

GOVERNANCE AND AUDIT COMMITTEE

Date: 29 November 2017

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30pm

Present: Councillors: Peter Wathen (Chairman)
Alex Smith (Vice-Chairman)
Annabel de Capell Brooke Rupert Reichhold
Richard Gell Robin Underwood
Sylvia Hobbs

External attendees:

Rachel Ashley-Caunt For Agenda Items "Internal Audit – Progress and Performance
(Head of Internal Audit) & Internal audit Planning 2018/19"

Asim Iqbal For Agenda item "Annual Audit Letter"
(KPMG – the Councils
External Auditors)

276. APOLOGIES FOR ABSENCE

No apologies for absence were received.

277. MINUTES

The minutes of the meeting held on 20 September 2017 were approved and signed by the Chairman.

278. DECLARATIONS OF INTEREST

No declarations of interest were made.

279. QUESTIONS UNDER COUNCIL PROCEDURE RULE 10.3

No questions were submitted under Procedure Rule 10.3.

280. NATIONAL SCHEME FOR APPOINTMENT OF EXTERNAL AUDITORS – UPDATE

The Chief Finance Officer provided a verbal update on the national scheme for the appointment of external auditors.

The appointment of Ernst & Young LLP as the Council's external auditors from 1 April 2018 had been approved at the previous meeting and Public Sector Auditor Appointments (PSAA) had been advised accordingly. PSAA would meet next month to confirm the appointment, after which formal notification would be given. Following this, meetings would be arranged

with Ernst & Young LLP and the Chief Finance Officer, Monitoring Officer, Leader of the Council and the Chairman of the Governance and Audit Committee.

281. RISK MANAGEMENT UPDATE – QUARTER 3 (2017/18)

The Finance Manager presented a report on the Council's current risk scores for Quarter 3 of 2017/18.

It was noted that the Fire Safety Audit had now been completed and would be submitted to the next meeting of the Committee.

With regard to overdue actions in relation to contractor non-compliance with health and safety legislation, it was noted that further work was being carried out in response to feedback from the Corporate Management Team in order to complete the Health and Safety Audit Plan.

RESOLVED:

That the current status of risks included in the report for period to September 2017 be noted.

(Reason: To ensure the Council has an up to date and effective risk reporting process in place).

282. VARIATION TO THE ORDER OF THE AGENDA

With the consent of the Committee, the Chairman varied the order of the published Agenda.

283. ANNUAL AUDIT LETTER 2016/17

Asim Iqbal of KPMG, the Council's External Auditors, presented the Annual Audit Letter which set out the key findings of the 2016/17 External Audit.

The External Auditors had issued an unqualified value for money (VFM) conclusion and an unqualified opinion of the financial statements on 18 August 2017 indicating that KPMG believed the financial statements gave a true and fair view of the financial position of the Authority and of its expenditure and income for the year. A review of the Annual Governance Statement had concluded that it was consistent with External Audit's understanding.

The audit had identified that one audit adjustment valued at £0.269m and had made a number of recommendations to strengthen the financial environment of the Council.

After further work, an unqualified opinion would be issued on the Housing Benefit Audit and this would be reported to the next meeting of the Committee.

RESOLVED:

That the Annual Audit Letter be noted.

(Reason: To ensure Members and key stakeholders are made aware of the findings of the 2016/17 External Audit).

284. PROGRESS ON IMPLEMENTATION OF INTERNAL AUDIT RECOMMENDATIONS

The Finance Manager presented a report providing current information on the progress made on the implementation of internal audit recommendations. A summary of the overdue recommendations was submitted and it was noted that there were currently six medium and three low priority recommendations outstanding.

RESOLVED:

That the progress against each of the audit recommendations be noted

(Reason: To review progress on the implementation of recommendations following by Internal Audit)

285. INTERNAL AUDIT – PROGRESS AND PERFORMANCE

The Head of Internal Audit provided Members with information on the progress made on the delivery of the Annual Internal Audit Plan for 2017/18 and associated measures of performance

RESOLVED:

That the progress and performance of Internal Audit and the key findings from audits delivered during the period be noted.

(Reason: To review the performance of Internal Audit against the agreed plan and any key findings regarding the council's risk management and control arrangements in accordance with the Public Sector Internal Audit Standards)

286. INTERNAL AUDIT PLANNING 2018/19

The Head of Internal Audit provided the Committee with an overview of the proposed approach to development of the Internal Audit Plan for 2018/19 and sought the Committee's views on any risk areas where assurance was required.

LGSS had been commissioned to provide 230 days to deliver the Annual Audit Plan and Internal Audit service to the Council in 2018/19. In order to ensure that the Audit Plan for 2018/19 addressed the Council's key risks and added value to the organisation, the proposed methodology to identify and prioritise the areas for coverage was outlined.

RESOLVED:

That the proposed approach to developing the Audit Plan for 2018/19 be agreed.

