

BRIGHTON & HOVE CITY COUNCIL

AUDIT & STANDARDS COMMITTEE

4.00pm 24 JULY 2018

COUNCIL CHAMBER, HOVE TOWN HALL

MINUTES

Present: Councillors Miller (Chair) Gilbey (Group Spokesperson), Sykes (Group Spokesperson), Cobb, Janio and Robins

Independent Members present: Diane Bushell

PART ONE

1 PROCEDURAL BUSINESS

1a Declarations of substitutes

1.1 Councillor Janio was present as substitute for Councillor Lewry.

1b Declarations of interests

1.2 There were none.

1c Exclusion of the press and public

1.3 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.

1.4 **RESOLVED** - That the press and public are excluded from the meeting during consideration of items listed on Part 2 of the agenda.

2 MINUTES

2.1 **RESOLVED** – That the minutes of the previous meeting be approved and signed as the correct record.

3 CALL OVER

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

- Item 6: Strategic Risk Focus: SR2, SR25, SR10 and SR18
- Item 8: Audited Statement of Accounts 2017/18
- Item 9: External Audit- 2017/18 Audit Results Report
- Item 10: Annual Internal Audit Report 2017/18
- Item 13: Cash Collection- Company Administration Update
- Item 14: Housing Electrical Works
- Item 15: Local Government and Social Care Ombudsmen Report
- Item 17: HR Annual Report
- Item 21: Housing Electrical Works- Exempt Category 3 & 5

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

- Item 11: Independent External Assessment of Internal Audit
- Item 12: Annual Governance Statement 2017-18
- Item 16: Standards Update

4 PUBLIC INVOLVEMENT

(B) WRITTEN QUESTIONS

(i) Member Complaints

4.1 Greg Hadfield put the following question:

"I have been concerned by recent reports of an apparent increase in disrespectful behaviour that a minority of councillors have allegedly shown towards ordinary citizens. Could you tell me how many formal complaints under the Code of Conduct have been received by the Monitoring Officer since the beginning of 2017?"

4.2 The Chair provided the following reply:

"Thank you for your question. I can confirm that a total of 17 formal complaints of behaviour contrary to the Code of Conduct for Members have been received by the Council's Monitoring Officer since 1st January 2017. This figure comprises all complaints formally made against councillors during this period, including but not only allegations of disrespectful behaviour. The outcome of those complaints – none of which have been referred to a formal hearing and the majority of which have at time of writing been resolved – are reported to this Committee via the Monitoring Officer's quarterly report on Standards, this as a means of ensuring that the Council's Audit and Standards Committee discharges its responsibilities for ensuring that high standards of councillor conduct are maintained.

While your concerns are noted, I am able to confirm that this Council takes very seriously allegations of misconduct by its members and acts promptly to assess and - where relevant - investigate those complaints which indicate that a breach may have occurred. There is a balancing act to be achieved between ensuring fairness to complainants and to those councillors who are the subject of a complaint. The Council's procedures aim to make sure that only those complaints which are both capable of

amounting to a breach of the Code of Conduct and which are in the public interest to progress are investigated. The Council's arrangements provide for a key role for the Council's two Independent Persons in ensuring the fairness and objectivity of the process. The outcome is a set of arrangements which are regularly reviewed to ensure that they remain fit for purpose and which equip the Council's Monitoring Officer to take prompt and fair steps when issues are raised".

4.3 Greg Hadfield put the following supplementary question:

"Given the hurtful allegations directed towards myself by several councillors, might the council consider more training about how to avoid appearing to disrespect ordinary citizens, either online or in person?"

4.4 The Chair provided the following reply:

"I'm afraid that I cannot comment on individual complaints however, two refresher training sessions for all members were offered in July 2017 and a further session in October 2017, while the most recent Standards Panel training events took place in January 2018. The Code of Conduct and the procedures which sit behind it were last updated at end of 2016, and the Social Media Protocol for Members was last updated in July 2017.

