

GOVERNANCE AND AUDIT COMMITTEE

Date: 27 March 2019

Venue: East Northamptonshire House, Cedar Drive, Thrapston

Time: 7.30pm

Present: Councillors: Peter Wathen (Chairman)
Alex Smith (Vice-Chairman)

Rosalie Beattie Dorothy Maxwell
Annabel de Capell Brooke Robin Underwood

External attendees:

Rachel Ashley-Caunt Head of Internal Audit
Neil Harris Ernst & Young LLP, (EY), External Auditor

481. WELCOME & INTRODUCTIONS

The Chairman welcomed Neil Harris of EY, External Auditor, to the meeting, and also Keith Osborne, temporary Democratic Services Officer.

482. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Marika Hillson and Sylvia Hobbs.

483. MINUTES

The minutes of the meeting held on 30 January 2019 were approved and signed by the Chairman.

484. DECLARATIONS OF INTEREST

No declarations of interest were made.

485. QUESTIONS UNDER COUNCIL PROCEDURE RULE 10.3

No questions were submitted under Procedure Rule 10.3.

486. URGENT ITEM AND CHANGE IN THE ORDER OF PROCEEDINGS

The Chairman indicated that he had agreed to the consideration, by the Committee, of the following item (Updated External Audit Plan 2018/19) under Section 100 (B) (4) (b) of the Local Government Act 1972, as a decision was required before the next scheduled meeting of the Committee.

RESOLVED:

That the order of proceedings be varied to enable the Urgent Item (Updated External Audit Plan) to be taken next.

487. UPDATED EXTERNAL AUDIT PLAN 2018/19

Further to minute 310 (5 December 2018), Neil Harris of EY, External Auditor, reported that they had made the following changes to the Audit Plan (as set out at pages 5 and 6 and pages 14 and 15 of the updated document presented to the Committee) to record: -

- the completion of early work in respect of the significant risk in relation to the Collection Fund surplus; and
- that they had separated out and increased the risk from inherent to significant in respect of the valuations of investment properties, after taking into account, the value of the Council's retail properties, being alert to the impact on valuation assessment from current significant difficulties encountered by retailers and their review of the predecessor external auditor files;

Neil Harris also reported that the change from inherent risk to significant risk in relation to valuation of investment properties, and also the audit of the Enterprise Centre Project were likely to result in an increase in the audit fee, but the exact amount was not known at this stage. Proposals would be brought back to the Committee. However, the Chairman expressed concern at the prospect of an increased fee.

RESOLVED:

That the contents of the report and the updated External Audit Plan 2018/19 be approved.

(Reason: This report sets out the arrangements for 2018/19 External Audit of the Statement of Accounts)

488. INTERNAL AUDIT – PROGRESS AND PERFORMANCE

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

Final reports had been issued for ten assignments and key findings were given. Fieldwork was complete or underway on all remaining assignments. Internal Audit actively monitored the implementation of recommendations arising from audit reports and since the last Committee meeting, three actions had been completed (General Data Protection Regulation and Information Governance; Payroll; and Business Continuity and Emergency Planning), with one overdue action (Planning – Use of Specialist Resources).

RESOLVED:

That the progress and performance of the Internal Audit Service, 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.)

489. INTERNAL AUDIT PLAN 2019/2020

The Head of Internal Audit submitted the Audit Plan for 2019/2020, and Members noted that the Plan contained four audits which were regarded as essential:-

- Procurement Compliance
- Key Financial Controls
- IT Asset Management, and
- Enterprise Centre – Embedded Assurance.

During the discussion, the Chairman emphasised that, in the lead up to Local Government Reorganisation in the coming year, staff would come under increased pressure and workloads were likely to grow as some staff would seek jobs elsewhere. Against this background, there was likely to be an increased risk of error and a potential risk of fraud, although the Council had every confidence in staff integrity.

Having reviewed the document, the Committee

RESOLVED:

- (1) That the Audit Plan for 2019/20 be approved.
- (2) That the S151 Officer, in consultation with the Chairman and Vice Chairman of the Governance and Audit Committee, be authorised to agree amendments to the Plan during the financial year, if required.

(Reason – To demonstrate that the Committee is discharging its responsibilities in conformance with the Public Sector Internal Audit Standards).

490. GRANT CERTIFICATION 2017/2018

The Committee received and considered a report by the Finance Manager summarising the results of work undertaken by KPMG - the Council's previous External Auditor - on the certification of the Council's 2017/18 grant claims and returns.

