

AUDIT, BEST VALUE AND COMMUNITY SERVICES SCRUTINY COMMITTEE

MINUTES of a meeting of the Audit, Best Value and Community Services Scrutiny Committee held at Committee Room, County Hall, Lewes on 14 July 2017.

PRESENT Councillors Colin Swansborough (Chair) John Barnes (Vice Chair), Matthew Beaver, Philip Daniel, Gerard Fox, Peter Pragnell and Andy Smith

LEAD MEMBERS Councillor David Elkin, Lead Member for Resources

ALSO PRESENT Becky Shaw, Chief Executive
Kevin Foster, Chief Operating Officer
Philip Baker, Assistant Chief Executive
Ian Gutsell, Chief Finance Officer
Ola Owalabi, Head of Accounts
Russell Banks, Chief Internal Auditor
Nigel Chilcott, Senior Audit Manager
Sarah Mainwaring, Head of HR and Organisational Development
John Stebbings, Chief Property Officer
Nick Skelton, Assistant Director Communities

KPMG Joanne Lees, Director
James Seegar, Senior Manager

1 MINUTES OF THE MEETING HELD ON 14 MARCH 2017

1.1 The Committee RESOLVED to approve as a correct record the minutes of the meeting held on the 14 March 2017.

2 APOLOGIES FOR ABSENCE

2.1 There were no apologies for absence.

3 DISCLOSURES OF INTERESTS

3.1 There were no disclosures of interests.

4 URGENT ITEMS

4.1 There were no urgent items.

5 REVIEW OF THE KPMG REPORT TO THOSE CHARGED WITH GOVERNANCE AND STATEMENT OF ACCOUNTS FOR 2016/17

5.1 The Chief Finance Officer introduced the report to those charged with governance, together with the Statement of Accounts, and the representatives from KPMG. He confirmed that the report, and any comments from the Committee would be referred to the Governance Committee.

5.2 Jo Lees, KPMG Director, outlined the effective audit assisted by good working papers produced on schedule, and she thanked the Finance team for their cooperation. She outlined three key areas: the Triennial valuation of the Pension Scheme, the Minimum Revenue Provision and accounting for ownership of local authority maintained schools. She confirmed that there was nothing within those areas that she needed to bring to the Committee's attention. She also set out an adjusted audit difference of £2.7m connected with assets depreciation charges.

5.3 The Committee discussed accounting for schools, and expressed frustration that the ownership issue is still unresolved in respect of 21 schools (one having obtained Academy status). Jo Lees confirmed that the relevant guidance is that until such time as the Diocese can prove title to the schools in question, the cautious approach is to retain them in the Authority's accounts.

5.4 In respect of the Minimum Revenue Provision, the Head of Accounts and Pensions set out that the payments had been re-profiled, in line with advice from an independent Treasury Management adviser and the CLG guidance.

5.5 The Committee RESOLVED to (1) note the report and its appendices;

(2) confirm that there are no concerns arising from the Independent Auditor's (KPMG) Report that need to be brought to the attention of the Governance Committee; and

(3) congratulate staff on their efforts in ensuring an effective audit.

6 REVIEW OF THE KPMG REPORT TO THOSE CHARGED WITH GOVERNANCE AND THE PENSION FUND ANNUAL REPORT FOR 2016/17

6.1 The Chief Finance Officer introduced the KPMG report to those charged with governance, together with the Pension Fund Annual Report for 2016/17.

6.2 Jo Lees, KPMG Director, outlined that there were no significant risks, other than the mandatory ones of management override of control and fraudulent revenue recognition

6.3 The Committee enquired as to the risk posed by the Guaranteed Minimum Pensions (GMPs) Reconciliation. The Head of Accounts and Pensions acknowledged that it may be a risk going forward, but it did not affect the accounts for 2016/17 under discussion.

6.4 The Committee RESOLVED to (1) note the report; and

(2) confirm that there are no concerns arising from the Independent Auditor's (KPMG) Report that need to be brought to the attention of the Pension Committee.

