

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE 28 JANUARY 2020
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MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON TUESDAY, 28 JANUARY 2020 AT 1400 HOURS IN COMMITTEE ROOM 6, COUNCIL HOUSE, BIRMINGHAM

PRESENT:-

Councillor Grindrod in the Chair;

Councillors Tilsley, Jenkins, Bridle and Quinnen

NOTICE OF RECORDING/WEBCAST

- 189 The Chairman advised and the meeting noted that this meeting would be webcast for live or subsequent broadcast via the Council's Internet site (www.civico.net/birmingham) and members of the press/public could record and take photographs except where there were confidential or exempt items.

The business of the meeting and all discussions in relation to individual reports was available for public inspection via the web-stream.

DECLARATIONS OF INTEREST

- 190 Members were reminded that they must declare all relevant pecuniary and non-pecuniary interests relating to any items of business to be discussed at this meeting. If a pecuniary interest was declared a Member must not speak or take part in that agenda item. Any declarations would be recorded in the minutes of the meeting.

In relation to agenda item 8, the Chair declared that he was a non-executive Director for Acivico Limited.

At this point in the proceedings, Councillor Jenkins requested considering the seriousness of the matter concerned, to move agenda item 13, Travel Assist (ATG) to be the first item on the agenda for discussion. The Chair and Committee Members agreed to bring this item forward.

APOLOGIES

- 191 Apologies were submitted on behalf of Councillors Webb, Jones and Akhtar for their inability to attend the meeting.
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EXEMPT INFORMATION – POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC

- 192 **RESOLVED:-**

That, in accordance with Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to information) (Variation order) 2006, the public be excluded from the meeting during consideration of those parts of the agenda designated as exempt on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information.

The Chair highlighted that Councillor Alex Yip will be in attendance as an observer throughout this Committee.

Item number 13 was the new item 5. A script was then read out in 'Public' by the Chairman in relation to Travel Assist.

"The Travel Assist reports contain references to a "serious incident in relation to the DBS process". These references are on pages 2, 3, 4, 6 and 15 of the Audit report, and in paragraph 4.3.13 of the covering report.

The Council have taken legal advice about what we can and cannot say about this and we are advised that we are unable to release any information which we would have known about solely from any DBS check – such a release is a criminal offence under the Police Act 1997.

To avoid this scenario, we must be careful about what we say and how we say it.

I am recommending as a result that to avoid the risk of an unintentional criminal act occurring on the part of a Member or officer, we do not refer to any information which we would have known about following a DBS check, such as names, or individual people's background information.

We should focus on those aspects of the reports which fall within the remit of the Committee – mainly controls, risk management and process issues.

Safeguarding issues in individual cases are the remit of the Birmingham Safeguarding Children Partnership”.

TRAVEL ASSIST

Councillor Kate Booth, Cabinet Member for Children’s Wellbeing introduced Tim O’Neill and Nichola Jones to deliver a presentation on Travel Assist.

Tim O’Neill, Director for Education and Skills explained that he would be giving an overview to set the context and overarching activities that have taken place over the last 7-8 months. Following the presentation Nichola Jones, Assistant Director for SEND and Inclusion would go through the details depending on questions that would be asked at that point.

Tim O’Neill outlined the audit report was commissioned by him in the Spring of 2019 (April 2019), where he was in post for around 3 months. At that point it was noted there were a range of activities that were not going right. As a result, audit was used in a proactive way to understand why there were gaps.

Reference was made to the second bullet point of the presentation, ‘Turning over stones’ as this was noted as an important phrase. It was important to look everywhere for evidence of where practise could be improved. In addition to this, to ensure that the Education and Skills Directorate was working to ‘at least’ the industries standard. Previous audit reports indicated this was an area of struggle to provide a service that was fit for purpose for all children. As a result, the Director for Education and Skills undertook the decision to carry out an audit on the Service area.

Subsequently, a meeting took place in the summer chaired by the Chief Executive, where the quality of the draft version of the existing audit report came through.

2 issues key issues that were emphasised in the audit report:

- There were a range of cross council issues emerging that were required to be flagged up in the report.
- The quality of the audit practice i.e. how could audit be used to our advantage in the Council to ensure all services were performing to standard.

Additional comments in the audit report that came through which were incorporated to the final October 2019 audit report. The final version referred to the cross-council issues particularly around safeguarding. In addition to this the DBS process was reviewed for which HR colleagues would discuss at Audit Committee.

It was important to highlight there were many areas that could have been worded and written better in the October 2019 report. Some of the actions overlapped, therefore difficult to interpret and unclear. Clarification on those actions would be made to the Committee in order to be clear how to take practise forward.

Committee members were informed there were previous audit reports on Travel Assist in 2017, 2018 which identified a range of poor contract risk and performance management activity.

