

GOVERNANCE AND AUDIT COMMITTEE

Date: 19 September 2018

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30pm

Present: Councillors: Peter Wathen (Chairman)
Alex Smith (Vice-Chairman)
Rosalie Beattie Dorothy Maxwell
Marika Hillson Robin Underwood
Sylvia Hobbs

External attendees:

Rachel Ashley-Caunt (Head of Internal Audit)

186. WELCOME

The Chairman welcomed Amy Eyles, the new Finance Manager, to her first meeting of the Committee.

187. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Annabel de Capell Brooke and Lance Jones.

188. MINUTES

The minutes of the meeting held on 25 July 2018 were approved and signed by the Chairman.

189. DECLARATIONS OF INTEREST

No declarations of interest were made.

190. QUESTIONS UNDER COUNCIL PROCEDURE RULE 10.3

No questions were submitted under Procedure Rule 10.3.

191. INTERNAL AUDIT – PROGRESS AND PERFORMANCE

The Head of Internal Audit presented a report on progress made on the delivery of the Annual Internal Audit Plan for 2018/19 and associated measures of performance.

Reports had been issued for six assignments, of which four had been finalised and the others remained with management awaiting responses and agreement of action plans. Fieldwork was underway or in the planning stages for a number of further assignments. No areas of significant risk or control weaknesses had been identified in the work completed to date.

Members raised concerns at the assurance opinion for the Local Plan project following a statement made at the Planning Policy Committee earlier in the week that the Plan was on target for consultation during November/December 2018. The Monitoring Officer clarified that good progress was being made with the Local Plan and the concerns raised by Internal Audit were around the project management process for the project. In response to a question as to how much had been budgeted for the Local Plan and how much had been spent to date, officers agreed to provide a response outside of the meeting. It was proposed that the Head of Planning Services be invited to the next meeting to discuss the issues and concerns.

It was also confirmed that the £480K for Disabled Facilities Grants was the funding which was allocated by the County Council. In response to a number of detailed questions around the Disabled Facilities Grant process, officers agreed to provide responses outside of the meeting. It was noted that the maximum limit for individual grants was £30K and it was acknowledged that officers were now finding that that limit did not provide for a single level extension and a number of organisations were now lobbying the government to increase the level. It was proposed that the Committee's comments on Disabled Facilities Grants should be passed on to the Policy and Resources Committee with the view that the Committee write to Government in support of the idea of raising the limit for DFGs. *(Following the meeting, officers had been informed that it was likely that this issue would be addressed in the forthcoming government green or white paper on health and social care and we were unclear if there would be a further opportunity for consultation on the DFG limit).*

RESOLVED:

- (i) To note the progress and performance of the Internal Audit service and the key findings from audits delivered during the period;
- (ii) That the Committee's comments on the Disabled Facilities Grant Limit be forwarded to the Policy and Resources Committee; and
- (iii) That the Head of Planning Services be invited to attend the next meeting of the Committee to discuss the audit comments around the Local Plan project.

(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)

192. PROGRESS ON IMPLEMENTATION OF INTERNAL AUDIT RECOMMENDATIONS

The Interim Finance Manager presented a report which set out the progress made on implementing recommendations arising from Internal Audit reports.

There were currently 15 outstanding recommendations. For 2017/18, there were six important, one medium and four standard priority recommendations outstanding. For 2018/19, under the revised categories of prioritisation, there was one essential, two important and one outstanding priority recommendations outstanding.

During the past three months, there had been a drive to address all recommendations and significant progress had been made. Since the last meeting of the Committee, thirteen recommendations had been completed and closed and three new recommendations had been received.

In response to questions from Members on procurement cards, officers confirmed that new rules on the management of the cards had been introduced. The cards were intended to be used for one off occasions but the preferred option was still for orders and invoices.

RESOLVED:

- (i) That the progress against each of the audit recommendations be noted; and
- (ii) That the Chairman, Vice Chairman, Executive Director (Resources and Commercial), Head of Resources and Finance Manager will hold regular meetings to look at the progress of recommendations with service managers prior to meetings of the Committee.

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

193. ANNUAL AUDIT OPINION

The Head of Resources presented a report which advised Members of the audit opinion provided by KPMG on their audit of the financial statements and conclusion on the use of resources in 2017/18. This was the last report from KPMG and they had thanked officers and Members of the Governance and Audit Committee for their support during the six years of their audit appointment.

