

BIRMINGHAM CITY COUNCIL

AUDIT COMMITTEE 26 MARCH 2019
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MINUTES OF A MEETING OF THE AUDIT COMMITTEE HELD ON TUESDAY, 26 MARCH 2019 AT 1400 HOURS IN COMMITTEE ROOM 6, COUNCIL HOUSE, BIRMINGHAM

PRESENT:-

Councillor O'Shea in the Chair;

Councillors Afzal, Bridle, Jenkins, Shah, Tilsley, Trickett and Webb.

NOTICE OF RECORDING/WEBCAST

- 94 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 INTERESTS

- 95 Councillor Paul Tilsley declared non-pecuniary interests as a nominee on the Board of Birmingham Airport – (Chairman of Audit Committee) and a trustee on the Board of Millennium Point Property Limited - (Chairman of Audit Committee).
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MINUTES

- 96 **RESOLVED:-**

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

MATTER ARISING FROM THE LAST MEETING

HOUSING BENEFITS OVERPAYMENTS

- 97 Craig Price, Principal Group Auditor, reported on the recovery of housing benefit overpayments from Universal Credit and confirmed that they were allowed to recover these payments by making a third party debt application to the Department of Works and Pensions. However, they were only allowed to put pre-debts against Universal Credit and that the order of the debts were made out by legislation and housing benefit overpayments.

He confirmed that housing benefit overpayments were 19 out of 23 on the list of priority and the maximum recovery amount of third party debt was 40% of the allowance, and therefore, could take a substantial amount of time for the recovery of debt of overpayments returning to the City Council. He added that a great many of the Council's debt could be sitting in a pending state until they moved up the list of priority.

AUDIT COMMITTEE – IMPROVEMENT TO WORKING PRACTICE

- 98 A general discussion ensued relating to Audit Committee, whereby elected members made suggestions, which was welcomed by the Chair on how the workings of the Committee could be improved which included the following:-

- The Committee to be made aware earlier of relevant information in order to identify potential risks before escalation.
- Reports submitted to Committee – track actions – introduce a record of Outstanding Minutes (able to refer to issues not completed – time line).
- One coherent document that picks up on system failings of the local authority – indicates accountability/decision making/who is responsible for delivery of change and resolution.
- Concern was raised regarding additional meetings given the tight resources of the Committee.

The Chair confirmed that he was not averse to discuss with the Leader and Chief Legal Officer the introduction of an independent member to the Committee, and to introduce an additional Audit Committee meeting between March and June in future municipal years where there were no elections, as there was such a gap especially where there was more than sufficient items to be discussed to justify the additional meeting.

He confirmed that it had been a learning curve for him chairing the Committee this year, however during the year, they had considered items raised by members of the Committee which had been of particular risk.

The Chair thanked members for their comments.

EARLY YEARS HEALTH AND WELLBEING RISK

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

(See document No. 1)

Sarah Sinclair, Interim Assistant Director, Education and Skills Directorate, presented the report. She detailed the key issues, key controls and mitigations to improve in moving forward.

A lengthy discussion ensued, during which the following comments and responses were captured:-

The Chair expressed disbelief that the contract had been agreed without the intelligence client function in place. He referred to the £10m savings that were to be made and already the £4m that were at risk and whether the VAT payments would be mitigated by staff transferring to the NHS or would this continue to be a cost to the Council, and if the staff that had set up the contract was still employed by the Council.

Sarah Sinclair confirmed that the VAT payments would not be an ongoing cost to the Council as it was only while staff was on secondment to the NHS and other partners, and once they had transferred, the costs would cease.

She reported that the cost of the VAT had been approximately just under £800,000 and originally there was a loss of £4m savings plus £800,000 in the first year.

She confirmed that she was currently working with finance to re-profile the £10m savings originally what was expected to be saved from the contract in real terms for the remaining 4 years. At the moment the information was not available as they were still in the process of completing the work.

She confirmed that they were working with the Trust in order to assess whether they could recoup any further savings from the contract by doing things differently.