Tim O'Neill emphasised that he could respond to the actions that were delivered during him being in post however, less confident of what happened prior to his appointment.

The October 2019 audit report clearly identified that the rolling over of the yearly contract took longer to resolve than required.

The quality of the Council's commissioning and management activity across the Education and Skills Directorate as well as across the Council was noted as a critical factor and contributor to these outcomes. The Corporate Leadership Team (CLT) and Cabinet are aware that improvement is required in the Contracts Management area. However, this has been addressed in Education and Skills Directorate in terms of the audit report. The Directorate would continue to ensure this was in place as there was high value and risks associated under this area of the Council. Thus, Commissioning of quality and resources was essential.

19 actions were identified in 2019 Audit report. Some of the actions overlap therefore roll into each other. The following list draws the key deficits together and these were the key deficits in the 2019 audit report:

- Commissioning framework, resources and quality of frontline provision
- Commissioning policy and procedure
- Associated issues around Contract management
- Quality and extent of management information
- Safeguarding checks and DBS information
- Quality assurance of drivers, guides and vehicles
- Budget management

A summary was provided of the activity that had taken place against the issues that were identified.

These were listed as:

- New providers, commissioning and contract arrangements in place
- New SEND leadership recruited and embedded – Started in August 2019.
- Increased resources into commissioning and quality management
- Additional investment into home to school transport (HTST)
- Investigation undertaken regarding identified breach of process (concludes end of January 2020 to which an initial report was completed in November 2019).
- Appropriate managerial action taken regarding breach of process
- New HR leadership, review of DBS policy and practice (including contractors)
- Change of resources in safeguarding team
- Appropriate budget setting
- Weekly monitoring processes established

It was noted that there are fundamental issues identified for the Council and lessons to be learnt around:

- Commissioning – Quality management.
- Contractor management regarding safeguarding, linking to council DBS processes
- Refresher training
- Importance of quality management and business intelligence in the commissioning and contract management sphere – Peter Bishop (Director of Digital & Customer Services) assisting to drive this across the Council rather than just specific Directorates.
- Audit - Made good strides and are currently having very detailed conversations around planning and connecting the 19 recommendations.

Following the initial overview from Tim, the Chair requested the Internal Audit Team to give a summary of the 02 October 2019 Birmingham Audit Report.

Sarah Dunlavey, Assistant Director for Audit and Risk Management referred to the Audit Report.

(See document No. 1) – (Page 179)

All the recommendations were listed in the covering report which indicated the current position and responses to these. The covering report gave a more up to date contemporary position.

In terms of previous audit reports in 2017, 2018, they were purely of a contract nature. Recommendations stated stronger contract management should be in place and that the contract risks should be identified with KPI's set. By incorporating these into the recommendations initially, it may have given early indication of contracts collapsing. Though contracts collapsing can come as a surprise no matter what due diligence arrangements are in place.

Sarah Dunlavey thanked Tim O'Neill for developing a collaborative relationship as now there was close work being undertaken between the Directorate and internal Audit Team. A draft protocol has been drawn with particular input for Education and Skills Directorate.

The Chair invited the Director for Human Resources (HR), Dawn Hewins to add any further comments.

Dawn Hewins, Director for HR emphasised it was important to note that this audit report was in relation to the contractor and not an employee of Birmingham City Council (BCC). There was a set process which was the employer's responsibility. Lessons have been shared between the contractor and BCC which included a review of the process and strengthening of the safeguarding team. The process of checking DBS was currently being reviewed. It was noted that as the DBS status changed for the employee, this in turn triggered the investigation. The Council took immediate action and pursued an investigation.

Members were given the opportunity to raise any questions.

Councillor Meirion Jenkins indicated that he had a few detailed points to make. It was recognised this was a dreadful failure. It was a failure of contract management, a failure of due diligence and financial control and most of all failure to protect some of the most vulnerable people of the City.

The Audit report was commissioned in the Spring of last year (2019), which was nearly a year ago. However, it was ready in July yet taken until the end of January to come into the public domain to be discussed at this Committee. Councillor Jenkins felt there was no substantive change in this report for the last 3-4 months. It is not clear why this was not shared at the Committee in the Autumn. Following this the audit report was then deferred for political convenience using purdah as an excuse though this had nothing to do with purdah. He stated this was about good financial management of the Authority and protection of vulnerable citizens. It was wrong that it had taken since the spring of last year to get to the point that we are discussing one of the most dreadful reports that BCC had seen. He questioned if the Council was being open and honest since the details have not been shared. Rumours that were spread gave light to the situation. Councillor Jenkins questioned if this was not shared via a rumour, would this have been brought to the attention of members.