The report set out the scope of the work that was undertaken on the financial statements and confirmed that they:

- gave a true and fair view of the financial position of the Authority as at 31 March 2018 and of the Authority's expenditure and income for the year then ended; and
- had been properly prepared in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting in the United Kingdom 2017/18.

The report also stated that KPMG were satisfied that the Council had put in place proper arrangements for securing economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2018.

RESOLVED:

To note the contents of the Independent Auditor's Report.

194. ANNUAL LETTER FROM THE LOCAL GOVERNMENT OMBUDSMAN

The Monitoring Officer presented a report which advised Members of the annual letter from the Local Government Ombudsman (LGO) to East Northamptonshire Council. A copy of the letter was submitted together with a summary of the complaints statistics.

It was noted that six complaints had been made against East Northamptonshire Council during 2017/18 and that none of them had been upheld.

RESOLVED:

To note the Local Government Ombudsman Annual Review Letter 2018 and that a similar report would be produced annually.

(Reason: To meet the terms of reference of this Committee to receive external regulatory body reports and to demonstrate best practice in making reports available to councillors and the public.)

195. CHANGES TO THE CONSTITUTION – REPORTING OF COUNCILLOR COMPLAINTS

The Monitoring Officer presented a report which recommended amendments to Part 9 of the Constitution in relation to the reporting of complaints and their outcomes following consideration by the Joint Standards Complaints Committee. An amendment to the Code of Conduct was also recommended as a result of recent legal discussions on the applicability of the Code.

In the past five years since the introduction of the provisions of the Localism Act, the Council had not published any of its decisions on a detailed, individual basis, although the outcome had been notified to the subject councillor(s), complainant and the Clerk of the relevant Town or Parish Council when the subject councillor was not an ENC councillor.

The Joint Standards Complaints Committee had now recommended that Decision Notices and Investigation reports, at all stages of the complaints process, should be marked as not for publication on the grounds that they contained personal data of the subject councillor(s) and complainant. However, a public summary would be published on the ENC website within five days of the end of any appeal period or appeal hearing relating to the decision and would also be reported to the next available meeting of the Joint Standards Complaints Committee.

In January 2017, the introductory paragraph of the Code of Conduct was modified to include that the Code applied to all councillors when they claimed to act or gave the impression of acting as a representative of the Council. In light of recent legal discussions around the issue of capacity it was recommended that the introductory paragraph be revised.

R.9 RESOLVED TO RECOMMEND TO FULL COUNCIL:

- (i) That the following change to Part 5.1 of the Constitution be approved:

“This Code applies to all Councillors when they act in their role as Councillors of the Council. This may include ~~or~~ when they claim to act or give the impression of acting as a representative of the Council or when carrying out ward councillor activities.”

- (ii) That the changes to Part 9 of the Constitution, as detailed in Appendix 1, be approved (pages 214 to 217 refer).

(Reason: These changes will improve transparency in the Council's arrangements for processing complaints against councillors and help satisfy the Council's duty to provide high standards of ethical behaviour.)

196. SANDIE WILLIAMS, INTERIM FINANCE MANAGER

The Chairman advised that this was Sandie's last meeting of the Committee and that she was moving on to another role within the Council. The Committee wished Sandie well for the future.

Chairman

Appendix 1

Summary of proposed changes to Part 9 of the Constitution in relation to reporting of complaints – Procedure for Assessment, Investigation Determination and Appeal of Complaints against Councillors and Dispensations

