

Minutes of the Audit Committee Meeting held on 29 November 2016 at 10:00 am in the Elisabeth Room, Endeavour House, Ipswich.

Present: Councillors Michael Bond (Chairman), Jenny Antill (Vice-Chairman), David Busby, Bert Poole, Sandy Martin and Chris Punt.

Also present: Councillor Matthew Hicks (for Minute No. 26)

Supporting officers present: Louise Aynsley, Chief Accountant (Strategy and Accounts)  
Ian Bowell, Area Commander, Suffolk Fire and Rescue Service (for Minute No. 26)  
Peter Frost, Head of Audit Services  
Kelly Griffiths, Employment Lawyer (for Minute No. 25)  
Mark Hardingham, Chief Fire Officer (for Minute No. 26)  
Richard Hart, Principal Auditor (for Minute No. 28)  
Sally Marlow, Head of HR (for Minute No. 25)  
Marie McKissock, Senior Finance Specialist (for Minute No. 27)  
Tina Meyer, Ernst & Young (for Minute No. 24)  
Linda Pattle, Democratic Services Officer  
Tim Ryder, Monitoring Officer

**20. Public Participation Session**

There were no applications to speak in the Public Participation Session.

**21. Apologies for Absence and Substitutions**

Apologies for absence were received from Councillor Len Jacklin (substituted by Councillor Sandy Martin).

**22. Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations.

**23. Minutes of the Previous Meeting**

The Minutes of the meeting held on 28 September 2016 were confirmed as a correct record and signed by the Chairman.

**24. Annual Audit Letter for the year ended 31 March 2016**

At Agenda Item 5 the Committee received the Annual Audit Letter from the external auditor. Mrs Tina Meyer introduced the letter. In doing so, she highlighted the fact that the Council would be faced with challenges and opportunities as a result of the majority vote to end the UK's membership of the European Union. In addition, she drew attention to the fact that a national change

in the approach to accounting for Transport Infrastructure Assets would have a significant impact on future audits.

In response to questions about how the external auditor reached Value for Money conclusions and about how Suffolk compared with other county councils in terms of achieving Value for Money, Mrs Meyer undertook to circulate to the Committee links to websites providing relevant information.

**Decision:** The Committee agreed to receive the revised Annual Audit Letter for 2015/16.

**Reason for Decision:** The Committee was satisfied with the content of the letter.

Members considered that the letter reflected the high standard of work carried out by County Council officers, and they thanked the Chief Accountant (Strategy and Accounts) and her team for their efforts.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None noted.

## **25. End of employment matters**

At Agenda Item 6 the Committee considered a report explaining matters relating to settlement agreements, end of employment payments and confidentiality clauses.

The report was presented by Sally Marlow, Head of HR, accompanied by Kelly Griffiths, Employment Lawyer, and Tim Ryder, Monitoring Officer.

**Decision:** The Committee agreed to ask the Head of HR to submit a further report to the next meeting, setting out:

- a) Possible amendments to the standard text currently used in confidentiality clauses to make it clear that in exceptional circumstances the Audit Committee would be able to examine retrospectively any financial transaction it saw fit, including settlement agreements and end of employment payments.
- b) An assessment of the implications and risks involved in changing the current standard text used in confidentiality clauses as set out in (a) above.
- c) A review of guidance issued by the Cabinet Office entitled "Cabinet Office Guidance on Settlement Agreements, Special Severance Payments and Confidentiality Clauses on Termination of Employment" and the extent to which that guidance should be applied to the standard text referred to in (a) above.
- d) Information relating to each of the previous five years as to: how often the Council had been taken to an employment tribunal; and how many settlement agreements there had been, with the total cost of end of employment payments.

### **Reason for decision:**

The Committee was aware that the standard wording currently used by the Council in confidentiality clauses (as set out in paragraph 31 of the report at Agenda Item 6) could be interpreted to mean that the Audit Committee was not

entitled to discuss the calculations behind or reasons for a settlement agreement. Members expressed concern that this appeared to conflict with paragraph A12 of the Council's Financial Regulations (Section 4 of the Constitution) which stated that the Audit Committee had right of access to all information it considered necessary.

Members noted that the Cabinet Office's recommended standard wording for confidentiality clauses used by Civil Service organisations and their arm's length bodies was as follows:

*"The Employer undertakes to the Employee to keep the existence, negotiation and terms of this agreement confidential, except for the purposes of essential management, accounting and audit processes or where required by law, by Parliament or by the Government Financial Reporting Manual and/or the Civil Service Guidance on Settlement Agreements."*

Members were also aware that the House of Commons Public Accounts Committee in a report entitled "Confidentiality Clauses and Special Severance Payments" (December 2013) had expressed concern that the lack of transparency over the extent and cost of compromise agreements entered into by public sector bodies meant there was no proper accountability.

Members considered that revealing material to the Audit Committee could not be construed as breaching confidentiality, because the Committee was an intrinsic part of the Council. They were concerned that confidentiality clauses could give rise to the perpetuation of bad or illegal practice, and that, whilst they might avoid reputational damage to the Council in the short term, they could be bad for it in the long term.

The Committee heard a number of points in favour of maintaining the status quo, where the Audit Committee was excluded from information about settlement agreements and end of employment payments. In summary, these were:

- i) A confidentiality clause was a legally binding contract between the employer and the employee.
- ii) With the exception of the statutory posts of Chief Executive, the Monitoring Officer and the Section 151 Officer, delegated responsibility and accountability for decisions relating to termination of employment rested with officers, and robust officer controls were in place to ensure appropriate focus on cost and value.
- iii) The use of confidentiality clauses did not prevent an employee or former employee from "whistleblowing". Even if a confidentiality clause was in place, an employee could still raise serious concerns such as safeguarding matters or allegations of fraud.
- iv) An individual was free to choose whether or not to enter into a settlement agreement, and was required to seek independent legal advice on the subject. Most commonly such clauses were used to help end the employment of an individual in a mutually acceptable way to the benefit of both parties. An example given was where both parties agreed to forego the consultation period prior to redundancy.

