority (July)

Members agreed to keep under review the work programme.

RESOLVED – That with the inclusion of the above, approval be given to the draft work programme 2018/19 as set out in the Appendix of the submitted report.

15 Date and Time of Next Meeting

RESOLVED – To note that the next meeting will take place on Monday 30th July 2018 at 10.00am in the Civic Hall, Leeds.