Section	Proposed Amendments
3.6 Initial Assessment – Other Action	<p>Take other/informal action. In appropriate cases, the Monitoring Officer may seek to resolve the complaint informally, without the need for a formal investigation. Such informal resolution may involve the councillor choosing to offer an apology, or other remedial action by the council. Where the councillor or the council makes a reasonable offer of local resolution, but the complainant is not willing to accept that offer, the Monitoring Officer will take account of this in deciding whether the complaint merits formal investigation.</p> <p>Where other/informal action is agreed the Monitoring Officer will arrange for the required action to be taken. Once the action is completed, the Monitoring Officer will <u>confidentially</u> inform the complainant, councillor(s) complained against, and the JSCC (plus Town or Parish Council if relevant) <u>and prepare a public written summary as noted in paragraph 3.7.</u></p>
3.7 Initial Assessment	<p>The Monitoring Officer, after taking a decision, will normally inform the complainant, relevant councillor(s) and if appropriate the Town or Parish Council of the decision and the reasons for that decision via <u>a confidential decision notice. The confidential decision notice will</u> include the main points considered, the conclusions reached and the reasons for the decision. and will be available for public inspection for a year</p> <p><u>In addition a, written summary within 5 days of the end of any related appeal period/appeal, a written The summary of the complaint will be placed on the ENC website . This will not name the councillor(s) or complainant but will name the council involved. But will cover,:</u></p> <ul style="list-style-type: none"> <u>• whether the complaint was made by member of public (which will include complaints by staff) or by a councillor,</u> <u>• the paragraphs of the Code that were alleged to be breached,</u> <u>• a brief description of the activity that created the alleged breach (as fully as possible without any identifying details)</u> <u>• the outcome of the complaint,</u> <p><u>The summary will also be sent to the Clerk of the relevant Town or Parish Council if it relates to one of their councillors so that it can be reported to their Council if that is their practice</u></p>
<u>3.8 Initial Assessment</u>	<p>Exceptionally, where the complainant's details have been withheld (see paragraph 2.4), the Monitoring Officer may decide that the councillor(s) complained against should not receive the full written summary <u>confidential</u> decision notice if it is considered this would be against the public interest or would prejudice any future investigation. In such circumstances an appropriately redacted version will be provided.</p>
4.7 No Case to Answer after Investigation	<p>If the Investigating Officer concludes that there is no case to answer of a failure to comply with the code of conduct and the Monitoring Officer agrees that no further action is required, the Monitoring Officer will write <u>a confidential decision notice</u> accordingly to the complainant and the councillor(s) concerned (and to the Town or Parish Council, where the complaint relates to a Town or Parish councillor). The letter will include a <u>confidential</u> copy of the Investigating Officer's final report. <u>In addition a public</u></p>

	<u>written statement will be published on the council's website in accordance with paragraph 3.7</u>
4.8a - Other Action after Investigation	Where other action is agreed the Monitoring Officer will arrange for the required action to be taken and, once completed, the Monitoring Officer will <u>confidentially write to inform</u> the complainant, the councillor(s) complained against, and the JSCC (plus Town or Parish Council if relevant) <u>to inform them</u> that the complaint has been dealt with. <u>In addition a public written statement will be published on the council's website in accordance with paragraph 3.7</u>
5.3 Hearing	It is intended that hearings should be conducted in a formal manner but the attendance of legally qualified representative advisors of the complainant and complained against councillor(s) is not encouraged. Accordingly no assistance will be given towards the cost of any such legally qualified representatives. The Hearing Panel will act in an inquisitorial manner, rather than an adversarial manner, seeking the truth in relation to the conduct of the councillor(s) on the balance of the information available to it, and will be able to commission further investigation or information where it needs to do so in order to come to a decision. <u>Hearings will usually be held after a motion to exclude the public and press as it would be unusual for a complaint not to involve consideration of personal information about the complainant, Cllr concerned or other individuals. (See Annex 3 Section 2)</u>
5.6 No Breach found at Hearing	The Hearing Panel may conclude that the councillor(s) did not breach the code of conduct, and so dismiss the complaint. <u>No formal publication (on the council's website or in a newspaper) of the outcome will take place unless requested by the councillor(s) affected. A written summary will be placed on the council's website in accordance with paragraph 3.7.</u>
5.8 Breach found after Hearing	If a breach is found to have occurred, the Hearing Panel will choose from one or more of the following list of actions. These actions will be implemented in case of councillors from those councils who have delegated to the JSCC such of its powers to take action in respect of individual councillors as may be necessary to promote and maintain high standards of conduct. On all other cases, the Hearing Panel recommendation will be forwarded to the council by the Monitoring Officer, with a recommendation for appropriate action..... <ul style="list-style-type: none"> • Take no further action • Recommend to the relevant council that the councillor(s) be censured for their breach of the code of conduct • Recommend an apology to be made by the Councillor to the complainant (and/or others) • Publish the public written summary of the complaint and outcome in a location <u>other than in addition to the ENC website. its findings in respect of the councillor's conduct.</u> (Advice will be sought as to the most effective place of publication to attract the attention of the relevant community). <u>If this is on a council website, the publication will be removed after 12 months.</u> • Recommend to the councillor's Group Leader (or in the case of ungrouped councillors, recommend to the relevant Council) that the councillor be removed from any or all Committees or Sub-Committees of the Council. <u>for a specified period of time, which cannot extend beyond the councillor's term of office.</u> • Instruct the Monitoring Officer to arrange training for the councillor. • Recommend to the relevant Council the removal from some or all outside appointments to which the councillor has been appointed or nominated by the relevant council <u>for a specified period of time, which cannot</u>

