

MAIDSTONE BOROUGH COUNCIL

AUDIT, GOVERNANCE AND STANDARDS COMMITTEE

MINUTES OF THE MEETING HELD ON 16 SEPTEMBER 2019

Present: Councillor Harvey (Chairman) and
Councillors Adkinson, Mrs Blackmore, Brindle, Daley,
English, Perry and Titchener (Parish Representative)

26. APOLOGIES FOR ABSENCE

It was noted that apologies for absence had been received from Councillors Cox, Fissenden, McLoughlin and Round.

27. NOTIFICATION OF SUBSTITUTE MEMBERS

The following Substitute Members were noted:

Councillor Mrs Blackmore for Councillor McLoughlin
Councillor English for Councillor Cox

28. URGENT ITEMS

There were no urgent items.

29. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

30. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

31. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

32. EXEMPT ITEMS

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

33. MINUTES OF THE MEETING HELD ON 30 JULY 2019

RESOLVED: That the Minutes of the meeting held on 30 July 2019 be approved as a correct record and signed.

34. QUESTION AND ANSWER SESSION FOR MEMBERS OF THE PUBLIC

There were no questions from members of the public.

35. COMMITTEE WORK PROGRAMME 2019/20

The Committee considered its work programme for the remainder of the Municipal Year 2019/20.

RESOLVED: That the Committee work programme for the remainder of the Municipal Year 2019/20 be noted.

36. ANNUAL COMPLAINTS REPORT 2018/19

The Information and Corporate Policy Officer introduced his report providing an overview of how the Council had performed in responding to service complaints during the financial year 2018/19. The report also included details of the Local Government and Social Care Ombudsman Annual Review Letter 2019. It was noted that:

- The Council had received 568 stage 1 complaints in 2018/19 compared to 728 in the previous year, a decrease of 22%. Of the 568 stage 1 complaints, 181 (31.9%) were upheld and 109 were escalated to the second stage of the Council's complaints process. Of the 109 stage 2 complaints, 18 (16.5%) were upheld.
- The services with the highest volume of stage 1 complaints were Waste, Parking, Council Tax and Development Management. Parking Services and Waste Services responded to all complaints received within 10 working days. Only 2 complaints (3.8%) about Development Management were not responded to within the target of 10 working days of receipt. The services with the highest stage 2 escalation rates were Development Management, Parking, Waste and Planning Enforcement. When a complaint was escalated to stage 2, an investigation was conducted by the Head of Policy, Communications and Governance, and a response was provided within 20 working days. Against this target, 99 (90.8%) stage 2 complaints were responded to in time.
- The Local Government and Social Care Ombudsman had reviewed 38 complaints and made decisions on 37 complaints in 2018/19. There were 9 detailed investigations and 3 complaints were upheld.

During the discussion, concerns were expressed about the efficiency of the Council's telephone system and also about the need to improve user experience of the Council's website. It was suggested that it was sometimes difficult to address complaints to the correct department.

The Director of Finance and Business Improvement replied that the aim was to ensure that customers have a positive experience when contacting the Council. The Council did monitor the number of telephone calls that are dropped and the time taken to answer them, and he had regular

discussions with the Customer Services Manager about the statistics. There were other channels for reaching the Council such as email, direct lines and voicemail. There was also dialogue with Councillors about the website. It was under continual development and maintained in-house so it could be adapted in response to any issues.

In response to questions, the Officers explained that:

- In 2018/19 a total of £723 in monetary compensation was offered to complainants. This included a payment of £250 in respect of a complaint received and upheld by the Local Government and Social Care Ombudsman. The Council also offered other remedies such as extending subscriptions or waiving fees. Advice and guidance was being offered to Service Managers to ensure that compensation payments are recorded correctly.
- In terms of benchmarking performance against that of other Boroughs, further data was awaited to enable a full comparison to be made.
- The complaints policy had been amended to make the definition of a complaint clearer to ensure that the correct process is followed and the desired outcome is not delayed.
- Judicial reviews were not treated as part of the complaints process, the final stage of which was referral to the Local Government and Social Care Ombudsman.

Members expressed satisfaction with the Council's performance in responding to complaints and were pleased to note the number of compliments that had been received.

RESOLVED: That the Council's performance on complaint management in 2018/19 and the Local Government and Social Care Ombudsman's Annual Review Letter 2019 be noted.

37. COMPLAINTS RECEIVED UNDER THE MEMBERS' CODE OF CONDUCT AND INVESTIGATION INTO THE RELEASE OF EXEMPT INFORMATION CONTRARY TO PART I OF SCHEDULE 12A TO THE LOCAL GOVERNMENT ACT 1972

The Head of Legal Partnership and Monitoring Officer presented a report providing an update on complaints received under the Members' Code of Conduct during the period 15 January 2019 to date. The report also set out the results of an investigation into the release of exempt information contrary to paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 and actions to be taken to help manage the risk of exempt information being made public. It was noted that:

- Since the last report to the Committee on 14 January 2019, there had been 5 new Parish Council complaints. One complaint was rejected because it failed the Legal Jurisdiction Criteria Test; one complaint

was rejected because it failed the Local Assessment Criteria Test, but there was a recommendation that appropriate training be undertaken; two complaints were resolved informally and the Subject Members undertook training; and the outcome of Police inquiries was awaited before the assessment of the fifth allegation was completed.

