

**BRIGHTON & HOVE CITY COUNCIL**

**AUDIT & STANDARDS COMMITTEE**

**4.00pm 14 JANUARY 2020**

**COUNCIL CHAMBER, HOVE TOWN HALL**

**MINUTES**

**Present:** Councillors Littman (Chair) Appich (Group Spokesperson), Hamilton, Hugh-Jones, Moonan, Nemeth, Peltzer Dunn and Shanks

**Independent Members present:** Dr David Horne and Helen Aston

**PART ONE**

**33 PROCEDURAL BUSINESS**

**33a Declarations of substitutes**

33.1 Councillor Moonan was present as substitute for Councillor Henry.

33.2 Councillor Shanks was present as substitute for Councillor West.

**33b Declarations of interests**

33.2 There were none.

33.3 Councillor Nemeth stated that he would leave the Chamber during consideration of Items 43 and 44 due to his objection to the Standards Complaints process.

**33c Exclusion of the press and public**

33.3 In accordance with Section 100A of the Local Government Act 1972 ("the Act"), the Committee considered whether the public should be excluded from the meeting during consideration of any item of business on the grounds that it is likely in view of the business to be transacted or the nature of the proceedings, that if members of the public were present during it, there would be disclosure to them of confidential information as defined in Section 100A (3) of the Act.

33.4 **RESOLVED** - That the press and public not be excluded from the meeting.

**34 MINUTES**

34.1 Following requests for terminology corrections to the minutes from Councillor Peltzer Dunn and Councillor Hugh-Jones, the following amendments were made:

23.3 Councillor Garry Peltzer-Dunn stated his preference for an external audit, independent from the Council. The honesty of appendix 1 was noted.

24.6 Councillor Siriol Hugh-Jones was informed by Robert Persey that fewer precautions were in place for adults than for children as adult support is usually based care in the home or in a Care home. It was noted that due diligence would be carried out for whoever was being transported and any neglect would be reviewed with the provider. It was also noted that vulnerable adults require services to the same level as children. The committee were informed that workshops are to be set up for Members regarding safeguarding.

34.2 **RESOLVED** –That the minutes of the previous meeting held on 17 September 2019 be approved and signed as the correct record subject to the above amendments.

### **35 CHAIR'S COMMUNICATIONS**

35.1 The Chair relayed that at the pre-meet held by the committee, it was noted that two items had received partial assurance in the Internal Audit and Counter Fraud progress report and it was agreed to receive an officer report on these matters to a future meeting.

### **36 CALL OVER**

36.1 The following items on the agenda were reserved for discussion:

- Item 39: Strategic Risk Focus SR35, SR36, SR23 and SR30
- Item 40: Valley Gardens Project Phase 3
- Item 41: Internal Audit and Counter Fraud Progress Report- Quarter 2
- Item 44: Standards Update

36.2 The Democratic Services Officer confirmed that the items listed above had been reserved for discussion and that the following reports on the agenda with the recommendations therein had been approved and adopted:

- Item 42: Annual Surveillance Report
- Item 43: Review of the Code of Conduct for Members

### **37 PUBLIC INVOLVEMENT**

#### **(B) WRITTEN QUESTIONS**

##### **(i) Procedural and Financial Governance Failures on Valley Gardens Project**

37.1 Rob Shepherd put the following question:

“Given the issues on Page 65, agenda item 40, we're sure the committee will welcome this timely contribution.

Valley Gardens Phase 3 falls far short of the Benefits-to-Costs-Ratio threshold needed to secure public funds, but by erroneously inflating benefits more than 100%, secured substantial funds.

Two pertinent errors were communicated to Council Leader, CEO and CFO in November. No doubt you're investigating how council procedures permitted this gross failure in Financial Governance and the steps being taken to correct the problem quickly and manage reputational risk.

Given lack of feedback, we wonder what else we should do to expedite matters?"

37.2 The Chair provided the following reply:

"Thank you for your question, Mr. Shepherd. You have written numerous emails to Members and Officers, stating your various technical concerns about the content of the Valley Gardens Phase 3 Business Case. This has led to you alleging that the said business case is seriously flawed.

You have, in the past, received responses to these concerns and this allegation, which have, in turn, prompted you to suggest that the matter has not been managed appropriately or diligently by officers.