Nevertheless, the Committee considered there were strong arguments in favour of changing the Council's standard wording to recognise the right of the Audit Committee to have access to information about settlement agreements and end of employment payments if it saw fit to request such details. Members recognised that if this view were to prevail, the Committee should be expected to enquire into such matters retrospectively, only in exceptional circumstances, and with the press and public excluded from its deliberations.

Members accepted that this was a complex matter which required further consideration. They therefore requested a further report, setting out the implications and risks involved in changing the current arrangements, and taking account of national guidance, including that of the Cabinet Office and the Public Accounts Committee.

In addition, in order to gauge the scale of the matter, the Committee requested the information set out in paragraph (d) above. Members were aware that overall figures relating to payments to senior officers were made available in the Statement of Accounts.

The Committee recognised that if, having considered the matter further, it remained dissatisfied with the current procedures, it could report the whole matter to the Council for determination.

The Chairman thanked the officers for an informative and carefully balanced report.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None noted.

## **26. Suffolk Fire and Rescue Service Annual Statement of Assurance (2015–16)**

At Agenda Item 7 the Committee considered a report on the Suffolk Fire and Rescue Service Annual Statement of Assurance (SOA) (2015-16). Councillor Matthew Hicks, Cabinet Member for Environment and Public Protection, introduced the item and the report was presented by Mark Hardingham, Chief Fire Officer, accompanied by Area Commander Ian Bowell.

**Decision:** The Committee:

- a) Agreed the Suffolk Fire and Rescue Authority Statement of Assurance for 2015 – 16 as set out at Appendix A to the report at Agenda Item 7.
- b) Requested information about: the overall cost of fire and other incidents per head of population, compared with other fire authorities; and what proportion of the incidents attended by Suffolk Fire and Rescue Authority related to flooding.

**Reason for decision:**

The Committee was aware that the Fire and Rescue Services Act 2004 required the Secretary of State to prepare a Fire and Rescue National Framework document. The current Framework, published in 2012, required fire and rescue authorities to produce and publish an SOA annually. The Suffolk Statement had been developed in accordance with the requirements of the Framework and accompanying guidance. The Cabinet had previously determined that the

Statement of Assurance should be annually agreed and published through the Council's Audit Committee.

Members were aware that the main aim of the SOA was to provide accessible information for communities, Government, local authorities, and other partners to make a valid assessment of their local fire and rescue authority's performance. The Committee found the Statement clear and comprehensive, and considered that it reflected a robust quality management system. They noted, however, that during the previous three years no member of the public had asked to see a copy of the Annual Statement.

The Committee was aware that Suffolk compared well with other fire authorities with regard to the number of fire deaths or injuries each year. Members wished to gain an understanding of the cost to the community of fires where there were no deaths or injuries, although they accepted that this might be difficult to quantify. The Chief Fire Officer assured the Committee that the number of flooding incidents involving the Fire and Rescue Service was not significantly increasing year by year and that such events were prone to spate weather conditions, so might well see occasional increases. Nevertheless, he undertook to provide more details about such incidents.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None noted.

## **27. Treasury Management Mid-Year Report**

At Agenda Item 8 the Committee considered a report setting out details of the Council's treasury management activities to 30 September 2016, in relation to its strategies for borrowing and investments and compliance with Prudential Indicators. The report was presented by the Louise Aynsley, Chief Accountant (Strategy and Accounts), accompanied by Marie McKissock, Senior Finance Specialist.

**Decision:** The Committee confirmed that it considered the arrangements in place for treasury management to be effective.

**Reason for decision:** The Committee was aware that within its Terms of Reference it had responsibility for ensuring that effective treasury management control procedures were operating within the Council. Members considered that the report demonstrated this to be the case.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None noted.

## **28. Audit Services – Progress Report**

At Agenda Item 9 the Committee considered a report providing a summary of the activities carried out by Audit Services between May and October 2016.

**Decision:** The Committee agreed that it took assurance from the progress report and supplementary information and that it was satisfied with the work and

activities of the internal audit service, with a view to the Head of Audit Services being able to provide a year-end opinion on the overall control environment of the County Council, in accordance with the Public Sector Internal Audit Standards (PSIAS).

**Reason for decision:** The Committee recognised that in accordance with its Terms of Reference it was required to approve and monitor delivery of the internal audit activity of the Council.

The Committee was aware that in a recent audit of Direct Payments in Adult Care Services, the overall opinion had been “Limited Assurance”. Members heard that these payments were complicated and resource intensive. Internal Audit would carry out a follow-up audit in January 2017.

Members noted that the Internal Audit team had won an award as “Outstanding Team, Public Sector” at the Audit and Risk Awards 2016, in part due to their innovative approach to planning audit activities. A member of the team had also been highly commended in the “best newcomer to the profession” award. The Committee congratulated the team on these achievements.

**Alternative options:** None considered.

**Declarations of interest:** None declared.

**Dispensations:** None noted.

## **29. Forward Work Programme**

The Committee approved its Forward Work Programme at Agenda Item 10, subject to the addition of an item on confidentiality clauses at the Committee’s next meeting, as set out in Minute No. 25 above.

## **30. Urgent Business**

There was no urgent business.

*The meeting closed at 12:32 pm.*

Chairman