- The investigation into the release of exempt information had not been able to establish, based on the balance of probabilities, who was, or who may have been, responsible for the exempt information being leaked to the press.

Rather than noting, the Committee approved the actions to be taken to help manage the risk of exempt information being made public and requested that the actions be referred to the Democracy and General Purposes Committee to review how they are implemented.

RESOLVED:

1. That the contents of the report be noted.
2. That the following be approved as a result of the investigation into the release of exempt information. Actions to help manage the risks will be taken as follows:
 - i. A training course will be made available to Members on Media training and insight;
 - ii. Officers will be provided with training from Democratic Services on how to structure reports to minimise the information required to be taken in Part II of a meeting;
 - iii. Regular meetings with Communications will be offered to all Group Leaders to review, plan and schedule public relations, as appropriate, for Council activities; and
 - iv. Tighter control of exempt information, via named checking in of information after a meeting, will be implemented by Democratic Services.
3. That the actions be referred to the Democracy and General Purposes Committee to review how they are implemented.

38. UPDATE TO THE COVERT SURVEILLANCE AND ACCESS TO COMMUNICATIONS DATA POLICY AND GUIDANCE NOTES

The Trainee Lawyer Corporate Governance introduced his report outlining proposed amendments to the Covert Surveillance and Access to Communications Data Policy and Guidance Notes (the "Policy") to address the recommendations set out in the report of the Investigatory Powers Commissioner's Office following their inspection in June 2018. It was noted that:

- The revised Policy incorporated the up to date guidance produced by the Surveillance Commission and also amendments to the Regulation of Investigatory Powers Act (RIPA) in relation to communications data.

- The Council had not authorised any activity under RIPA since 2012. However, there was a risk of litigation and challenge if authorisations were incorrectly given in the future without proper understanding of the current requirements. The actions set out in the Inspector’s report and the Officer’s report to the Committee would mitigate any such risks.

In response to questions by Members, the Head of Legal Partnership advised the Committee that she could not comment on surveillance equipment used by Parish Councils if indeed they did undertake covert activities. As local authorities, it would be their responsibility to comply with the legislation. She would review the report to see whether amendments were required to reflect the use of mobile CCTV systems by the Council and equipment part funded by the Council or used by contractors working on behalf of the Council, and report back to the Committee. She would also review the Policy to ensure that it is gender neutral.

It was suggested and agreed that the Officers be requested to arrange for an item to be included on the agenda for the next meeting of the Parish Liaison Committee to highlight Parish Councils’ obligations under RIPA.

RESOLVED:

1. That subject to the points raised in the discussion, the revised Covert Surveillance and Access to Communications Data Policy and Guidance Notes (“the Policy”) be approved in order to meet the recommendations set out in the IPCO’s report, specifically:
 - a) the addition at section 4.2 of the Policy that urgent oral authorisations can no longer be relied upon;
 - b) the update at section 2.7.3 of the Policy to remove reference to urgency provisions and add the requirement to record the date that any authorisations are given;
 - c) the addition at section 1.8 of the Policy highlighting the requirement for the Co-ordinating Officer to ensure training is carried out at regular intervals; and
 - d) the addition at section 1.39 of the Policy that a register shall be kept in the Central Record containing a list of all online Council profiles utilised and a record of their use when carrying out surveillance of social media sites.
2. That the Officers be requested to arrange for an item to be included on the agenda for the next meeting of the Parish Liaison Committee to highlight Parish Councils’ obligations under RIPA.

39. CONTRACT MANAGEMENT UPDATE

The Head of Commissioning and Business Improvement introduced her report setting out details of progress on the planned improvements to contract management across the Council following an Internal Audit review completed in November 2018. It was noted that:

- Contract management received a Weak level of assurance from an Internal Audit review in November 2018. The Internal Audit report concluded that, whilst there was clearly good practice in the management of the leisure and culture contracts, improvement in contract management was required corporately.
- An update on contract management was presented to the Committee in March 2019. Good progress had been made in the six months since that last report. All but one of the recommendations from the Internal Audit review had been fully addressed and significant progress had been made on the one outstanding recommendation. The Internal Audit team had now reassessed the assurance rating for contract management to Sound.

In response to a question about the Internal Audit assurance rating and whether there was scope for further improvement, the Head of Audit Partnership explained that there were four assurance ratings: Poor, Weak (adverse ratings), Sound and Strong. Sound was a level that the Council should be satisfied with, but contract management, like all areas of the Council's business, remained in the Audit Universe and would be revisited periodically at which point it might receive a Strong assurance rating. For the purpose of correcting deficiencies, the aim was to achieve a positive assurance level and allow the Service to move on from there.

RESOLVED: That progress to improve contract management corporately be noted.