The requirement to review the Code of Conduct and associated procedures/ guidance remains an ongoing one. We are currently awaiting the outcome of the CSPL Review on Local Government Standards. That will be reported back to this Committee via the regular Standards Update report, which will review whatever that review generates against our current arrangements. I can also assure you that the Council takes such matters very seriously and Members do receive ongoing training and the issues you have raised will be considered".

5 MEMBER INVOLVEMENT

(D) NOTICES OF MOTION

(i) Women in Government and Politics

5.1 The Committee considered a Notice of Motion referred from the Full Council meeting of 24 July 2018 requesting the committee consider adding sexual harassment and Sex Discrimination policies to the Code of Conduct.

5.2 The Chair provided the following response:

"I understand from officers that work is already underway to consider the request made in the Notice of Motion and that a report with a proposed update to the Code of Conduct will be received to a future meeting of this committee".

5.3 The Executive Lead Officer, Strategy, Governance & Law stated that the Notice of Motion covered a wide-range of issues therefore, it was intended to submit one composite report to the Policy, Resources & Growth Committee with the actions relating to the Code of Conduct submitted to the Audit & Standards Committee subsequent to that.

5.4 **RESOLVED-** That the Committee receive a report.

6 STRATEGIC RISK FOCUS: SR2, SR25, SR10 AND SR18

6.1 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.

6.2 In relation to SR10, Councillor Sykes asked if regular cyber security training was provided.

6.3 The Head of Strategy & Engagement there had been a high level of focus on technical change and behavioural change to this point and the next phase would be training and that would be modelled based on need.

6.4 In relation to SR18, Councillor Sykes noted that Chromebooks were a very easy device to use and asked if a roll-out to some council employees had been considered.

6.5 The Head of Strategy & Engagement clarified that periodical reviews of IT equipment were undertaken and the advantages of using Windows operating system was the provision of direct support and maintenance and that all members of the Orbis partnership all used that operating system allowing for greater efficiency.

6.6 The Chair noted that Information Management/Information Governance risk action had only reached 60% completion and the end date had passed.

6.7 The Head of Strategy & Engagement clarified that there had been some slippage against this action due to changes of personnel but there had been a change in approach to the training provided from a single module to several that should assist completion.

6.8 In relation to SR2, Councillor Sykes noted that the overall risk rating had risen since the previous report with the majority of uncertainty relating to changes and direction at national level.

6.9 The Deputy Chief Finance Officer replied that even though a four year funding deal had been agreed, there were still a number of uncertainties for example the outcome of the Fair Funding Review and Business Rates scheme pilot.

6.10 In relation to SR25, the Chair asked for an update on the progress of the Better Brighton & Hove Think Tank.

6.11 The Executive Lead, Strategy, Governance & Law clarified that the relevant documents had been drawn up and submitted to the Charity Commission. A work programme had been established by the independent trustees and a progress report would be submitted to a future meeting of the Policy, Resources & Growth Committee.

6.12 **RESOVLED-**

- 1) That the Audit & Standards Committee notes Appendix 1 for details of SR2; SR25; SR10; and SR18.
- 2) That, having considered Appendix 1 and any clarification and/or comments from the officers, the Committee makes any recommendations it considers appropriate to the relevant council body.
- 3) That the Committee note (as detailed in paragraph 3.3) the changes to the council's SRR.