7 INTERNAL AUDIT SERVICE: ANNUAL REPORT AND OPINION 2016/17 (INCLUDING QUARTER 4)

7.1 The Chief Internal Auditor introduced the report which provided an overview of the work of the Internal Audit Service over 2016/17, and results of the audits undertaken in Quarter 4. He confirmed that he was able to give the Committee 'reasonable assurance' of the effectiveness of the Council's control environment.

7.2 The Senior Audit Manager highlighted that there were no audits below 'partial assurance' other than in schools, and pointed out an error in Appendix 2, in that the Pension Fund has assets of £2,344M against liabilities of £2,885M, representing a funding level of 81.2%.

7.3 The Committee discussed the development of the schools' audit programme, from a risk-based approach to a randomised selection by an external partner (Mazars) leading to follow up by the Internal Audit team if necessary. The programme of training for Headteachers, bursars and business managers was highlighted, and its effectiveness assessed.

7.4 The Committee highlighted concerns regarding paragraph 5.4 of Appendix 1, and the follow up on the Compliance with Standing Orders and Direct Payments audits. The Chief Operating Officer set out that the issues had been subject to detailed follow up with the relevant managers, and that the process of ensuring compliance with the original findings had led to further issues being identified, which were also being addressed.

7.5 The Committee RESOLVED to (1) note the report;

(2) confirm that there are no significant control issues that should be included in the Council's annual governance statement for 2016/17; and

(3) confirm that the Council's system for internal audit has proved effective during 2016/17.

8 STRATEGIC RISK MONITORING - QUARTER 4

8.1 The Chief Executive introduced the report. The Committee noted that Cyber Attack had been added to the register, and been rated Red owing to the potential scale of the impact of the risk.

8.2 The Committee discussed a number issues including:

- The timing of adding Cyber Attack to the register;
- General emergency responses to disasters, in the light of Grenfell Tower; and
- School funding, and in particular the effectiveness of lobbying on behalf of small rural schools.

Cyber Attack

8.3 The Chief Executive set out that while Cyber Attack has always been under consideration, recent targeting of government organisations such as the NHS, and the scale of those attacks, had led to its elevation to a strategic risk.

8.4 The Chief Operating Officer reassured the Committee of the Council's efforts to mitigate the risk, including maintaining up to date software, an investment in off-site back up and data retrieval, and the development of a corporate data centre resilience review. Partly this has been driven by closer integration with Health colleagues, though East Sussex Better Together and Connecting 4 You, and the need for each partner to have confidence in the IT systems of the other.

8.5 The Committee expressed the view that staff training, especially in identifying, and the correct responses to, ransomware and other malware was a key component of the mitigation of the risk of cyber attack.

Emergency Planning

8.6 The Chief Executive confirmed that the Strategic Risk Register under discussion was the register of those risks that, due to their nature, the severity of the potential harm or the nature of the control measures, Chief Officers consider to be strategic. They sit on top of departmental risk registers, and as such not all of the activities undertaken by the County Council that could be considered risky, appear on the Strategic Risk Register.

8.7 The Chief Executive used the example of the Emergency Planning team which is well-rehearsed and practised to responding to disasters. She also highlighted the multi-agency work that the Council engages in, including the pan-Sussex Resilience Forum.

8.8 The Committee RESOLVED to (1) note the current strategic risks and the risk controls/responses being proposed and implemented by Chief Officers;

(2) note that officers would review Risk 7 (Schools) in the light of the funding situation, and the effect on the Council's models and future funding; and

(3) request further consideration of the new Cyber Attack risk by the Audit, Best Value and Community Services Scrutiny Committee.

9 ASSESSMENT OF THE CORPORATE GOVERNANCE FRAMEWORK AND ANNUAL GOVERNANCE STATEMENT FOR 2016/17

9.1 The Assistant Chief Executive in his role as Monitoring Officer introduced the report.

9.2 The Committee discussed the Table at Appendix 1, and suggested that further policies and processes could be added to column 8, in terms of their relation to the transparency of the organisation. The Assistant Chief Executive agreed to review the Table and amend it where necessary.

9.3 The Committee RESOLVED to (1) note the report; and

(2) confirm that, subject to the issue raised in minute 9.2, there were no changes to the report that the Committee wished to recommend to the Governance Committee.