In my role as Chair of the Council's Audit and Standards Committee, may I assure you, other members of the general public, my fellow Committee members, and all other Brighton & Hove City Councillors, that each and every one of your concerns and accusations have been rigorously examined.

The result of those examinations is that officers advise me that there are no technical errors within the Business Case, affecting the calculations which informed the assessment of the scheme.

There are thus no associated implications for the Local Enterprise Partnership's decisions to provide the £6 million pounds of funding, allocated in principle to the council.

This is perhaps of no surprise given that the Business Case document was: -

- produced by expert consultants with significant experience in this field;
- prepared in accordance with the Local Enterprise Partnership's requirements; and
- independently audited for the Local Enterprise Partnership and its advisors.

I hope you agree that, on this basis, your concerns have been allayed.

I can appreciate your concerns regarding the time that it has taken to reach these conclusions. However, given their seriousness, it was essential that all the points you raised were comprehensively reviewed, in order for a conclusion to be reached.

In addition to my assurances here and now, you will receive a full written response to all your technical queries from officers later this week."

37.3 Rob Shepherd asked the following supplementary question:

"Were you aware of the fact that the consultant was advised that the business case counted items within the scheme, things in support when actually, they should be against. Will you please expose all documentation relating to this matter as it is clearly incorrect?"

37.4 The Chair provided the following reply:

“As I have said, you will receive further information from officers. Whilst I cannot say that all documents can be provided, greater detail can possibly be given, and I will ask officers to provide that”.

**(ii) Valley Gardens Audit**

37.5 Daniel Nathan put the following question:

"The audit report attached to Agenda item 40 is disappointing in the way it lacks the forensic rigour with which one can assess the validity of the numerous assertions it makes. Given that this document has taken six months to produce, I'm puzzled that there is so little supporting data. Would the Chair confirm that this committee will require the internal audit team to remedy this situation - by producing an appendix containing the evidence they used to make each assertion?"

37.6 The Chair provided the following reply:

“Thank you for your letter, Mr. Nathan. It’s good to see you again.  
I am sorry you found the report to be disappointing.  
In answer to your question, ‘no’, I shall not issue any such confirmation.  
The Internal Audit report has met the requirements of the desktop review commissioned by the Audit & Standards Committee. The report was written in accordance with professional standards and was properly reviewed before being published.  
It is not normal practice for Internal Audit to make its working papers available.  
Ultimately such a policy might constrain their ability to deliver an effective and efficient service. Where such detailed working papers have been put into the public domain, this has been in response to a Freedom of Information request. Such a process allows for proper consideration of whether there is any personal or commercial information that needs to be redacted in accordance with the Data Protection Act.”

**38 MEMBER INVOLVEMENT****(C) LETTERS****(i) Valley Gardens Project**

38.1 The Committee considered a Letter from Councillor Wares that set out his disappointment with the Valley Gardens project audit in that it did not address a number of the concerns he had originally raised. On that basis, Councillor Wares requested that the committee requested the committee commission an external audit investigation of the matter.

38.2 The Chair provided the following response:

“Thank you for your letter, Councillor Wares.  
You state that you have concerns with the report content, which you suspect emanate from the constraints imposed on the team by Audit and Standards and are concerned that the scope of the investigation was limited by those constraints, resulting in a narrow review of some documents and interviews with officers.

Fortunately, I can allay those concerns. The limits you refer to are the limits imposed by the Council's constitution. Audit and Standards officers carry out their work within the constitutional rules which apply to Audit and Standards as well as the rules of professional practice for auditors. I am sure you'll agree that it can be no other way. Their remit is limited to propriety, risk of fraud or corruption, best value, or of a conflict of interest. Within that remit, The Audit found that the Council's decision-making procedures had been followed and there had been no failure of governance. Further, there was no failure in achieving value for money.

The fact that, as a Member, you may not agree with the merits of the project or the policy choices, is not a matter for this committee. That is for the policy committee to decide.

Having received the report of Internal Audit, and in the absence of anything questioning the integrity or independence of the investigation, the Committee must take its conclusions at face value.

I am glad you state you do not question the professionalism of the audit investigation team involved. However, some might see some of the content of your letter as undermining that position.

My view is that they have carried out the investigation properly and within the scope set for them by this committee, and that commissioning an external investigation would be both unnecessary and inappropriate.

As a result of all this, I propose that the Committee simply note your letter".