7 AUDITED STATEMENT OF ACCOUNTS 2017/18

- 7.1 The Committee considered a report of the Executive Director, Finance & Resources that provided information about the audit of the council's 2017/18 Statement of Accounts and recommended approval of the 2017/18 audited accounts and the Letter of Representation on behalf of the council.
- 7.2 Councillor Cobb asked why there was not a better balance between General Fund and Housing Revenue Account (HRA) reserves.
- 7.3 The Deputy Chief Finance Officer explained that this reflected the scale of business between the two, the specific commitments on the General Fund such as PFI repayments and the narrowly defined use of HRA reserves.
- 7.4 Referring to the Statement of Accounts, Councillor Cobb stated that grants received from government were high, asked how much interest was being paid on the bank overdraft and asked why Homes for the City of Brighton & Hove did not meet IFRS10 Consolidated Financial Statements definition.
- 7.5 The Executive Director, Finance & Resources explained that in factual terms, government grant funding between 2011 and 2020 would reduce by around £100m. In relation to the question raised on Homes for the City of Brighton & Hove, the Deputy Chief Finance Officer explained that only set-up costs had been made so far however, in future years there would be large transactions and therefore it would meet the definition. In relation to the query raised on the council's bank overdraft, the Deputy Chief Finance Officer clarified that there were no overdraft charges in the terms of the contract with Lloyds Bank.
- 7.6 Councillor Cobb noted that Sussex Inshore Fisheries & Conservation Authority (SIFCA) was listed as a Levying Authority and enquired whether Councillor Sykes should have declared the basic allowance he received from SIFCA at this meeting. Furthermore, Councillor Cobb observed that the £389,000 paid in Exit Packages in 2017/18 was in her view, a waste of public money.
- 7.7 Councillor Sykes commented that a basic allowance was provided by the SIFCA however, whether that was claimed was a different matter.
- 7.8 Referring to page 39 of the Accounts, Diane Bushell noted that asset charges were higher than in previous years and asked for clarification on the reasons behind that. Furthermore, Diane asked if the council's Rare Books were regularly revalued, noted

that a high number (21%) of outstanding debtors at the Balance Sheet date were past their due date and that a claim by NHS foundation trust of 80% charity relief on hereditaments could have a significant impact upon the council. In addition, Diane highlighted that the mortality assumptions made in the Accounts were longer than other authorities.

- 7.9 In response to the questions and observations made, the Deputy Chief Finance Officer confirmed that Rare Books were revalued intermittently, that there would be significant impact if the charity relief claim on hereditaments was successful and the LGA were campaigning on the matter on behalf of local authorities. The Deputy Chief Finance Officer added that mortality assumptions were evidence based and whilst they did change, that kept within certain limits. In relation to the questions raised on asset charges and debtors, the Deputy Chief Finance Officer explained that he did not have the answer to hand and would circulate an update subsequent to the meeting.
- 7.10 The Chair noted that the Surplus on Provision of Services was £5.1m yet the Ernst & Young Audit Report recorded the figure at £1.3m and asked for the reasons behind the discrepancy.
- 7.11 The Deputy Chief Finance Officer explained that the discrepancy related to a difference in accounting processes, specifically the Targeted Budget Management standard the council applied.
- 7.12 **RESOVLED-** That the Audit & Standards Committee:
- 1) Notes the findings of the auditor (EY) in their Audit Results Report (ARR). The ARR is a separate item on this agenda.
 - 2) Notes the results of the public inspection of the accounts (Section 5).
 - 3) Approves the Letter of Representation on behalf of the council (Appendix 1).
 - 4) Approves the audited Statement of Accounts for 2017/18.

8 EXTERNAL AUDIT- 2017/18 AUDIT RESULTS REPORT

- 8.1 The Committee considered a report of Ernst & Young that summarised the findings of the 2017/18 audit and included key messages arising from the audit of the financial statements and the results of work undertaken to assess the council's arrangements to secure value for money on its use of resources. Representatives from Ernst & Young stated that they were in a position to give an unqualified opinion of the council's financial statements subject to full completion of outstanding areas of work. A unqualified opinion would be issued for the council's value for money arrangements as Ernst & Young were satisfied that the council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2018.
- 8.2 Councillor Sykes stated that there appeared a change in emphasis in EY's conclusion on VFM arrangements and financial sustainability. In addition, Councillor Sykes noted that several different useable reserves figures had been used with each differing from the council's own figures.