10 ORBIS PARTNERSHIP UPDATE

10.1 The Chief Operating Officer introduced the report and presentation which set out the background and aims of the Orbis partnership, with the impacts and implications of Brighton & Hove City Council (BHCC) joining as the third and final Founding Partner. He reiterated that Orbis is a branding identity, providing a single service to three sovereign partners, each of which contribute and benefit in pre-determined shares, the formula determined by the Inter Authority Agreement.

10.2 In response to a question regarding the formula, the Chief Operating Officer confirmed that BHCC joining the Partnership had had a material effect, and would change the ratio of contributions and benefits. The Chief Internal Auditor confirmed that his service had provided substantial assurance on the arrangements.

10.3 The Committee discussed the optimum size of the Partnership. The Chief Operating Officer highlighted that should any other authorities wish to join there would have to be a review of the governance structure underpinning the partnership. There has been an expansion of the customers using Orbis, and the benefits are returned to the Founding Partners as reduced contributions, according to the formula.

10.4 The Committee RESOLVED to (1) note the report; and

(2) agree to receive a report at the November 2017 meeting regarding the developing Orbis Business Plan.

11 APPRENTICESHIP LEVY

11.1 The Head of Human Resources and Organisational Development (HR&OD) introduced the report, which provided an update to the March 2017 report. The Committee was informed of the aspirations of the Levy to be workforce, not target, led, and the development of an approach to 'grow our own' to address skills shortages and 'hard to recruit' areas.

11.2 The Head of HR&OD tabled an addendum, which set out the values of the training packages that ESCC can draw down, but highlighted that the higher value packages, to assist the training of, for example, teachers and social workers, were still being developed. The Council is looking to roll over some of the Levy funds to future years, to access these packages, hopefully in 2019, but the Head of HR&OD confirmed that the Government would recoup any Levy funds that remained unspent after two years.

11.3 The Committee discussed the appropriateness of the name "Apprenticeship Levy". It was confirmed that what was being developed was an in-work training scheme, to assist both entry-level jobs and career progression, up to and including leadership and management training. It was confirmed that the core corporate levy costs have been provided for through the RPPR process, but that schools posed more of a risk, as the levy costs must be passed on to them in accordance with DfE guidance. The Head of HR&OD reported on the innovative ways schools are collaborating and pooling their share of the Levy, to achieve the best outcomes.

11.4 The Committee RESOLVED to note the progress made implementing the Apprenticeship Levy and the proposed focus of work for the next 18 months.

12 DEVELOPMENT OF A PROPERTY INVESTMENT STRATEGY FOR EAST SUSSEX COUNTY COUNCIL

12.1 The Chief Property Officer introduced the report and presentation.

12.2 The Committee discussed a variety of issues, which are summarised below.

Balanced portfolio

12.3 The Committee queried the means by which a balanced portfolio would be achieved, and asked about the assumptions on risk and reward underpinning the report. The Chief Property Officer responded that a range of options would be considered, from existing assets providing a proven rental income stream, to development sites. He confirmed that the market for low risk opportunities was tightening, which may restrict the choices available to ESCC as other authorities explore investment strategies.

12.4 The Chief Property Officer set out that the Strategy was predicated on the basis of providing an income stream, and not on capital growth. The Committee remarked that the property market is subject to cycles, and that, in particular, the commercial sector is volatile. The Committee requested clarity on the criteria for stress testing any investment opportunity, and the effect of the Council entering the market.

12.5 The Chief Operating Officer reiterated that the Strategy was being developed to provide a mechanism by which the Council could derive income to support services, should the Council want to pursue this.

12.6 The Chief Property Officer clarified that development of the details was the next piece of work by the Orbis partnership. This would include stress tests, checking assets for patterns of liquidation of tenant firms, empty units and void periods. Other criteria looked at would be location, a systematic check of the property and how it fits into the overall portfolio. He set out that advice would be sought throughout the life of the asset, with regular check-ups.

Supporting priorities

12.7 The Committee expressed support for investing in development that also supported the Council's corporate priorities, and cited development of health-related facilities as an example. The Committee also supported investment to support driving sustainable economic growth. The Chief Operating Officer set out that discussions had been taking place with Health bodies, but that these had initially proved unfruitful.

