

## **MAIDSTONE BOROUGH COUNCIL**

### **AUDIT, GOVERNANCE AND STANDARDS COMMITTEE**

#### **MINUTES OF THE MEETING HELD ON 19 SEPTEMBER 2016**

**Present:** Councillor McLoughlin (Chairman) and Councillors Coulling (Parish Representative), Daley, English, Fissenden, Perry, Revell, Mrs Riden (Parish Representative) and Vizzard

**Also Present:** Matt Dean and Darren Wells of Grant Thornton (External Auditor)

19. **APOLOGIES FOR ABSENCE**

It was noted that apologies for absence had been received from Councillor Garland.

20. **NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no Substitute Members.

21. **NOTIFICATION OF VISITING MEMBERS**

There were no Visiting Members.

22. **DISCLOSURES BY MEMBERS AND OFFICERS**

There were no disclosures by Members or Officers.

23. **DISCLOSURES OF LOBBYING**

There were no disclosures of lobbying.

24. **EXEMPT ITEMS**

**RESOLVED:** That the items on the agenda be taken in public as proposed.

25. **MINUTES OF THE MEETING HELD ON 11 JULY 2016**

**RESOLVED:** That the Minutes of the meeting held on 11 July 2016 be approved as a correct record and signed.

26. **COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT**

The Team Leader (Corporate Governance) introduced the report of the Head of Legal Partnership updating the Committee on complaints received

under the Members' Code of Conduct during the period 12 November 2015 to 31 August 2016. It was noted that:

- Since the last report to the Committee on 23 November 2015, there had been ten new complaints against sixteen Subject Members. Of the ten complaints received, three related to Borough Councillors and seven related to Parish Councillors.
- As at 31 August 2016, two complaints were at the initial assessment stage, two had been concluded with a finding that there was no breach of the Code of Conduct and four had not been progressed as three had failed the local assessment criteria and one had failed the legal jurisdiction test. The remaining two complaints had been referred to independent investigation, but, following the resignation of both Subject Members the investigations had ceased and the matters closed.
- The Localism Act 2011 repealed the requirement to publish decision notices; therefore, in providing the update to the Committee, the names of the complainant and the Councillor complained about were both kept confidential in accordance with the Data Protection Act 1998.
- In future, update reports on complaints received under the Members' Code of Conduct would be submitted to alternate meetings of the Committee.

In response to questions:

- The Team Leader (Corporate Governance) explained that it would not be in the public interest to use resources to pursue investigations into allegations of misconduct against individuals who had resigned from office as no sanctions could be applied, although in some circumstances the Police/Courts might become involved.
- The Team Leader (Corporate Governance) undertook to (a) clarify under which Section of the Localism Act 2011, the Borough Council was responsible for dealing with complaints that a Parish Councillor within its area had failed to comply with the Code of Conduct adopted by his/her Parish Council and (b) arrange for details to be circulated to all Members of the Committee and to the Parish Council Representatives.

**RESOLVED:** That the report be noted.

27. AUDIT, GOVERNANCE & STANDARDS COMMITTEE ANNUAL REPORT 2015/16

The Head of Audit Partnership presented the Audit, Governance and Standards Committee Annual Report 2015/16. It was noted that:

- The report represented a retrospective review of the activity of the Committee and reflected its terms of reference. It provided assurance that important internal control, governance and risk management issues were being monitored and addressed by the Committee and provided additional assurance to support the Annual Governance Statement.
- The report also included a refreshed programme of development briefings, to be delivered prior to each meeting of the Committee, designed to complement and provide insight into the types of issues that the Committee would be considering over the course of the year.

The Committee felt that the proposed programme of development briefings represented a comprehensive package to address Members' needs, but asked the Officers to consider whether the proposed briefing on commissioning, procurement and contracting could be delivered during 2016/17.

**RESOLVED:**

1. That the Audit, Governance and Standards Committee Annual Report for 2015/16 be approved.
2. **To RECOMMEND to the COUNCIL:** That the Audit, Governance and Standards Committee Annual Report 2015/16, which demonstrates how the Committee discharged its duties during 2015/16, provides assurance that important internal control, governance and risk management issues are being monitored and addressed by the Committee and provides additional assurance to support the Annual Governance Statement, be noted.
3. That the proposed programme of Member development briefings be approved subject to the Officers considering whether the proposed briefing on commissioning, procurement and contracting can be delivered during 2016/17.