Discussions on ATG, contracts and financial situation have been talked about for several years. Members have been drawing attention to these issues and problems for a number of years. Issues around the contract and that the automatic renewals were raised, and these should not be taking place. Only until ATG contract fell through that this became a priority.

Councillor Jenkins referred to the audit report reading out: 'A poor understanding (BCC) about the importance of safeguarding, inadequate safeguarding arrangements, poor management control, no real contract management, poor quality management information and an absence of KPIs.' It was felt that BCC was not being open about what was meant by the serious incident that took place. The reader of the report was left to speculate as to what was meant by serious incident.

Some of the children have profound disabilities and the reader could think that had something terrible happened, these children may not have been able to draw it to the attention of others. It was felt that the responsibility had to go right to the top of the political leadership.

This was not an isolated failure of contractual management. Birmingham had failed to follow contractual processes repeatedly. When contracts are up for renewal the correct processes are not adhered to.

The Audit report stated that the contract extension which should have been re-procured was illegal and almost unenforceable. This was not addressed by the Council and nor have the historic issues. The Deputy Leader had overseen Children Services for most of the period. Initially when Councillor Booth was appointed as the Cabinet Member, she stated that this was one of her key

priorities. However, it was felt that these priorities have not been addressed correctly and appropriate action had not taken place.

It was recognised that the ATG contract management takes a substantial amount of the budget area around 80% however, the audit of the expenditure had not been monitored correctly i.e. if the money was spent correctly, the journeys that BCC were invoiced for took place.

There is no timeline of the all incidents, events that have taken place even though an internal investigation is being undertaken. It was felt that if an officer is found responsible then a written warning should be issued.

The Chair supported comments made by Members and though there were several investigations taking place, including from the Safeguarding Board, the Audit Committee expect to see the outcomes of the investigations. Members agreed that an update should be provided to a future Audit Committee.

Councillor Jenkins suggested that the matter be referred to Overview and Scrutiny. He recommended the Chair of Audit Committee write to relevant Overview and Scrutiny Chairs (Resources, Education & Children's Social Care) and state that 'in light of the report that came to Audit Committee on this day, there may be other matters that may need to be brought forward'.

This recommendation was accepted by the Chair.

Councillor Tilsley pointed he had been asking questions about this particular area of work for a considerable amount of time. When the contract started in 2009, he was extremely concerned about this area given the vulnerability of the children. At the time, questions were raised to which the answers were not satisfactory. These questions were continually raised however never responded to appropriately thus lost control. The contract was in place 8/9 years before it collapsed. Councillor Tilsley stated that he had never seen such a damning report with high priorities identified. It was noted as one of the worst audit reports that had been shared at Audit Committee.

Travel Assist had been audited in the past and concerns were raised however these had not been actioned appropriately. If the actions were addressed correctly then the current situation would not have been in place.

Members agreed an urgent response should be made as this had caused a lot of anguish to many families especially since majority of the dates referred to in the audit report were during June, July 2019. There had been no further follow up to this report and we are now in January 2020. Therefore, the City of Birmingham as well as the Council are due an updated report which identifies and reaches a conclusion on all 19 recommendations.

Tim O'Neill agreed that the substance of the audit report should be written in a recent format. The only addition to the report was the cross-council issues as there were wider concerns beyond the Directorate. Work was being taken on these issues and was now coming together.

The following points were noted in response to the questions raised by members:

- The serious incident that was mentioned in the report was a breach of process and openly in the media.
- The language used in the report - 'serious incident' was not the best form of words used.
- Contractual arrangements – The Directorate are accountable however, these issues are being resolved. Majority of these actions are now in place.
- With the support of Audit, the current report can be converted to an up to date report which describes what has been done. Any outstanding issues can be brought back to Audit Committee.
- Contract arrangements with National Express – They are responsible for a third of the assisted routes. The contract with T23 covers the remainder of the routes. Audit Committee would be updated on this.
- Investigation – investigation work being carried out, however it would need to be checked with legal colleagues to ensure what can be shared.
- The activity the Safeguarding Board undertakes on behalf of BCC would be shared with Audit Committee.
- Regular 1:1 with Penny Thompson (Chair of Birmingham Safeguarding Children's Board) takes place.
- KPI's – Information would be shared with Audit Committee and any mitigating actions identified.
- Members were reminded the covering report works in conjunction with the Audit report. The covering report describes all the activities to date that have taken place. This can be brought into an audit report at a future Committee.

Nichola Jones assured the Committee that the Directorate would ensure quality services are delivered to the citizens of Birmingham. Since October 2019, the DBS framework had been implemented. The National Express contract was now fully embedded. There have been no cancelled routes since the take over by National Express in November 2019. The next focus area was the sickness of travel guides and the monitoring of the times of transport. Weekly monitoring takes place on a dashboard and KPI's. This ensured that the Directorate would be driving through performance and using quality information to make well informed decisions. A process was now in place for DBS checks which are held centrally. In addition to this, relationships with procurement had been strengthened as close work is undertaken.