She reported that the people that had established the contract were no longer employed by the Council and had found employment elsewhere.

She reported that when she had been made aware of the position in May it very much highlighted the need for consistency, continuity, information and knowledge otherwise when things were passed from team to team, it was somewhat difficult to keep an overall grip and understanding of the issues that they had had to face.

Members expressed very deep concerns relating to the failures of the contract and how this impacted on the young, vulnerable citizens of the City which was totally unacceptable.

They were in disbelief that a contract of this significant amount, had been agreed without the setting out of the basics which included; usage of buildings, the expectation of outcomes how they were measured and by whom, the system failures due to the inappropriate processes (checks and balances) that

were not in place, the fact that it was a controversial contract was even more concerning that they had got something so very wrong, and also, how this affected the credibility of the organisation, given the fact, that partners would be aware of the shoddiness of the contract.

Members were of the insistence that there should not be a repeat of this type of report again and that there should be a detailed review to determine the failings leading to this result. Suggestions were put forward detailing the various processes that should now be put in place to support the contract in moving forward which included careful monitoring by the committee.

Following a discussion relating to the monitoring of the contract, the Chair although agreed for a further update to be submitted to Audit Committee, however, believed that it was within the remit of Overview and Scrutiny where it should be considered in more detail.

At this juncture, Dawn Baxendale, Chief Executive Officer, confirmed that on a quarterly basis, as part of the internal audit process, Audit Committee should be receiving updated information on contracts across the board in order to allow the Committee to take a view on whether they wanted to delve into something specific or not. She added that in this case, it would be one of the items that would be followed through as part of the normal audit work, albeit this did not preclude Scrutiny taking its responsibility for individual contracts.

The Chair highlighted that if issues were not being raised satisfactorily through the officer chain, as he had done previously, was happy to take them on board and raise them accordingly, adding that the quarterly reports on contracts would be fitted into the agenda for the forthcoming year.

Clive Heaphy, Strategic Director, Finance reported that he shared the Committee's concerns with regard to the report and other issues that were being brought to the Committee's attention during the year.

He confirmed that part of his role together with Dawn Baxendale, Chief Executive, was to ensure that where there had been wrongdoings in the past and where tasks had not been done properly, these issues were surfaced and dealt with, adding that unfortunately more issues would surface, and that they should be highlighted rather than kept hidden at this moment in time.

He further confirmed that each time an issue was brought to attention an audit report was commissioned in order that important lessons were learnt and errors were not repeated in the future.

He highlighted the importance of sharing the lessons learnt and taking them forward and also sharing the knowledge with elected members in order that they would be able to see what the organisation was doing better. He further highlighted the importance of ensuring that there were the right people with the right skills in place which meant a great deal of work with regard to culture change, behaviours, skill sets and the way people work together in the organisation, all of which was quite critical to provide the assurance members' required.

He reiterated the importance of ensuring that the appropriate investigations were undertaken and members were made aware of them and that all of these issues were rooted out sooner rather than later. He stated that it was important that the organisation aimed for excellence in the way that it works now and in the future in order that these issues were never repeated again.

The Chair agreed that it was most important that the Committee was kept updated with any arising historical concerns however it was important any new concerns e.g., contracts should be caught before moving forward.

Clive confirmed that procurement and contract management now came under his remit and subsequently explained in detail his expectation of how it should work in the future with procurement, commissioning teams and management teams all working together in a more coherent way.

He added that part of the contract management teams' role was to support the services in their day to day operations, but also to be a proper centre of excellence that would be promoting good behaviour and going in there on a regular basis and reviewing contracts.

Where contracts would be seen to be going off beam, they would be brought to the Committee's attention on a regular basis, highlighting that this was his commitment to the organisation in taking over these services.

Sarah briefly explained the help and assistance she had received from internal audit when taking on her role. She highlighted the importance of having the right team in place and added that there was the willingness there in order to support the contract in moving forward.

The Chair concluded by thanking Sarah for attending the meeting and presenting the report.

99

RESOLVED:-

That the comments and report be noted.