28. **WHISTLEBLOWING POLICY**

The Head of Audit Partnership presented the Whistleblowing Policy which had been adapted in response to previous Committee feedback. It was noted that:

- The revised Policy attached as Appendix I to the report of the Head of Audit Partnership had been circulated to all Members of the Council inviting feedback and comments. The comments received were positive and did not suggest any further changes.
- If approved, the Policy would become the centrepiece of a drive to raise awareness with line managers (who, according to research conducted in January 2016, would be the first port of call for staff 90% of the time). Consideration would then be given to further training and dissemination of the Policy as required. Matters raised

through the Policy would be reported back to the Committee initially as part of the standard Mid-Kent Audit reporting in November/December and June/July. However, the Officers would keep this under review if the volume and nature of issues raised suggested alternative reporting cycles and methods would be more beneficial in bringing matters to the attention of Members.

**RESOLVED:** That the Whistleblowing Policy, attached as Appendix I to the report of the Head of Audit Partnership, be approved.

29. AUDITED STATEMENT OF ACCOUNTS 2015/16

The Director of Finance and Business Improvement introduced his report setting out the audited Statement of Accounts for 2015/16 for approval by the Committee in accordance with the Accounts and Audit Regulations, the External Auditor's Audit Findings Report and the Letter of Representation written by the Council to the External Auditor. It was noted that:

- None of the amendments to the Accounts identified during the audit process had affected the Council's General Fund Balance as at 31 March 2016. A number of other minor changes had also been made to improve the presentation and clarity of the Statement of Accounts.
- The External Auditor's Audit Findings Report also included a review of Value for Money which concluded that in all significant respects the Council had put in place proper arrangements to secure value for money in its use of resources for the year ended 31 March 2016.
- The External Auditor intended to issue an unqualified opinion on the 2015/16 Statement of Accounts and an unqualified Value for Money conclusion.

In response to questions, the Officers/representatives of the External Auditor explained that:

- In terms of Short Term Debtors and the Provision for Bad Debts, particularly in relation to Council Tax and Business Rate payers, the Revenues and Benefits team had strict follow-up procedures in place if an instalment was not paid on the due date. The collection rate was very high and monitored closely. More information relating to the collection statistics would be circulated to all Members of the Committee and to the Parish Council representatives.
- As long as the tax payer remained liable, the Council would continue to issue reminders and take steps to collect payments. Once a debt was over one year old, a 40% provision would be created for it in the accounts and once it was over six years old, 100% provision would be made for it. The debt would not necessarily be written off, but for accounting purposes, there was a need to recognise the risk in the accounts that it might not be possible to recover the debt. The provision made in the accounts was based on the age profile of the debts, and the revenue system would identify how many debts were

over one year, two years etc. (a percentage figure based on the age of the debts).

- The Revenues and Benefits team would continue to issue reminders and try to reach agreements for payments by instalments and if payments were still being made, the debt would not be written off even if it was twenty years old.
- With regard to the distribution of Business Rates and the treatment of Bad Debts, the Council was required to account for the way it collected Business Rates and a number of forms had to be completed over the course of the year: NNDR1 at the beginning of the year showing the amount the Council expected to collect in Business Rates to the end of the year and NNDR3 showing the amount actually collected in cash terms. The amount paid over to the Government after all adjustments had been made was 50% of the cash collected rather than 50% of the amount notionally due.
- The provision made in the accounts for Bad Debts was reviewed each year and could be reversed. The External Auditor looked at the estimates made for reasonableness, and, as far as the Officers were aware, they had never been found to be overly cautious.
- Where the Council was unable to collect the Business Rates payable, it took a robust approach to their recovery. This involved progressive action following a strict timetable, typically starting with a reminder for non-payment and then escalating, as necessary, to an application to the Courts for a liability order, then instruction of bailiffs, followed by bankruptcy or liquidation.
- Having regard to the percentage of Business Rate debt recovered, there was not much scope to achieve a higher percentage by accelerating the process.
- One of the key findings/conclusions of the External Auditor was that the updated Medium Term Financial Strategy assumed £4,178k of savings over the five year period which would be a considerable challenge for the Council despite its track record in recent years. This was simply an acknowledgement of the scale of the challenge faced by the Council with the caveat that whilst the Council was well placed, its past track record was no guarantee of success in achieving this target.
- The £460k delivered to date through the Council's Commercialisation agenda represented the additional income generated by the individual projects.
- With regard to the compatibility of the Medium Term Financial Strategy and the indicative housing trajectory in the Local Plan submitted for examination, the Local Plan was not a financial document, but assumptions were made in the Medium Term Financial Strategy about increases in Council Tax due to growth in the number

of homes. Whilst the documents were broadly compatible, it was not an exact science, and it was reasonable to take a cautious approach.