It was noted that intense work with telephony and information management systems was being progressed. Emphasis was given to the number of dependencies in this area which meant the Corporate part of this system was critical i.e. management systems, fleet management, personnel as well as management of DBS. Conversations are currently being undertaken to strengthen relationships. A lot of work has been undertaken despite increased placements to special schools by 500. 48% of children are not within their local area whom are transported which was unusual. As a result, this placed a significant amount of pressure on a group of professionals. Reviews were taking place to see if the current teams in place and are adequate. Undertaking efficiencies and savings at a period where planning

and process are not in place was difficult, therefore it was raised with the Directorate that these cannot be made. Long term planning and systemic work was being undertaken in SEND as well as Home to School Transport Service.

Councillor Marje Bridle emphasised the report was shocking. It was clearly systematic and illustrative of the problems that BCC had. More honesty was required as people were well paid within the Council. They were in post to deliver a service therefore denying problems and issues was not right. Openness and transparency were always required. BCC should be keeping members informed of improvements being made.

It was noted, due to the size of Birmingham this caused a number of issues and problems. Several Councils have improved much faster than Birmingham.

Councillor Bridle questioned around accountability and where does this lie. At a previous Audit Committee, a presentation on CIPFA was delivered which indicated lack of accountability in Birmingham. Systems as well as people were at fault and there was a need for clarity for failures and accountability. Those whom were accountable, what action would be raised against them.

Councillor Booth firstly thanked the auditors for the work placed into the report as well as the update to date work and actions taken. Following this, she thanked Members for their comments and referred to the initial quote in the presentation, 'no stones unturned'. She stated that in her role as the Cabinet Member for Children's Wellbeing, this was what had been actioned i.e. 'no stones unturned'. It was vital that a service that is provided for the most vulnerable young people in the City had to be exemplary. She was delighted that a new contractor was in place and met with them. Additional to this some journeys, routes were undertaken. Councillor Booth was determined that in her role there is a fresh vision and a new direction. It was important to bring this service as well as other services within the Education and Skills Directorate into the 21st Century.

An independent report had already been conducted. Another independent report will be brought together at the end of January 2020.

It was felt that an independent report, i.e. not produced from the Council would be recommended to Overview and Scrutiny. The Council had to be reviewed as a whole and not specific to the Education & Skills Directorate.

Councillor Meirion Jenkins indicated several questions. These were noted as;

- In relation to the DBS checks, who signed off the checks? Was it the Council or the contractor as this was not clear in the audit report.
- The report indicated 'serious incident' was this a process failure. Independent readers wouldn't interpret 'serious incident' as a failure of administration but would think of a worse situation. This should be clear.
- Accountability – The person whom is in charge of the Service areas is ultimately the person who should be accountable i.e. the Cabinet Member. However, officers should also be disciplined as a subject of failures.

- In comparison to the private sector, it was noted that written warnings were issued immediately. Written warnings show a sign of accountability and matters are actioned seriously.
- Independent report – this was queried previously via the Chief Executive. However, the response received indicated that internal audit function should be trusted. If an independent audit was explored that would have implied that there was no trust in BCC internal audit. Members disagreed with this view.

Tim O'Neill responded to some of the queries and the outstanding points. Management structure was robust in both Education & Skills and HR Directorates. In reference to the 'serious incident' the language was not clear and open for interpretation. A breach of process was a more appropriate way of describing that incident. Therefore, the language does not reflect what happened.

Dawn Hewins confirmed that responsibility of the contractors was to carry out the DBS. In terms of the City Council process, the information from the contractors to BCC, there were gaps which were being addressed. As a result, this went to a safer recruitment panel and the information produced was being investigated. A disciplinary process was subject to a thorough investigation which would be undertaken by end of January 2020. Actions would be addressed accordingly.

Councillor Meirion Jenkins questioned again if the Council signed off the DBS checks or if the contractors alone signed off the DBS checks. Dawn Hewins clarified there was a process to go through in terms of the DBS checks. DBS checks do not come to BCC as part of that process. All the information was provided to HR was currently being investigated. Due to the statement made at the start of the Committee, Dawn was limited to say any further detail.

Members agreed that the Committee were entitled to know if the Council signed off the DBS checks or was this only the Contractor. A clear response to this query was to be reported back to the Committee after the investigation had taken place.

The Chair supported and echoed all the points raised from members of all political parties.

Questions raised by the Chair;

- This audit report was in relation to two Directorates and in the public domain. The audit report indicated a poor understanding of the safeguarding and its importance. This was shocking and indicates a cultural problem.
- How would this Committee be confident about the improvement of the culture and engagement with every citizen in Birmingham. Safeguarding should be at the centre of everything BCC undertakes.