287. PROPOSED CHANGES TO PARTS 3.2 AND 9 OF THE CONSTITUTION

The Monitoring Officer presented a report setting out proposals for changes to Part 3.2 of the Council's Constitution in respect of specific delegations for Planning Enforcement Activity and Part 9 in respect of the appeal process after the initial assessment of Councillor Code of Conduct complaints.

Following the creation of the post of Senior Planning Enforcement Officer last year, the working practices of the team and the powers under the Scheme of Delegation had been reviewed to ensure that these were appropriate to the needs of the Council and community.

With regard to Councillor Code of Conduct complaints, the right to appeal if the outcome of the Initial Assessment was referral for investigation had been removed from the procedure by the Council in April 2017. The Joint Standards Complaints Committee had reviewed the position in relation to appeals of the other two possible outcomes again at its meeting on 22 November 2017 and had recommended further revisions to the process.

These revisions would remove the right of appeal on the grounds that the process in Part 9 had not been followed and/or where the outcome proposed was considered inappropriate. The right to appeal on the ground that "significant new evidence was available which had not been considered during the previous process" would be retained.

It was noted that the complainant or councillor(s) complained about could refer the matter to the Local Government Ombudsman should they feel that the Council's procedure had not been followed or if the outcome proposed was not considered appropriate.

The JSCC had also recommended a reduction in the time allowed to submit an appeal in order to expedite the process.

R.13 RESOLVED TO RECOMMEND TO FULL COUNCIL: That

- i) the changes in relation to the Scheme of Delegation (Part 3.2 of the Constitution) set out in Appendix A be approved.

(Reason: To ensure that the Planning Enforcement Team have the appropriate powers to undertake their role in protecting the community from unlawful planning development)

- ii) the changes to Part 9 of the Constitution set out in Appendix B be approved

(Reason: To ensure that the procedure followed for Complaints against Councillors is proportionate and fair).

288. MODERN SLAVERY

The Executive Director verbally reported that a report had been submitted to the Policy and Resources Committee at its meeting held on 6 November 2017 and the Council's Modern Slavery Statement had been published on the website. A copy would be circulated to members of the Governance and Audit Committee.

Chairman

	Enforcement		Comment/Reason for Change
5.	Institution of proceedings (prosecution or direct action) for failure to comply with an enforcement notice	Executive Director, HoPS, PDM in conjunction with LGSS Legal Service with the ability to specify other officers (in addition to those shown) within Planning Services to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION. Notice of intention to take action to be given to Ward Members	Clarification of action
6.	Institution of legal proceedings under the s224 of the Town and Country Planning (Control of Advertisement) Regulations Act (including relating to fly posting.)	Executive Director, HoPS, PDM; in conjunction with LGSS Legal Service; with the ability to specify other officers (in addition to those shown) to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION. Notice of intention to take action to be given to Ward Members	Updated legal reference
7.	Service of Planning Contravention Notices, Breach of Condition Notices and Requisition for Information notices under pursuant to Section 330 Town and Country Planning Act 1990 and Section 16 Local Government (Miscellaneous Provisions) Act 1976	Executive Director; or HoPS, PDM; Senior Enforcement Officers and Senior Conservation Office; in conjunction with LGSS Legal service ; with the ability to specify other officers (in addition to those shown) within Planning Services to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION Notice of intention to take action to be given to Ward Members.	PCNs and S330s are very straightforward requests for information so there is no need to seek legal advice. Building Control Notices included next item.
8.	Issue of Enforcement Notices, Completion Notices, Stop Notices, Temporary Stop Notices and Breach of Condition Notices (see under Planning	Executive Director; or HoPS, PDM; Enforcement Officers and Senior Conservation Officers; in conjunction with LGSS Legal Service as required; with the ability to specify other officers (in addition to those shown) within Planning Services to act under	To ensure coverage of Temporary Stop Notices which are often urgent

	Listed Building and Conservation Areas Act 1990 for listed buildings enforcement)	the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION. Notice of intention to take action to be given to Ward Members	
9.	Rescind Enforcement Notices (or authority to take action) where matters have been satisfactorily resolved) <u>Withdraw, waive or relax any requirement of an Enforcement Notice pursuant to Section 173A of the Town and Country Planning Act 1990</u>	Executive Director; or HoPS, PDM; Senior Enforcement Officers and Senior Conservation Officers; with the ability to specify other officers (in addition to those shown) within Planning Services to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION. Notice of intention to take action to be given to Ward Members	Clearer wording as Enforcement Enforcement Notices usually retained on file even when resolved
11.	Service of Discontinuance Notices under the Town and Country Planning (Control of Advertisement) Regulations.	Executive Director; or HoPS, PDM; in conjunction with LGSS Legal Service if required ; with the ability to specify other officers (in addition to those shown) within Planning Services to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION Notice of intention to take action to be given to Ward Members	Rarely used power where legal advice not often required.
12.	Notifications	To deal with notifications received for agricultural and telecommunications development, hazardous substances and demolition proposals HoPS, PDM; Executive Director, with the ability to specify other officers (in addition to those shown) within Planning Services to act under the scheme SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED	These two lines to be moved to be new line 5 and 6 with consequent renumbering as not Enforcement issues