	<p><u>extend beyond the councillor's term of office</u></p> <ul style="list-style-type: none"> Withdraw some or all facilities provided to the councillor by the Council, (including access to buildings) provided this does not prevent the councillor(s) carrying out their democratic role <u>for a specified period of time, which cannot extend beyond the councillor's term of office</u> <p>It should be noted that the Hearing Panel has no power to suspend or disqualify the councillor or to withdraw councillor's basic or special responsibility allowances</p>
5.9 Breach found after Hearing	<p>At the end of the hearing, the Chairman will restate the decision of the Hearing Panel as to whether the councillor was in a breach of the code of conduct and any sanction which the Hearing Panel has decided is appropriate. Within 5 working days of the decision being made by the Hearing Panel, the Monitoring Officer will arrange for a formal confidential decision notice to be prepared in consultation with the Chairman of the Hearings Panel, and send a copy to the complainant, the councillor(s) complained against (and to the Town or Parish Council if relevant). The outcome will also be reported to the JSCC at the next meeting and recorded in the minutes.</p> <p><u>In addition, within 5 days of the end of any related appeal period/appeal, a written summary of the complaint will be placed on the ENC website. This will include the name of the councillor(s) and the council involved but will not identify the Complainant. It will also cover.:</u></p> <ul style="list-style-type: none"> <u>whether the complaint was made by a member of public (which will include complaints by staff) or by a councillor,</u> <u>a brief description of the activity that created the breach (as fully as possible without any identifying details of the complainant or individuals other than the Councillor(s))</u> <u>details of sanctions imposed or recommended by the Hearing Panel</u> <p><u>This summary will also be sent to the Clerk of the relevant Town or Parish Council so that it can be reported to their Council or published on their website together with any actions they have taken in implementing the sanctions</u></p>
6.6 Appeals	<p>At the end of the hearing, the Chairman will explain why a particular decision has been made by the Appeal Panel. Within 5 working days of the decision being made by the Appeal Panel, the Monitoring Officer will arrange for a formal confidential decision notice to be prepared in consultation with the Chairman of the Appeal Panel, and send a copy to the complainant, the councillor(s) complained against, (and to the Town or Parish Council if relevant). The outcome will also be reported to the JSCC at the next meeting <u>and a written summary published on the ENC website in accordance with paragraphs 3.7 or 5.9 as appropriate.</u></p>
Annex 2 Para 3.3	<p>The Investigating Officer will issue the draft report to the councillor and the complainant, asking for their comments within 10 working days. <u>At this stage The draft the-report is usually considered confidential but may be subject to disclosure under Freedom of Information Regulations in certain circumstances.</u></p>
<u>Annex 3 – Para 1.2</u>	<p>The Monitoring Officer will notify the councillor(s) complained against at least 10 working days before the date of the Hearing Panel meeting, of the date, time and place of the meeting and will provide a <u>confidential</u> copy of the Investigating Officer's final report and the procedure for the conduct of the</p>

	<p>hearing. The Monitoring Officer will have due regard for the availability of the complainant and councillor(s) complained against and any good reason why they may not be available on the date proposed.</p>
<p>Annex 3 - Para 4.1</p>	<p>As soon as practicable after the Hearing Panel has completed its consideration and decision in respect of the allegation, the Monitoring Officer will:</p> <ul style="list-style-type: none"> (i) send the councillor(s) a <u>confidential</u> written notice of the finding of the Hearing Panel, and the reasons for it; the statement will include a statement of any rights of appeal against that decision; (ii) send a written report <u>summary</u> of the Panel decision to the next convenient meeting of the JSCC <u>and publish this on the ENC website within 5 days of the end of any related appeal period/appeal, in accordance with the provisions of paragraphs 3.7 and 5.9 as appropriate to the decision being appealed.</u> (iii) where the complaint relates to a Parish or Town councillor, send the written notice <u>summary</u> of the decision to the Clerk to the relevant Parish or Town Council; (iv) send a copy of the <u>confidential</u> decision to the complainant which gave rise to the investigation.