The Commissioning arrangements of the Council were referred to and how these were managed. It was clear this was an area to make significant improvements. The Audit Committee would be interested in looking at how

improvements in that area was made over time. The process issues in HR were led by Dawn Hewins. This would assist in getting to a position where the confidence can be gained. To be at 'very least' industry standard was crucial as previously there had been very thin client relationship between the Directorate and its providers. The Council's CLT was urgently addressing the matter to which the details would be shared with Audit Committee.

Dawn Hewins stated the Directorate were taking this very seriously. A series of actions had been implemented. The arrangements with the providers had been reviewed including the services on how DBS works, and processes attached to that. The DBS panel had been strengthened internally. Training was provided for staff and reviewed in terms of safeguarding. The audit report was issued in 2019 therefore action was being taken. The Directorate were not waiting for the result of the investigation.

The Chair emphasised to the Members that as a councillor for Birmingham, he would want confidence that safeguarding was right. The response from the Council should be fast and effective so that members and officers can be proud in protecting vulnerable citizens. At present there was nothing to be proud of therefore reassurances need to be delivered.

Nichola Jones reassured the committee by pointing out safeguarding audits are a part of the new DBS framework. Each contractor undergoes a safeguarding audit. Quality assurance, mechanical inspection of the vehicles, routes would be checked. All these checks would be introduced through the framework. Penalty points would be introduced i.e. for late routes and fine drivers. The contract would be ceased if there are numerous penalty points.

At this point, Clive Heaphy, interim Chief Executive joined the Committee.

The Chair queried how committee members can be assured that no child using council services would be at harm. The national context gives a warning picture for what needs to be done in Birmingham.

It was noted that this was one element of vast array of activities for children. Birmingham Children's Trust was key to work into this area. Was the DBS process fit for purpose?

It was felt that you can never say all children are safe as therefore safeguarding boards are in place. Many children are on child protection plans and there is a requirement to review how to deliver services. A possibility would be to explore early matrix. These issues are centre to the Directorate and will be reported back at a future Committee.

Upon consideration, it was:

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RESOLVED:-

- i) That the Committee noted the report.
- ii) The Director of Education & Skills to provide an update report to Members of the Committee following outcomes of investigations including DBS checks queries.

At this juncture, Councillor Tilsley suggested to move item 12 – Early Years Health and Wellbeing Contract to be the next item for discussion as this was another report delivered by the same Directorate. Therefore, this was noted as the new item 6.

EARLY YEARS HEALTH AND WELLBEING CONTRACT

The following report of the Director of Education and Skills was submitted:

(See document No. 2) – (Page 145)

Lindsey Trivett, Head of Early Years, Childcare and Children's Centres informed Members the report had been shared prior to Committee meeting. This gave an overview to set the context. In March 2019, another audit report was requested via Directorate officers. The comments of the previous Committee had been taken on board and this had moved forward. Considerable progress had been made to contract management function.

Lindsey Trivett outlined 3 areas:

- 1) Issues - Late introduction to TUPE requirement which had led to additional finances being placed thus delay in staff being transferred over. Lindsey updated members that the TUPE was completed on 01 January 2020. 94 staff transferred to Birmingham Community Healthcare NHS Foundation (BCHCT). Close work had been undertaken with the trade unions over the last 2 years to ensure the transition went smoothly. Lessons were learnt from this experience and applied to the Cabinet report on Council Day Nurseries. As a result, the transfer of Council Day Nurseries progressed smoothly. This evidenced that lessons were being learnt and applied.
- 2) Strengthening of the governance and oversight of the contract – Interim arrangements were now in place where there was a Contract Manager in post. Overall commissioning arrangements in Education and Skills were being reviewed with an Improvement Consultant in post. However, a permanent Contract Manager would be managing the contract on a monthly basis. A Contract Review meeting takes place monthly with a Public Health Fund commitment in place to ensure long term function. Linked into this, a Public Health Outcomes Improvement Board had been developed which brought together key partners to discuss the delivery of the contract. Performance monitoring takes place on a monthly basis and had a revised trajectory for improvement setting out what the plan is to get to a good level of contract delivery. That focused on the areas that were initially weak.
- 3) Reduced from a long list of risks down to 3 risks remaining.
 - i) Capital clawback – Previous investment from Surestart Children Centres delivery. As a result, some of those buildings were no longer in use. A new officer had been appointed and would be linking with the DFE to negotiate how the capital clawback would be mitigated. Therefore, this was not identified as a risk since Corporate cover the budget that may invoke sometime in the future.