38.3 Councillor Nemeth moved a motion to request an officer report on the request made in Councillor Wares letter.

38.4 Councillor Peltzer Dunn formally seconded the motion.

38.5 The Chair put the motion to the vote that failed.

38.6 The Chair proposed noting the Letter that was agreed.

38.7 **RESOLVED-** That the Committee note the Letter.

### **39 STRATEGIC RISK FOCUS: SR35, SR36, SR23 AND SR30**

39.1 The Committee considered a report of the Executive Lead Officer, Strategy, Governance & Law that provided detail on the actions taken and future actions to manage each strategic risk.

39.2 In relation to SR35, Councillor Shanks asked if there was monitoring of the number of council staff that were EU residents and how many had left in recent years.

39.3 The Executive Director, Finance & Resources explained that this was not something formally monitored however, the council had advertised the support available to EU nationals and senior staff had provided assurance. Feedback would be provided to the Home Office on the issues raised by staff.

39.4 Councillor Hugh-Jones asked if it was possible to reduce the risk impact when there were so many contingencies in the Brexit process.

- 39.5 The Executive Lead Officer, Strategy, Governance & Law explained that it was a fluid process and whilst there were differing views on the outcome and those were respected, the recent General Election had provided a degree of clarity although there remained many uncertainties.
- 39.6 Councillor Appich stated that as a EU national, she was thankful for the work of the officer and Member Group thus far and explained that she would be happy to help with the settled status scheme publication. In relation to the risk actions detailed on page 25 of the agenda, Councillor Appich asked if progress on the action was more advanced than the report suggested.
- 39.7 The Executive Lead Officer, Strategy, Governance & Law confirmed that was the case.
- 39.8 In relation to SR36, Councillor Shanks asked what would be required to reduce the risk level.
- 39.9 The Executive Director, Economy, Environment & Culture explained that any transformational programme required resource and a key challenge would be how to spend budgets and how to work differently and the scale of specialist work. The Executive Director, Economy, Environment & Culture noted that there had been some improvement to the budget position through the one-off funding allocated from the 2019/20 budget process and the Carbon Reduction Investment Fund.
- 39.10 Councillor Moonan stated that there was a lot residents could do to assist with carbon reduction alongside the actions the council was taking and asked how this was being communicated.
- 39.11 The Executive Director, Economy, Environment & Culture explained that the officer Member working Group was currently developing a communication strategy.
- 39.12 Councillor Hugh-Jones noted that the Local Cycling & Walking Infrastructure Plan (LCWIP) was due for completion at the end of 2020 and asked whether there was a need to complete that work more quickly. Councillor Hugh-Jones enquired as to the expertise of the council's managing agents for the Downland Estate.
- 39.13 The Executive Director, Economy, Environment & Culture explained that the managing agents had presented to both the council's Asset Management Board and the South Downs National Park Authority and both had been encouraged by the proposals therein. The Executive Director, Economy, Environment & Culture highlighted that there would be significant changes to the agricultural subsidy in the near future and central government were considering a different model of subsidy, one that promoted biodiversity and the council's current managing agents were experts in this field. In relation to the LCWIP, the Executive Director, Economy, Environment & Culture stated that for each workstream of the plan, there was a requirement for a clear pipeline of business cases for projects that was tangible and could be used to obtain funding. Of the initial programme, some actions were complete, some were in progress and it was important to remember that the Carbon Neutrality programme was a 10-year programme.