- 8.3 Paul King clarified that the conclusion was purely based upon an assessment of the arrangements the council had in place and there were a number of unknown factors that could still impact upon the council's position. In relation to the figures used for useable reserves, they would most likely vary depending on the items included to reach that figure and any earmarked capital expenditure.
- 8.4 In relation to page 87 of the agenda, Councillor Cobb contended that the council was not achieving value for money as council tax levels were higher than other authorities and innovative thinking was required to deliver services more efficiently.
- 8.5 The Chair noted that investigation of the complaint made in relation to Lender Option Borrower Option (LOBO) loans had cost £26,000.
- 8.6 Paul King clarified that the investigation was very complex and it had been necessary to obtain legal advice on the matter and there was an obligation to follow due process in relation to the complaint.
- 8.7 The Chair noted that further work was required in relation to assurances from the auditor of the East Sussex Pension Fund and asked whether this meant the Statement of Accounts or Audit Results report or both could not be approved and signed at this stage.
- 8.8 Paul King clarified that the Audit Results report provided audit assurance and audit perspective and therefore the Statement of Accounts could be approved and signed.
- 8.9 **RESOLVED-** That the Committee note the findings set out in the 2017/18 Audit Results Report

9 ANNUAL INTERNAL AUDIT REPORT 2017/18

- 9.1 The Committee considered a report of the Executive Director, Finance & Resources that provided the Head of Internal Audit's opinion on the council's control environment and governance arrangements, a summary of the results of audit work for the year and an assessment of the effectiveness of internal audit against the UK Public Sector Internal Audit Standards.
- 9.2 Councillor Sykes noted that 45% of audits had been given partial assurance and green RAG scores had slipped. Councillor Sykes asked how comfortable the Audit Manager was with the opinion provided and what assurance could be provided that Directorates would address and improve performance.
- 9.3 The Audit Manager replied that partial assurance did still mean that adequate risk controls were in place and equal weighting could not be attributed to each audit given partial assurance. The Audit Manager stated that the number of high priority audit actions was of concern however, he did believe that the appropriate mechanisms were in place and that opinion was extended by the knowledge gained from his own work and his trust in the Risk Management Framework.
- 9.4 Councillor Sykes asked if any problems had been posed by the diminishing resource across the council and whether the right amount of resource was in place in Internal

Audit, why the report had not provided the number of audit hours as had been the case in previous versions of the reports and whether there was a compliance audit of HROD in the areas of peer reviews and people management.

9.5 The Audit Manager explained that audits of HROD were undertaken in areas such as sickness management, recruitment processes and agency staff but these were not carried out on an annual basis. The Orbis Chief Internal Auditor explained that the Internal Audit Strategy Plan received to a previous committee meeting had published the proposed number of audit days and Internal Audit performance was monitored on a quarterly basis.

9.6 Councillor Janio asked if there would be audits undertaken on the Shelter Hall and Valley Gardens projects.

9.7 The Audit Manager answered that there would be a follow up report into the Shelter Hall projects that would set out any considerations of actions to be taken as well as an audit of the Valley Gardens project.

9.8 **RESOLVED-**

- 1) That the Committee note that reasonable assurance has been given on the overall adequacy and effectiveness of the Council's framework of governance, risk management and control for the year ended 31 March 2018.
- 2) That the Committee note the assurances and improvement actions detailed on audits finalised since the last progress report to this Committee in March 2018.

10 INDEPENDENT EXTERNAL ASSESSMENT OF INTERNAL AUDIT

10.1 **RESOLVED-** That Members note the report and in particular the external assessor's conclusion that Orbis Internal Audit has achieved the highest level of conformance with relevant professional standards.

11 ANNUAL GOVERNANCE STATEMENT 2017-18

11.1 **RESOLVED-**

- 1) That Committee note the outcome of the annual review of the effectiveness of the Council's system of internal control reported here and formally approve the Annual Governance Statement in draft form at Appendix 1.
- 2) That the Committee note the Leader of the City Council and the Chief Executive will be asked to confirm their agreement to the Annual Governance Statement by signing a hard copy of Appendix 1 which will be stored securely.
- 3) That the Committee note that the Annual Governance Statement once signed by the Leader of the City Council and Chief Executive will be published on the Council's website alongside the council's Annual Accounts.