KPMG had carried out certification work on the Council's Housing Benefit Subsidy claim. This involved reviewing the Council's grant submission and associated documentation and records to ensure that they were accurate and sufficient.

No issues or errors were identified and therefore no recommendations had been made to improve the claim completion process. KPMG had certified the grant claim as unqualified without any amendments.

The Committee congratulated the staff involved in the grant submission. It noted that all 2018/19 audits would be completed by the new External Auditor, EY.

RESOLVED:

That the contents of the report and the certification of grants and returns for 2017/18 be noted.

(Reason: This is an information report which addresses the management of benefits payments by the Council).

491. RISK MONITORING UPDATE – QUARTER 3 OF 2018/19

The Finance Manager submitted a report on the Council's risk register for quarter 3 of 2018/19, containing details of:-

- Corporate risks
- High Priority Risks
- Risks with 'very high' impact scores – by each impact measured
- Risks ended in the last quarter (none)
- New risks in the last quarter (one new risk identified)
- Overdue actions (none).

A brief summary of the Council's current approach and preparations for Brexit had been provided by the Head of Environmental Services. The Chairman acknowledged the work being undertaken by staff on this issue.

The creation of new unitary councils - and the delay in the formal decision to do so – created a number of material risks. At present, one specific risk was recorded on the corporate risk register (RM CORP 012 'Risk of unitary preparation diverting resources from delivery of Corporate/Efficiency Plans'), with an inherent score of 12 and a current score of 12.

However, there were nine other risks on the risk register which already took into account possible outcomes of the current situation regarding Local Government Reorganisation in Northamptonshire.

The Head of Resources reported on the good progress made in relation to RM CORP 015 - Risk of Cyber Attack. The Committee asked for an update at the next meeting and also a report on the risk of fraud and error arising from Local Government Reorganisation.

RESOLVED:

That the current status of risks included in the report for the period October to December 2018 be noted.

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

492. UPDATES TO THE CONSTITUTION

The Deputy Monitoring Officer presented a report which proposed amendments to Part 2 (Articles) to allow named substitutes to be nominated for the North Northamptonshire Joint Committee and to Part 9 to clarify the factors that will be considered in relation to the determination of a complaint against a councillor who subsequently left office. The latter amendments had been recommended by the Joint Standards Complaints Committee.

After making one small change to the wording proposed for part 9 of the Constitution, the Committee:

R.29 RESOLVED TO RECOMMEND TO FULL COUNCIL:

(1) That Article 10 of the Constitution be changed as indicated in red:

10.02 Joint arrangements

- a) The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions in any of the participating authorities, or advise the Council.
- b) Such arrangements may involve the appointment of a joint committee with these other local authorities. Appointment of East Northamptonshire Council representatives to Joint Committees shall be made by (full) Council. Where the Terms of References of Joint Committees allow named substitutes, these may also be appointed by (full) Council on the basis of the same political proportionality as the representatives.
- (~~b~~c) Details of any joint arrangements, including any delegations to joint Committees, will be found in the council's scheme of delegation in Part 3 of this constitution.

(2) That the recommendation of the Joint Standards Complaints Committee be accepted and that the Part 9 of the Constitution be changed as indicated in red on the lines set out in Appendix A to these minutes.

(Reason: to ensure that the Constitution continues to provide appropriate guidance on Council decision making).

493. EXCLUSION OF PRESS AND PUBLIC

RESOLVED:

That the public and press be excluded from the meeting during consideration of the next item of business (Enterprise Centre – Progress and Assurance) in accordance with Section 100A of the Local Government Act 1972, because exempt information may be disclosed.

494. ENTERPRISE CENTRE – PROGRESS AND ASSURANCE

The Committee received a report from the Project Finance Manager providing information on the progress of the Enterprise Centre and which provided assurance that the procurement rules were being adhered to and the risk around external funding from SEMLEP was being closely monitored.

The report was not for publication in accordance with paragraph 3 of Section 100A of the Local Government Act 1972.

RESOLVED: That

- (1) the involvement of Internal Audit throughout the scheme and that there are no matters arising from their review of procurement processes be noted.

(Reason - to review the performance of the Council's procurement processes and control arrangements for this scheme).

- (2) That the key risks, and mitigating actions taken, around grant funding and the timing of the Enterprise Centre build programme, be noted.