- 39.14 Councillor Nemeth thanked the Executive Director, Economy, Environment & Culture for the presentation. Referring to the consequences listed on page 28, Councillor Nemeth noted that many related to international efforts to address climate change and asked if there could be distinguishment on actions that could be taken on a local level.
- 39.15 The Executive Director, Economy, Environment & Culture explained that the risk was relatively new and as it developed, and the programme progressed, it would be important to explain to residents what it meant to them and set out local actions.
- 39.16 Councillor Peltzer Dunn asked if any cooperation had been undertaken with major power suppliers on energy consumption as many neighbouring authorities had done.
- 39.17 The Executive Director, Economy, Environment & Culture explained that the Greater Brighton Economic Board was in the process of developing an Energy & Water Plan and the Greater Brighton Infrastructure Panel was attended by major energy providers. The Executive Director, Economy, Environment & Culture stated that the real challenge would be on heating in homes and how that could be de-carbonised and a whilst a good deal of work had been undertaken on the council's housing stock, more focus on the private and commercial sector was required.
- 39.18 In relation to flood defence, Councillor Appich noted that the western seafront was not referenced and residents of both Wish and Central Hove wards had enquired as to the plan for this area.
- 39.19 The Executive Director, Economy, Environment & Culture replied that this section of seafront was important and whilst he was aware of ongoing discussion, the risk register detailed actions and current ideas for that section of the seafront had not yet been progressed to projects.
- 39.20 In relation to SR30, Dr Horne noted that the first risk on communication was an ambitious programme with a deadline for completion within ten weeks and sought assurance that progress was on track. There were also actions that needed assurances from bodies on a national and global scale and asked how that representation was or would be made.
- 39.21 The Chief Executive explained that the meeting of Budget Council in February would also be agreeing a new Corporate Strategy that encompassed a number of actions within that specific risk. Furthermore, there would be a partner document developed that would set out how the council intended to deliver those priorities and that would be produced by the end of the financial year. The Chief Executive explained that the council were looking outwards with established structures such as the City Management Board, Brighton & Hove Connected, Greater Brighton Economic Board and the Local Enterprise Partnership. The Greater Brighton Economic Board had recently agreed its inward investment strategy.
- 39.22 Councillor Shanks noted that there had recently been a high turnover of staff at senior level and asked how it was planned to mitigate this.
- 39.23 The Chief Executive replied that a good deal of work had been put into ensuring the correct governance structures were in place. There was a current review of the

management structure considering how the existing structure could be strengthened. Furthermore, the Leadership Network that comprised of the top 100 managers met once a quarter on performance training and development.

39.24 **RESOLVED-** That the Audit & Standards Committee:

- 1) Note in paragraphs 3.3 the changes to the council's SRR as agreed at ELT on 20 November 2019.
- 2) Note Appendix 1 for details of SR35, SR30, SR36 and SR23.
- 3) Note Appendix 2 'Information on the council's risk management process relative to Strategic Risks (SRs); and Suggested questions for Members to ask Risk Owners and officers on Strategic Risks'.

#### **40 VALLEY GARDENS PROJECT (PHASE 3)**

- 40.1 The Committee considered a report of the Executive Director, Finance & Resources that set out the results of the Internal Audit desktop review into a number of aspects of the Valley Gardens project as requested by the committee at its meeting on 23 July 2019.
- 40.2 Councillor Peltzer Dunn praised the standard of the report. However, there were some aspects that Councillor Wares believed had not been addressed, as set out in his letter to the committee. Councillor Peltzer Dunn asked for officer observations on those comments, specifically those detailed on page 6 and page 7 of the addendum containing the letter from Councillor Wares.
- 40.3 The Audit Manager stated that he would need to consult with the auditor who undertook the work and provide a written reply to Councillor Peltzer Dunn.
- 40.4 Councillor Nemeth noted that he had concern with the process. Similar to Councillor Wares, he had requested an audit into rough sleeping figures and had found the process had not specifically addressed the concerns raised. Councillor Nemeth asked for the reasons why the audit report was not shared with Councillor Wares before being published.
- 40.5 The Chair stated that he had made that decision based upon the requirements of the Constitution. The Chair noted that the committee's remit was much more constrained than understood and there were increasing occasions where letters had been submitted that should instead be considered by the parent committee.
- 40.6 Helen Aston noted that there appeared a contradiction in paragraphs 4.2 and 4.5 and asked if the work had been undertaken.
- 40.7 The Audit Manager replied that the wording was inconsistent, and an update briefing would be sent to members of the committee.
- 40.8 **RESOLVED-** That the Committee note the report.