12 CASH COLLECTION - COMPANY ADMINISTRATION UPDATE

- 12.1 The Committee considered a report of the Executive Director, Finance & Resources that provided a further update following publication of the Joint Administrators' latest progress report regarding the administration of CoinCo International Ltd (CCI), the council's former security carrier provider.
- 12.2 Councillor Cobb asked if it would be possible to take legal action against the auditors of CCI.
- 12.3 The Executive Director, Finance & Resources answered that whilst there were high profile cases of auditors being sued for negligence, there was a very high threshold due to certain protections and indemnities.
- 12.4 Councillor Janio stated that action against CCI should be pursued with vigour to act as a deterrent.
- 12.5 The Chair noted that significant transactions in the context of the company activities had been made by CCI in 2012, 2013 and 2014 and therefore, it should be clear to establish which account that was deposited to.
- 12.6 The Deputy Chief Finance Officer confirmed that was a key point of the investigation by the administrators and such transactions were made by CCI to appear solvent.
- 12.7 The Chair moved a motion to add a recommendation 2.2 as shown in bold italics below:
- 2.2 That the Committee support bringing a claim by the council against the Directors of CCI for wrongful trading, and/or their auditors once due consideration of the legal and financial risks have been considered by officers.***
- 12.8 Councillor Sykes formally seconded the motion.
- 12.9 The Executive Lead Officer, Strategy, Governance & Law clarified that the motion was procedurally correct however; Members should be minded that as an unsecured creditor, it may not be possible for the council to recover its full claim. The Executive Lead Officer, Strategy, Governance & Law supplemented that it would be the position of officers to use resource in the most appropriate and diligent manner and with a view on the likelihood of successful challenge.
- 12.10 Councillor Robins expressed his disappointment that the motion had been tabled adding that procedural rules dictated that motion should be received by 10am on the morning of the meeting. Councillor Robins supplemented that there was little time to consider the motion when there had been insufficient notice and seemingly, the Chair had used his powers of discretion to accept his own motion.
- 12.11 Councillor Janio noted that a similar incident had occurred at a recent meeting of the Policy, Resources & Growth Committee.
- 12.12 The Chair apologised for the lateness of the motion that was due to personal circumstances hindering a drafting of the motion. The Chair added that the motion was

not a controversial one in his view and set out more succinctly the actions officers had intended.

12.13 The Chair then put the motion to the vote that passed.

12.14 The Chair then put the recommendations as amended to the vote that passed.

12.15 **RESOLVED-**

- 1) That the Committee note the report.
- 2) That the Committee support bringing a claim by the council against the Directors of CCI for wrongful trading, and/or their auditors once due consideration of the legal and financial risks have been considered by officers.

13 HOUSING ELECTRICAL WORKS

13.1 The Committee considered a report of the Executive Director, Neighbourhoods, Communities & Housing that set out the outcomes of the work undertaken to review and resolve discrepancies between work carried out and the charges for electrical work under the Term Partnering Agreement between the Council and Mears Ltd dated 30 March 2010. The report also set out the implications of the findings of the review following on from the updates provided to the committee in January and March 2018.

The Committee moved into confidential session at 6.10pm and returned to public session at 6.35pm.

13.20 The Chair moved a motion to replace recommendation 2.1 with a new recommendation 2.1 as shown in bold italics below:

2.1 That the Committee defer the report to the next meeting to receive full internal legal advice.

13.21 Councillor Janio formally seconded the motion.

13.22 The Chair put the motion to the vote which passed.

13.23 **RESOLVED-** That the Committee defer the report to the next meeting to receive full internal legal advice.

14 LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN REPORT

14.1 The Committee considered a report of the Executive Lead Officer, Strategy, Governance & Law that provided the committee with a public report issued by the Local Government & Social Care Ombudsmen (LGSCO) that set out an upheld complaint and the finding of fault on the part of the Council causing injustice. The report also set out the service improvements identified as a result of the report.

14.2 Diane Bushell asked how many cases were typically upheld by the LGSCO and what was unique about this case to result in the publishing of the outcome.