- ii) Final sign off all the leases for all the buildings that were in use. there had been some delays due to legal capacity available via BCC. All buildings are being occupied under heads of terms and license to occupy however the final leases were now with the BCHCT legal team in preparation to come back to BCC legal team to get signed off.
- iii) Performance – KPI performance

Councillor Paul Tilsley referred to the previous report where he was the Non-Executive Director for the Chair of the Contracts Committee for BCHCT. At that point there were several issues that were not closed off. Initially there were contracts and leases that were not closed off, survey's outstanding etc. As one of the largest Local Authorities in UK, it would be expected to have these closed off as a matter of course, yet this was not the case. Therefore, as a result that had to be corrected. Unnecessary work across the Directorate and associated areas was caused which could have been avoided first time round. The onus was on BCC and not the Birmingham Children's Trust.

Councillor Tilsley was pleased to hear that lessons had been learnt therefore when entering the new contract, the process was smooth. Concerns were raised as both previous and more recent audit report were very close to having similar outcomes. Since processes were corrected, this avoided a repeat of initial outcome. It was emphasised that BCC should get it right first-time round.

At this juncture, Councillor Alex Yip and Councillor Marje Bridle left the Committee.

Tim O'Neill was delighted at the progress made in the Directorate. Early Years Health and Wellbeing was one of the key priorities upon his appointment. He agreed with Councillor Tilsley's comments as there were a lot of outstanding issues that had to be rectified. This was the testimony of BCC officers and BCHCT delivering positive outcomes. It was now crucial to ensure the contract was working effectively for children and vulnerable adults.

Upon consideration, it was:

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RESOLVED:-

That the Committee noted the contents of the report.

AUDIT COMMITTEE – FUTURE WAYS OF WORKING

On reflecting the two audit reports that were presented at this Committee, the Chair emphasised he wanted to ensure effective work on risk and assurance was being delivered at Audit Committees. There are a number of items reported on these agendas which possibly need to be reduced to provide focus onto issues that need to be addressed. A question arose as to whether the Audit Committee was looking at what the Council was doing or whether it was instrumental to driving forward a cultural of good risk management and

supporting ethics, values the Council aspires to. In addition to ensure that the citizens of Birmingham get the best value of service.

The Chair proposed to reformat the Audit Committee where a tighter agenda was set. A request would be made for Cabinet Members and Directorate Leads to inform the Committee of what their areas were. In addition, utilise the available risk registers by making them Directorate specific so that Cabinet Members and Directorate leads were sharing how they are managing the risks. That would enable open discussions on the value for money findings provided by the external auditors. It would assist in seeing how value for money findings were being delivered. The statutory role remains in place however this would enable structure format to schedule items to the Committee. Reports should be flagged up to members of the committee as to why a discussion was required. Directors would report twice a year to provide a follow up so progress can be monitored. Linking this to the risk management report would be essential to see how risk was managed in the Council.

The Chair requested for a relevant officer to draft proposals together to share with the Committee.

Comments made by Members:

- Endorse initial comments made by the Chair
- Lack of accountability by Cabinet Members in the City Council. Crucial to be accountable for actions and failings.
- Referred to previous regime where Cabinet Members reported to City Council once every year and debate would take place on their part of the portfolio. That was disbanded when there was a change of control therefore now there was no accountability in place.
- Audit was the conscience of the City Council effectively to ensure it was well run and addressed all that the external auditors would draw attention to.
- Risk register – Audit Committee should enquire on an annual basis how Cabinet Members and Chief Officers are dealing with the risks identified for their area. That would increase the accountability.
- Further enable an audit trail of outcomes being delivered or not.
- At present the responsibility seems to be shared across departments, Directorates where no one is held to account.
- Accountability in the 'Private' sector would tackle differently as the seriousness would be actioned promptly and the person responsible held to account.
- In the Private sector, members of Audit Committee would be less involved in the 'detail' than Public sector.
- Due to BCC failings, Audit Committee should have more involvement.
- Expect complete honesty from the civil servants of the Council. Honest and transparent answers should be given to questions raised.
- Members are part time representatives therefore rely on officers to draw matters to their attention.
- Names of attendees to be indicated so that viewers on webcasting can clearly see who was speaking to the item and partaking in the discussion.

- It was previously agreed from the work undertaken by the Audit Committee Chairs to have an independent chair to the Committee to give an independent view.
- Revisit the suggestion to have an Independent Advisor to Audit Committee.
- West Midlands Combined Authority Risk and Assurance Committee, there was an independent Chair in place.
- Improve competence and performance of Committee Members to challenge Cabinet Members and officers on their Service areas.
- Essential for members to have a good understanding of the reports within the first 2 pages therefore need to be kept simple.

Jon Roberts, Grant Thornton External Auditor, supported suggestions made by Members. The role of the Audit Committee could get lost in transition and the auditing standards oversaw the governance. It was important to strengthen the role and governance of the framework.