12.8 Councillor Smith provided the example of Aylesbury Vale District Council as holding assets unconnected with corporate priorities. The Chief Operating Officer set out that the East Sussex property economy is not sufficiently developed to support a Strategy based solely within the County, presenting a high risk and low return.

12.9 The Committee remarked on the need for clear communications on any strategy, to avoid a situation like the Icelandic banking crisis which affected individual local authorities' finances. The Committee felt that investment outside of the county may be harder to justify to the electorate, whereas a clear link to priorities would mitigate that concern.

Borrowing and effect on ESCC Finances

12.10 The Chief Property Officer set out that the majority of the investment strategy would be financed by borrowing, principally from the Public Works Loans Board, as the Council does not have a large asset base. The Chief Finance Officer confirmed that repayments would be at a fixed rate, repaying interest and the principal sum, in accordance with the agreed Treasury Management Strategy.

12.11 Councillor Barnes reported that Rother District Council was investing in a Churches and Charities Trust, returning 4%. The Chief Operating Officer confirmed that the County Council was permitted to borrow money to purchase assets, but not to support speculative investment.

12.12 The Committee requested clarity on the level of exposure the Strategy envisaged. In particular, the Committee requested information in future proposals on the proportion of the Council's liabilities that will be tied to assets exposed to the commercial property market. The Chief Property Officer set out that the proposal was a 1-2% return on a fund of £150m. It was confirmed that the proposal was not to meet the Council's funding requirement, but to provide additional income without detracting from core services.

12.13 The Committee expressed concern about the potential exposure to contingent liabilities should the property market behave in a way detrimental to the Council's interests, and the appropriate methods for accounting for such risks.

Governance

12.14 The Committee requested details of the standards of due diligence that would be undertaken, and who would be accountable. The Chief Property Officer highlighted the different approaches required by the different statutory underpinning of any acquisitions. All investment decisions would be subject to approval of the business case by the Chief Finance Officer, in his role as Section 151 Officer, that the investment represented prudential borrowing. He would be assisted in this by advice from Internal Audit in reviewing the governance process and the Treasury Management team.

12.15 The Chief Operating Officer remarked that the current Treasury Management Strategy could be reviewed, including attitudes to the current priority order of Security, Liquidity and Return.

12.16 The Chief Operating Officer confirmed that the Committee's discussion was part of the process of developing the Strategy, which would be for the Executive to decide to implement or not. Further input would be sought from external advisors and further exploration would be welcomed. He recognised that the Committee supported in-County investment where it assisted the Council's priorities, and the reservations of the Committee on borrowing for investment, and the effect of any such borrowing on the Council's finances.

12.17 The Committee RESOLVED to recommend that further work should be undertaken in developing a more detailed strategy, with particular reference to funding sources and the development of clear criteria for effective due diligence, and the effect of borrowing on the balance sheet.

13 SCRUTINY COMMITTEE FUTURE WORK PROGRAMME

13.1 The Committee considered the Work Programme.

Libraries Review Board

13.2 The Committee discussed the work of the Libraries Review Board. The Assistant Director Communities highlighted the Interim report produced by the previous iteration of the Board, and set out the expected schedule of meetings in July, August and September. The procedure by which the Committee could contribute to the development of the Strategic Commissioning Strategy was explained.

Other Work Programme items

13.3 The Chair invited the Committee to suggest scrutiny topics, and an away day was suggested.

13.4 The Committee RESOLVED to (1) reconvene the Libraries Review Board consisting of Councillors Swansborough, Barnes and Pragnell together with Councillor Stogdon of the Economy Transport and Environment Scrutiny Committee; and

(2) agree that the Board, on behalf of the Committee, would provide comments directly to the Cabinet when the draft Strategic Commissioning Strategy is proposed for consultation in the Autumn.

14 FORWARD PLAN

14.1 Councillor Barnes requested that, in respect of the Lead Member for Transport and Environment decision on Parking Standards in September, proper consideration be given to the distinction between rural and urban settings.

14.2 The Committee noted the Forward Plan.

15 ANY OTHER ITEMS PREVIOUSLY NOTIFIED UNDER AGENDA ITEM 4

15.1 There were none.

The meeting ended at 1.05 pm.

Councillor Colin Swansborough (Chair)