- The level of materiality used in planning and performing the audit was 2% of the prior year gross revenue expenditure of the Council (£1,794k). The External Auditor had also set an amount below which misstatements would be clearly trivial and would not need to be accumulated or reported to those charged with governance because it was not expected that the accumulated effect of such amounts would have a material impact on the financial statements. The External Auditor had defined this amount to be £89.7k.
- The concept of materiality to provide a level of assurance was well established and 2% was the standard used for local government clients. The application of the concept of materiality allowed the External Auditor to focus on key areas. As well as focusing audit effort, it also influenced the way in which the findings were reported to the Council. If the External Auditor did identify some errors in the financial statements that were cumulatively or individually above the materiality level set out in the Audit Plan, and the Council decided not to amend the statements for those errors, the External Auditor would have to decide whether to qualify the accounts.

**RESOLVED:**

1. That the External Auditor's Audit Findings Report, attached as Appendix I to the report of the Director of Finance and Business Improvement, be noted.
2. That the audited Statement of Accounts 2015/16, attached as Appendix II to the report of the Director of Finance and Business Improvement, be approved.
3. That the Council's Letter of Representation to the External Auditor, attached as Appendix III to the report of the Director of Finance and Business Improvement, be approved.

30. **EXTERNAL AUDIT PROCUREMENT**

The Director of Finance and Business Improvement introduced his report setting out the options open to the Council for routes to procure a new External Auditor. It was noted that:

- The Council's current contract with its External Auditor was due to expire at the end of 2017/18, and the Council would need to appoint a new Auditor before 31 December 2017. The new Auditor would take on responsibility for examining the 2018/19 financial statements and would deliver their first opinion in July 2019.
- Suppliers of public audit services in local authorities were required to have permission from the Financial Conduct Authority. Currently, these services were provided by five suppliers. More providers might

seek permission as decisions moved closer, but it was unlikely that small local independent firms would be able to meet the FCA's demands, thus limiting the Council's choice of External Auditor.

- The procurement alternatives were as follows:
  - Solo Procurement and Auditor Panels
  - Joint Procurement
  - Outsourced Procurement (the "Sector Led Body") – Procurement via a Specified Person who would have the authority to make Auditor appointment decisions on behalf of those authorities which opted-in to these arrangements.
- Public Sector Audit Appointments Ltd (PSAA) had issued a prospectus setting out its intention to seek designation as a Specified Person. PSAA was an independent, not-for-profit company limited by guarantee. It was established by the Local Government Association and was therefore led by the local authority sector. It already carried out a number of functions in relation to auditor appointments under powers delegated by the Secretary of State for Communities & Local Government. PSAA was a not-for-profit company and it stated that any surplus funds from running a local auditor appointment scheme would be returned to scheme members.

The Committee discussed the advantages/benefits and disadvantages/risks associated with the alternative arrangements making reference to the difficulties associated with recruiting and maintaining an Auditor Panel, the loss of control associated with joint procurement and the economies of scale and assured appointment from a nationally accredited panel of auditors associated with outsourced procurement.

In response to questions, it was noted that the PSAA's prospectus stated that in setting up the new arrangements one of its aims was to make Auditor appointments that took account of joint working and shared service arrangements.

The Committee expressed its support for the option of outsourced procurement.

**RESOLVED:**

1. That the latest information on External Audit procurement be noted.
2. **To RECOMMEND to the COUNCIL:** That the option of outsourced procurement, as set out in paragraph 3.9 of the report of the Director of Finance and Business Improvement, be adopted.

31. COMMITTEE WORK PROGRAMME 2016/17

The Committee considered its work programme for 2016/17.

**RESOLVED:** That the Audit, Governance and Standards Committee work programme for 2016/17 be noted.

32. DURATION OF MEETING

6.30 p.m. to 7.45 p.m.