**41 INTERNAL AUDIT AND COUNTER FRAUD PROGRESS REPORT - QUARTER 2 (1 JULY TO 30 SEPTEMBER 2019)**

- 41.1 The Committee considered a report of the Executive Director, Finance & Resources that provided Members with an update on all internal audit and counter fraud activity completed during the quarter, including a summary of all key audit findings. The report also includes details of progress on delivery of the annual audit plan along with an update on the performance of the internal audit service during the period.
- 41.2 Councillor Hugh-Jones noted that further assurance work was required on bringing the repairs service in-house and asked when this would be reported to the committee.
- 41.3 The Audit Manager explained that there would be a specific piece of work on the matter in next years audit plan. It was explained that two audit team members attended the relevant project board and there was a great deal of corporate support. On that basis, it was no currently intended to report the matter to committee, but Members would be updated if the situation changed.
- 41.4 In reference to page 83 of the agenda, Councillor Hamilton noted most but not all actions relating to the audit of the Care Leavers service had been completed. Given the audit was undertaken a year ago, Councillor Hamilton stated that he hoped the actions would have all been completed.
- 41.5 The Audit Manager explained that this issue was a follow-up to a partial assurance assigned in a previous review and the actions were not a core performance issue.
- 41.6 Councillor Hugh-Jones asked if there could be systems that add up hours for those staff on two contracts in order to comply with the Working Time Directive. In addition, Councillor Hugh-Jones noted that no timeframe was given in relation to the actions on temporary accommodation.
- 41.7 The Audit Manager explained that virtually all actions on the Working Time Directive systems were completed and there would be a system by which alerts were generated on hours completed. In relation to the actions on Temporary Accommodation, the Audit Manager clarified that these would be in the audit reports and that information could be checked and provided to Members.
- 41.8 Councillor Appich expressed concern that there was a large amount of arrears relating to temporary accommodation and asked how much of that figure was collectable.
- 41.9 The Audit Manager replied that rent arrears were difficult to collect, particularly with former tenants although every effort was made.
- 41.10 **RESOLVED-**
- 1) That the Committee note the report.
  - 2) That the Executive Director, Health & Adult Social Care reports back to the next Audit and Standards Committee on progress on the actions within the follow-up Internal Audit report on Extra Care Housing.

**42 ANNUAL SURVEILLANCE REPORT****42.1 RESOLVED-**

- 1) That the continued use of covert surveillance be approved as an enforcement tool to prevent and detect crime and disorder investigated by its officers, providing the activity is in line with the Council's Policy and Guidance and the necessity and proportionality rules are stringently applied.
- 2) That the surveillance activity undertaken by the authority since the report to Committee in March 2019 as set out in paragraph 3.3 is noted.
- 3) That the continued use of the amended Policy and Guidance document as set out in Appendix 1 be approved.

**43 REVIEW OF THE CODE OF CONDUCT FOR MEMBERS****43.1 RESOLVED-**

- 1) That this Committee recommend to Full Council that it approve the changes proposed in para 3.4 and reflected in Appendix 2.
- 2) That the proposed changes to the Procedure for Dealing with Allegations of Breaches of the Code of Conduct recommended at para 3.5 below and reflected in Appendix 3 be agreed.

**44 STANDARDS UPDATE**

- 44.1 The Committee considered a report of the Head of Law & Monitoring Officer that provided an update on Member related complaints.
- 44.2 Councillor Hugh-Jones asked what efforts were made to ensure diversity amongst Standards Panel members.
- 44.3 The Executive Lead Officer, Strategy, Governance & Law explained that there was no specific rule on diversity, but it was good practice and was incorporated whenever possible.
- 44.4 Councillor Hamilton noted that two standard panel dates had recently been cancelled and stated that this was not entirely fair to Members and staff.
- 44.5 The Senior Lawyer replied that the logistics for arranging standard panels were very complex and this could cause delay however, there was a responsibility to contain the exercise.
- 44.6 Helen Aston asked how many people had attended the recent standards training and asked if officers were satisfied that the number of those trained was sufficient.

- 44.7 The Executive Lead Officer, Strategy, Governance & Law explained that the sessions were low in terms of attendance and whilst they were not mandatory to attend, participation was encouraged through a number of forums.
- 44.8 The Chair asked if each of the Leaders could be contacted to raise the issue with their Groups.
- 44.9 Councillor Moonan noted that the sessions were held in the run up to the recent General Election that may explain low attendance figures. Councillor Moonan hoped the training could be held again as she was aware that a number of the Labour Group councillors wished to attend.
- 44.10 **RESOLVED-** That the Committee note the information provided in this Report on Member complaints and on standards-related matters.

**45 ITEMS REFERRED FOR COUNCIL**

- 45.1 No items were referred to Full Council for information.

**46 ITEMS FOR THE NEXT MEETING**

- 46.1 Dr Horne stated that he hoped the External Audit Plan would be received by the next committee meeting.

The meeting concluded at 6.35pm

Signed

Chair

Dated this

day of