(Reason – to be aware that failure to secure the grant funding would affect the financial appraisal of the project and to be aware that the build programme could be delayed)

Chairman

Proposed Change to Annexe 1 of Part 9 of the Constitution**Local Guidelines for the Assessment of Complaints about councillor Conduct**

1. Preliminary steps: The Monitoring Officer will ensure that:-

- (a) the complaint is against one or more named East Northamptonshire councillor, or Parish or Town councillors in East Northamptonshire
- (b) the named councillor was in office at the time of the alleged conduct and a code of conduct was in force at the time
- (c) the complaint submitted sufficient information and specified how the code of conduct is considered to have been breached.
- (d) the complainant's contact details have been provided or, if the complaint is anonymous, that it raises such significant concerns that further consideration is warranted.

The complaint will not be pursued if it fails one or more of these tests.

2. Summary from the Monitoring Officer: To assist the Independent Person and Chairman/Vice Chairman of the Joint Standards Complaints Committee (JSCC), the Monitoring Officer will provide a short written report setting out:

- The paragraphs of the code of conduct which are alleged to have been breached
- Key aspects of the complaint (for lengthy or complex complaints)
- Any relevant further information, including, where relevant:
 - o The code of conduct in force at the time of the activity which has given rise to the complaint
 - o declaration of acceptance of any documents which contain the code of conduct e.g. Constitution/standing orders
 - o minutes of meetings relevant to the complaint
 - o copy of the relevant entry in councillor's Register of Interests
 - o details from Companies House or the Land Registry that maybe appropriate
 - o whether any members of the JSCC or relevant officers are likely to be conflicted out
 - o any written representation(s) received from the complained against councillor(s)
 - o if the complaint has already been the subject of an investigation or other action relating to the code of conduct, or investigated by other regulatory authorities
 - o any relevant matters about the health or circumstances of the relevant parties – to note any relevant points such as resignation, death or serious illness (which could influence a decision to proceed with an investigation)

3 Criteria to be followed: Complaints about councillor conduct will be:-

- taken seriously
- dealt with in a way that seeks to ensure fairness for both the complainant and the councillor(s) complained about
- treated on their merits, and
- considered with regard to proportionality, and the cost and time of an investigation and possible hearing.

The Monitoring Officer, Independent Person and Chairman/Vice Chairman of the JSCC will consider the following issues in deciding what action should be taken:-

- (a) How long ago did the alleged conduct take place? If there is a lengthy delay in making the complaint, the Monitoring Officer may, having regard to the nature of the complaint, take the view that no further action is required. The Monitoring Officer will not entertain a complaint that is more than a year old unless the evidence of the breach has only become available within the past year.
- (b) Is the complaint too trivial to warrant further action? If the answer is Yes, the Monitoring Officer is likely to decide that no further action will be taken.
- (c) Does the complaint appear to be simply malicious, politically motivated, vexatious, or tit-for-tat? If the answer is Yes, the Monitoring Officer is likely to decide that further action is not warranted.
- (d) Where complaints are received from one councillor who is of the same party as the councillor(s) complained about and on the same Council, the complaint may be passed to the relevant Group Leader or party branch for resolution. The Monitoring Officer will ask for a report on the outcome of the referral.
- (e) Where the councillor(s) complained about resign(s) from office before or during the complaints process, consideration will be given to the public interest in the complaint process continuing or not. This wider public interest will include the potential impact and seriousness of the offence and the effectiveness of any sanctions that might be appropriate if breach were to subsequently be found.

This wider public interest will be weighed against the potential value for money for the public purse in taking any further action. In particular, where an investigation is (or has been) recommended, it may be decided that either:

- i) the investigation may be completed to the stage where either a case to answer is or is not found, regardless of the co-operation or participation of the councillor(s) complained about;
- or
- ii) the start of the investigation may be delayed up to a maximum of a year, in case the councillor(s) return(s) to office in that time; or in exceptional circumstances, be delayed for a longer period if considered appropriate by the Monitoring Officer, following consultation with the Chairman, Vice-Chairman and Independent Member of the Joint Standards Complaints Committee.
- f) Are there other factors which could influence the decision such as –
 - Incorrect advice given to the councillor
 - Exceptional circumstances

4. Complaints which do not raise serious issues: Wherever possible the Monitoring Officer will seek informal resolution for complaints considered to be less serious, rather than refer them for investigation. Examples of other action are conciliation, training, and improved procedures/protocols. Consistent with their duty to uphold standards of conduct, the Monitoring Officer will seek:

- (a) the simplest and most cost-effective way of resolving the issue
- (b) to help the Council (or the Town or Parish Council) to work more Effectively
- (c) to avoid similar complaints in the future.