		AND THE DATE OF AUTHORISATION	
13.	Legal Agreements (S106)	Execution and completion of Agreements under Section 106 of the Town and Country Planning Act 1990 in relation to applications for planning permission granted under delegated powers. Chief Executive, HoPS, PDM, Executive Director in conjunction with LGSS Legal Service	
14.A	Authority to enter land and premises for the reasons set out in Section 196A	Executive Director, HoPS, PDM; Enforcement Officers, <u>Senior Enforcement Officer</u> and Senior Conservation Officer; with the ability to specify other officers to act SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION	To separate out the two related powers
14B	<u>Authority to make applications to the Magistrates Court for a warrant authorising entry pursuant to Section 196B for enforcement purposes</u>	<u>Executive Director, HoPS, PDM; Enforcement Officers, Senior Enforcement Officer and Senior Conservation Officer; with the ability to specify other officers to act SUBJECT TO KEEPING A RECORD OF THE OFFICERS SO AUTHORISED AND THE DATE OF AUTHORISATION</u>	
15.	Prosecution great urgency		
	<u>Authority to instruct legal services to commence prosecution proceedings (including laying information for contravention of regulations and instigation of emergency injunctions)</u>	LGSS Legal Service IN CONSULTATION WITH THE CHAIRMAN AND THEN SUBJECT TO <u>RETROSPECTIVE RATIFICATION REPORTING BY PERFORMANCE MANAGEMENT DEVELOPMENT CONTROL COMMITTEE</u>	Clarification that action will be taken and reported after the event because of the urgent nature

16.	Footpath Orders (both Town and Country Planning Act and Highways Act 1980)	Confirmation of unopposed diversion or extinguishment orders made following the grant of planning permission. (Town and Country Planning Act) and the making and confirmation of diversion orders under the Highways Act HoPS or LGSS Legal Service (under instruction from HoPS) SUBJECT TO REPORTING TO MEMBERS	Move to Line 7 with consequent renumbering
	Listed & Historic Buildings: (<i>Planning (Listed Buildings and Conservation Areas) Act 1990</i>)		
18.	To issue serve Listed Building Enforcement Notices	HoPS, PDM, Executive Director, <u>Senior Enforcement Officer</u> , Enforcement Officers and Senior Conservation Officer, in conjunction with LGSS Legal Service	Corrected wording and recognition of additional post
	TREES AND LANDSCAPE		New Section Header
	Trees: (<i>The Hedgerow Regulations 1997</i>)		
20.	The issuing of Notices to replant a hedgerow or to reinstate a gap in a hedgerow where it appears that a hedgerow has been removed in contravention of Regulation 5(1) or (9)	HoPS, PDM; Planning Policy & Conservation Manager SUBJECT TO REPORTING TO <u>LOCAL WARD</u> MEMBERS	Clarification
	<i>Local Government (Misc. Provisions) Act 1976</i>		
149	To serve Requisitions for Information (Section 16)	Head of Environmental Services; Environmental Protection Manager; Health Protection Manager; Executive Director; Chief Executive; Waste Services Manager; Senior Environmental Health	To include Planning Service requirements for information

		<p>Officer, Environmental Health Officer; Trainee Environmental Health Officer; Health Protection</p> <p>Officer; Licensing Enforcement Officer; Senior Environmental Protection Officer; Environmental Protection Officer; Environmental Services Officer; Housing Technical Officer; , Waste Management Officer, <u>Head of Planning Services, Senior Enforcement Officer, Enforcement Officers</u></p>	
--	--	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--

6.0 Stage 4 – Appeals

6.1 Initial Assessment Outcome

An appeal may be made **in respect of Initial Assessment where the outcome is either no further action or 'other action' only** where the complainant or councillor(s) complained about feels that

- a) ~~the process outlined in this procedure has not been followed~~
- b) ~~the outcome proposed is considered inappropriate; or~~
- e) significant new evidence is available which has not been considered during the previous process.

An appeal may not be made against an Initial Assessment decision to refer for further investigation as no finding has been made at this stage.

Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within ~~20~~ **10** working days of the receipt of the notification of the relevant decision.

6.2 Hearing Outcome

An appeal may be made where the complainant or councillor(s) complained about feels that:

- a) the process outlined in this procedure has not been followed
- b) the outcome proposed is considered inappropriate; or
- c) significant new evidence is available which has not been considered during the previous process.

Any such appeal should be made in writing (by letter or e-mail) to the Monitoring Officer within 20 working days of the receipt of the notification of the relevant decision.