40. ANNUAL ACCOUNTS 2018/19 UPDATE

The Interim Head of Finance introduced his report updating the Committee on the completion of the external audit of the Council's 2018/19 Statement of Accounts and setting out the External Auditor's updated Audit Findings Report. It was noted that:

- An unqualified audit opinion on the Accounts was issued by Grant Thornton (the External Auditor) on 16 August 2019. As the date of issue was beyond the statutory publication deadline of 31 July 2019, full compliance with the Accounts and Audit Regulations 2015 was not possible. The primary reason for the late opinion was the exceptional resourcing pressures experienced by the External Auditor. The circumstances that led to the delayed opinion were not unique to Maidstone with the professional press reporting that over 40% of opinions missed the deadline nationally this year.
- The updated Audit Findings Report identified two adjustments to the financial statements that resulted in a £3,531,000 adjustment to the Comprehensive Income and Expenditure Statement, but there was no impact on the General Fund outturn.

In response to questions, the Director of Finance and Business Improvement advised the Committee that:

- At the meeting of the Committee held on 30 July 2019, the representative of the External Auditor said that it was anticipated that the audit opinion would be issued the following day. In his view, the External Auditor had underestimated the amount of work they still needed to do and it was very disappointing that it had taken until 16 August 2019 to conclude the outstanding audit work and issue an opinion. It would be reasonable for Members to challenge the representatives of Grant Thornton who would be present at the next meeting as to the reasons for the delay.
- He did not think there was anything the Council could have done because it had acted in good faith based on what the External Auditor had said. There was a wider issue which had been addressed in the local government press that auditors, not just Grant Thornton, who had been auditing local authorities had struggled to deliver audits with the reduced fees they were now charging. The Council would be seeking assurances from Grant Thornton that this situation would not occur next year.
- The Council had not been charged any additional audit fees in connection with the delayed opinion.
- From a client perspective, going forward, it was necessary to have a reliable set of accounts ready for the External Auditor to look at, to obtain a firm commitment from the External Auditor on the timing of the audit and to allow sufficient time before 31 July for proper consideration by the Committee.
- A full actuarial valuation of the Pension Fund was required every three years. The latest full actuarial valuation was completed in 2016 so a full actuarial valuation would be taking place this year.

Members indicated that they wished to ask questions of representatives of the External Auditor relating to the delay in issuing the audit opinion.

RESOLVED: That the External Auditor's updated Audit Findings Report, attached as Appendix 1 to the report of the Interim Head of Finance, be noted.

41. BUDGET STRATEGY - RISK ASSESSMENT UPDATE

The Director of Finance and Business Improvement introduced his report providing an update on the budget risks facing the Council.

The Director of Finance and Business Improvement explained that:

- The two principal budget risks continued to be uncertainty about future local government funding arrangements and the potential financial consequences of a disorderly Brexit.
- There had been one further development since the report was written which was that the Chancellor had announced next year's spending

round. It was now known that the Government was assuming a Council Tax referendum limit of 2% although that was still subject to consultation and had not been finally agreed. The Business Rates baseline was going to be increased by the rate of inflation. There was, therefore, more certainty for next year, but there was still a risk in the longer term about the funding of local government so it was not proposed to change the rank rating of the risk at this time.

RESOLVED: That the updated risk assessment of the Budget Strategy, attached as Appendix A to the report of the Director of Finance and Business Improvement, be noted.

42. INTERNAL AUDIT CHARTER

The Head of Audit Partnership introduced his report proposing an updated Internal Audit Charter. The Head of Audit Partnership explained that the Charter was a key document setting out the roles and responsibilities of the Council's Internal Audit service and its relationships with Officers and Members. It had been updated to reflect changes in Public Sector Internal Audit Standards (the "Standards") and audit practice, most notably to reflect the Committee's expressed wish to have greater engagement with service areas which receive adverse (i.e. weak or poor) Internal Audit opinions.

In response to questions, the Head of Audit Partnership advised the Committee that:

- He was satisfied that there was sufficient Internal Audit resource in terms of both quantity and expertise to deliver the 2019/20 Internal Audit Plan. The proposed approach to dealing with adverse Internal Audit opinions would involve a small amount of additional work in producing the reports, but it could be managed without compromising any other areas of work.
- Each of the Audit Partnership authorities would be updating their Internal Audit Charters to reflect changes in the Standards and practice.
- The Charter made no changes to the everyday mechanics of the Internal Audit approach and detailed current practice. The Charter and its obligations were referred to in the Internal Audit Plan and as part of the material provided to audit sponsors (Heads of Service etc.) at audit planning stage and when undertaking audits. He was satisfied that the obligations within the Charter were complied with. There was an obligation to regularly review and update the Charter and, in terms of quality, the Internal Audit Service would undergo an External Quality Assessment on conformance with the Standards later in the year and the findings of the assessment would be reported to the Committee in the spring of 2020.

During the discussion on this item, the Head of Audit Partnership was congratulated on the production of the updated Charter and thanked for his work and that of the Internal Audit team.

RESOLVED: That the updated Internal Audit Charter, attached as Appendix 1 to the report of the Head of Audit Partnership, be approved.

43. DURATION OF MEETING

6.30 p.m. to 8.30 p.m.