Integration between internal and external audit team's governance system were important to link together. The work from the external auditors would respond to the work on the value for money however the new proposed way of working would also drive the work on value for money.

For example, Travel Assist would be risk focusing on as part of the value for money responsibility.

It was important to not lose sight of the Annual Governance Statement which was a useful document that sets out a range of governance issues for Local Authorities.

At this point Councillor Hendrina Quinnen left the meeting.

The remaining Members were disappointed by the commitment and responsibility received by Councillors to audit committees i.e. shown by their attendance. It was noted there was a challenge within BCC across all Committees and members attendance.

It was suggested that the annual report of the Audit Committee should be shared at City Council for a response to be made. All Council Members could then see the work of Audit Committee with a possibility of including a way of noting differences of opinions from various political parties. There are many Local Government Audit Committees which practice this and enables to gain wider engagement.

It was proposed the annual governance statement and the external auditors report could be used as 'marks up's' for Leader, Chief Executive and Directors to review at least once a year.

There are reports on Audit Committee agendas that can be reports to note or tabled for information.

The Chair specified that he would like to draft a proposal with officers on how to take this forward.

Clive Heaphy, Interim Chief Executive BCC, supported shaping draft proposals of future ways of working for the Audit Committee. He added CIPFA issue the terms of reference for Local Authority Audit Committees. The Audit Committees remit was to provide those charged with governance, independent assurance. In addition to that, adequacy of risk management framework to control internal process with the integrity of financial reporting governance processes. CIPFA are clear that Audit Committee should be independent from the Executive and Scrutiny functions as they have very different roles.

It was emphasised that it was critical Audit Committees were taken seriously and are at the heart of the Councils business. The annual report of the Audit Committee should be shared with City Council, highlighting work undertaken, challenges that have been raised and how the Council would respond to that. By sharing this work in the public domain would be good practice. It was noted to have an independent advisor to improve the journey and way forward.

However, there was a requirement to differentiate roles, as the scrutiny role holds officers to account. The audit role focuses on controls and processes to ensure the control environment was the right environment for services to work across the Council.

Jon Roberts added the Redmond review would be in place soon and focusing on developing the role of the Audit Committee. It was recognised the quality of the local audit could be improved in all areas. Audit Committees would be instrumental to the shaping of that.

It was noted that there is a gap in skills, knowledge and ability of members to serve on Audit Committees and specialised Scrutiny bodies. However, assurances would need to be given to other Councillors in order to show outcomes are being met.

Furthermore, Members added officers need to share all information with the Audit Committee and not to refuse disclosing information. Trust had to be in place in both the role of Audit Committees and its Members. CIPFA guidance would enable this however there are areas under legal privilege that can not be shared at the Committee. Majority of information would be shared openly however the external auditors had already undertaken work therefore assurances should be sought through the external auditor's work. A balance of assurances from internal as well as external auditors work was required.

Upon consideration, it was:

195

RESOLVED:-

Following verbal discussions, the Committee agreed a draft proposal on future ways of working of the Audit Committee to be shared at the 24 March Committee.

REVISED RISK MANAGEMENT FRAMEWORK

The following report of the Assistant Director of Audit and Risk Management was submitted:

(See document No. 3) – (Page 113)

Sarah Dunlavy, Assistant Director for Audit and Risk Management introduced the report and gave an update on the risk management framework and highlighted there was a very important change. Emphasis was given to consider the strategic risk faced by the Council. The Corporate risk register had a mixture of strategic, operational, financial and contractual risks. These were the risks impacting on the Council's priorities. The report had a strong link to the Council's priorities and resources allocation. The template of the document had been updated to include opportunities and innovation. The Audit Committee role was to oversee that there was a robust process in place to monitor, report and mitigate risk therefore submitted for approval.

The Chair queried how do we get good risk management through the Council? There was the question of risk appetite i.e. which risks do we manage, which was a 'right first-time risk' e.g. Safeguarding should be right first time. Also understand what was best practice of risk management and how does risk strategy look like in other Councils?

Councillor Jenkins added this would be a balance of risk and risk evasion.

Rebecca Hellard, Interim Chief Finance Officer explained that she had been working on the Risk Register with the CLT. In terms of risk appetite, a strategy was being developed that picked up opportunities and risk. Starting with the strategic risks (i.e. potential, economical, legal, environmental, social etc risks). Subject to the strategy being approved, it would be shared with the Committee. The risk appetite would be indicated alongside the strategic risks. The inherent risk would also be indicated as well as mitigating actions. The Strategy would indicate the level where the risk should go down to.