- 14.3 The Customer Experience Lead answered that 24 cases (57% of cases investigated) had been upheld in 2017 and a similar number in 2016. The reasons for publishing the finding were likely to relate to the national debate on housing need and the causing of significant injustice.
- 14.4 Diane Bushell asked how lessons would be learned from the complaint.
- 14.5 The Customer Experience Lead stated that there were a series of mandatory recommendations from the LGSCO that were required to be carried out to a set timescale. Progress on those recommendations would be monitored until they were complete.
- 14.6 The Chair asked what date suitable temporary accommodation became available.
- 14.7 The Housing Options Manager clarified that there was no suitable premises available for the family during the time period concerned.
- 14.8 The Chair asked what other options had been considered in the context of a shortage of temporary accommodation in the city.
- 14.9 The Housing Options Manager replied that the council could make spot purchases on premises such as hotels subject to certain conditions and availability. The Housing Options Manager added that going forward, there would be better working between the Housing, Adult Social Care and Children's Services to prevent cases such as this.
- 14.10 Councillor Cobb stated that much of the council's housing stock was in poor condition and she hoped the council would work harder to ensure properties were more suitable.
- 14.11 **RESOLVED-**
- 1) That the Committee consider the Ombudsman's Report as provided in Appendix 1 and note that the recommendations arising from it which are listed below have been carried out:
- a. apologise to Miss X;
 - b. pay £750 to recognise the injustice caused by its decision to leave her and her son Z in unsuitable temporary accommodation between July and September 2016;
 - c. pay £100 for the six months it took to reimburse storage charges;
 - d. pay £150 to recognise the time and trouble caused by its delay and poor handling of her complaint;
- 2) That the Committee approve the following steps:
- A formal written response be sent to the Ombudsman explaining the steps taken to comply with the recommendations in his Report.

- That the Council will place two public notice announcements in local newspaper or newspaper websites within two weeks of receiving the report.
- That the Council will make copies of the report available free of charge at Hove Town Hall for a period of three weeks.
- That this report be put before the Council's Housing and New Homes Committee, for noting.

15 STANDARDS UPDATE

- 15.1 **RESOLVED-** That the Committee note the information provided in the Report on member complaints and on standards-related matters.

16 HR ANNUAL REPORT

- 16.1 The Committee considered a report of the Executive Director, Finance & Resources that set out the annual report of the Human Resources & Organisational Development (HROD) service highlighting activity, assurance and business plan priorities.
- 16.2 Councillor Sykes noted there had been a significant rise in challenging and violent behaviour toward employees.
- 16.3 The Head of Health & Safety clarified that incidents of violence and aggression had declined compared to 2017 however; there had been a significant rise on 2018 in challenging behaviour that predominately related to social care settings.
- 16.4 Diane Bushell noted that sickness rates for some Directorate's were significantly lower than others. Furthermore, Diane asked if any data was available on the productivity of the workforce in relation to the percentage part-time and full-time employment split.
- 16.5 The Head of Human Resources clarified that there were lessons to be learned on sickness rates and these could include cross-directorate 'buddy ups' or best practice sharing. The Head of Human Resources added that there was no data on the direct impacts of workforce split however, there was no evidence of adverse impact from the weighting of one over the other.
- 16.6 Councillor Gilbey commented that there appeared to be very few specialised Health & Safety training courses.
- 16.7 The Head of Human Resources replied that bespoke training was provided such as working at height or manual handling and delivery was a mix of online, in person and/or site specific.
- 16.8 The Chair asked if there was any planned or current work relating to mental health of the workforce.
- 16.9 The Head of Health & Safety answered that there was currently significant work being undertaken in the area specifically through HR Advisor training.

16.10 **RESOLVED-**

- 1) That Committee notes the HROD and Health & Safety Annual reports that set out the activities, assurance and business plan priorities for the HROD service.

17 ITEMS REFERRED FOR COUNCIL

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

18 ITEMS FOR THE NEXT MEETING

- 18.1 There were none.

19 PART TWO MINUTES

- 19.1 **RESOLVED** – That the Part Two minutes of the previous meeting be approved and signed as the correct record.

20 PART TWO PROCEEDINGS

- 20.1 **RESOLVED** – That the Part 2 Items remain exempt from disclosure from the press and public.

The meeting concluded at 7.15pm