An example referred to was on safeguarding. There would be strategic risk (top), operational risk (bottom) and an operational risk that would be the escalating step (middle). That would be the crucial section and would require a tight overview. This would allow the risk to be visible and actively managed whereas other operational risks could be managed within Directorates. Other examples of Programme risk such as Commonwealth Games are monitored routinely and would become visible if there was a transition in the ratings i.e. amber to red.

Routine risks would be monitored within the Directorates and could be reported on a quarterly basis. It was stated that these were early days in the shift of how risk was managed.

The strategy would be brought to the committee to discuss and to see what the Audit Committee would be comfortable with. The change in culture would take time as the 'proposed' new way of working would be more of a proactive way of managing risk. In terms of governance this was currently being outlined as to where this sat. Risk Champions are already in place and not used to this way of

working. Therefore, there would be a massive cultural shift programme that would need to be rolled out alongside this. This was a beginning of a journey for change across the Council.

The following suggestions were made by Members and officers to consider:

- Possibly hold risk workshops and the agenda is large
- Use of risk heatmaps – a) challenge what risks are on there, b) what was missing c) where do they sit in the heat map d) is the risk appetite right
- List critical operational risks
- Requires dedicated time as this was a new set up
- Deep dive session – to explore responsibility and resilience
- Session on risk appetite
- Resilience – difficult to plan for but would take place to which a plan would need to be in place

The Chair requested to see additional input and shaping of the risk management framework. This would be used as a tool for regular engagement for Cabinet Members and Directors therefore essential to get this right.

Members agreed for the work on development of strategic heat map, critical operational risks to sit alongside the risk management framework and brought back to the Committee.

Upon consideration, it was:

196

RESOLVED:-

- (i) That the Risk Management Framework was approved however development of strategic heat map, critical operational risks to sit alongside the document.
- (ii) That the Committee agreed for the risk management to be reported 3 times per annum.

MINUTES – AUDIT COMMITTEE – 16 DECEMBER 2019

197

RESOLVED:-

That the Minutes of the last meeting be confirmed and signed.

At this juncture, the Chair requested if there were any items currently on the agenda that was essential to discuss at the Committee.

THE LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN'S ANNUAL REVIEW 2018/19

The following report of the Chief Executive was submitted:

(See document No. 4) – (Page 05)

Miranda Freeman, Senior Liaison Management Officer informed Members this was a routine update report to the Committee about the Local Government and Housing Ombudsman reports for 2018/19. The LGSCO figures have gone up by a 1000 and BCC have stayed the same. The LGSCO indicate the largest category of complaints dealt with by the LGSCO's investigators was Education and Children's Services, at 18% followed by Adult Care Services at 16% and then Planning at 12% of all the complaints and enquiries received. Birmingham has never followed the LGSCO's trend as complaints about Housing matters have traditionally been our largest category. The combined complaints determined by both Ombudsmen, this was still the case in 2018/19, 151 cases. This was followed by what the LGSCO calls 'Environment Services', both Regulatory Services and Waste Management fall into this Category. The complaints for waste management increased and now there were 137 complaints, most were about failure to collect waste.

The outcomes were outline, where the Ombudsman deal directly with the complaint and sends these back to BCC to deal with. It was noted that these were the largest category for complaints. 173 cases (40%) complaints were received. The LGSCO closed 112 cases after carrying out initial enquiries and undertook detailed investigations in 100 cases. The LGSCO upheld 77 which was a large amount. This was due to the LGSCO not working on many the previous year therefore were catching up therefore figures were over what would normally be determined.

The Committee preciously requested two reports to be conveyed during 2019 (2019/20 reports). The ombudsman was satisfied with the actions BCC took with respect of Education Transport which was given the clearance. In relation to Waste Management, that was still pending as the Ombudsman requested to monitor the 17 cases and still in progress. Waste management had been held up due to purdah and would come back to Committee in due course.

The Chair suggested that it would be interesting to understand the figures by comparing Birmingham with Leeds. As Birmingham was three times bigger than Leeds, it would give a better overview to compare and see if there was a huge difference in figures or if Birmingham was in line. By illustrating the percentage of figures and factoring in the size of authorities would give a better understanding of where Birmingham was.

198

RESOLVED:-

That the Committee received and noted the Local Government and Social Care Ombudsman's Annual Review report for 2018/19.

At this juncture, the Chair thanked all officers in attendance especially those whom came to present a report and they were not covered at this Committee.

DATE AND TIME OF NEXT MEETING

The next meeting was scheduled to take place on Tuesday 24 March 2020 at 1400 hours in Committee Room 6.

OTHER URGENT BUSINESS

199 No other urgent business was raised.

AUTHORITY TO CHAIRMAN AND OFFICERS

RESOLVED:-

200 That in an urgent situation between meetings the Chair, jointly with the relevant Chief Officer, has authority to act on behalf of the Committee.

The meeting ended at 16:01 hours.

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CHAIR