CORPORATE RISK REGISTER UPDATE

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

(See document No. 2)

Sarah Dunlavey, Assistant Director, Audit & Risk Management, explained that Early Years and Travel Assist had been on the risk register since July.

She further explained that due to the issues relating to the format of the corporate risk register, the format would be changing to include the monitoring of actions taken. She stated that they would be asking risk owners in moving

forward to list the actions that will be taking (the current risk level to the target risk level) and then assessing each of those actions which the Committee will be able to challenge.

A discussion ensued, during which the following comments and responses were captured:-

In response to increasing the level of Risk 32, Sarah agreed to discuss with the risk owner the revising of the risk level.

Clive Heaphy, Strategic Director, Finance, reported on the use of reserves and confirmed that they could only be used for specific purposes and that they had not released any in previous years and were not planning to use any in future. He added that they were being held to smooth out the PFI contract and subsequently explained how this worked.

He reported on the practice the authority had adopted in the past regarding the level of internal borrowing between different reserves and stated that he would be taking this action away from the organisation, as it was not the correct thing to do. Nevertheless, confirmed that these monies were built into the long-term financial plans to be repatriated to where they belong in order that the reserves were at the required levels.

He stated that in the long-term whether there would be sufficient money in those reserves remained an issue and detailed the various areas of negotiations that this was linked into, confirming however that the aim remained the same, which was to ensure that the citizens of Birmingham get the investment in their road network that was promised at a cost no greater than the cost that was assumed, which he highlighted was a challenge but was confident that the money would be there when required.

Clive reported on Risk 7 and confirmed that they were putting in place an industrial unit internally to ensure the capacity and knowledge was there to handle industrial disputes properly. He highlighted that in moving forward, it was important that there was in place a team that had the right skills and capacity to support the council which he confirmed was not there at the moment.

Sarah reported on Risk 29 (balanced budget) and confirmed that the reduced risk was due to the much more positive monitoring position for the current year and therefore, the impact remained at high, but the likelihood of it materialising had been reduced based on the current position in the financial cycle.

The Chair concluded by thanking Sarah for presenting.

100

RESOLVED:-

- i) That, having reviewed the Corporate Risk Register, the Committee accepts that the risk ratings are reasonable, that the action being taken is effective, and agrees that further explanation/information be requested as set out in the above preamble;

- ii) That approval be given for the:
- Reduction of risk likelihood rating for risk No. 29 – (Not developing sufficiently robust plans to support setting a balanced budget (including in the medium term) and not containing net spending within the approved budget) from 'High' to 'Medium'; and
 - Increase the likelihood and impact ratings for Risk 7 (Lack of capacity and capability to respond to threat of industrial action, employee relations tensions, poor service, performance issues, sickness absence levels and poor morale due to organisational downsizing and pay freezes) from Significant/Significant to High/High.
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At this juncture, the Chair varied the order of the agenda.

STATUTORY RECOMMENDATIONS MARCH 2019

The following report of the Chief Finance Officer was submitted:-

(See document No. 3)

Phil Jones, Grant Thornton made introductory comments to the report and specifically highlighted the recommendations referring to the Waste Service and financial risks that the Council was managing at this time.

A detailed discussion ensued, during which the following comments were made and responses were given to questions:-

The Chair raised concern regarding the very short notice of this item being included on the agenda given its importance. He stated that he had not been included in any prior discussion regarding the report which he stressed was unacceptable and should not be repeated.

He therefore suggested that in the future, it would be courteous to include the Chair of Audit Committee before reaching a point where it was dropped onto the committee at the last minute, adding that any similar reports should be brought to the committee in good time which had not happened on this occasion.

Phil acknowledged the Chair and members' frustration regarding the lateness of the report.

Phil briefly explained that recommendations could be issued at any time during the audit and given the overriding requirement for auditors to report promptly, and especially where there was an opportunity now to take forward a review of the waste service in a very effective manner, it seemed the most appropriate time rather than later on during the year.

He referred to the continuous working presence that they had with Council and that they met with Clive and colleagues on a regular basis. He referred to the

statutory recommendations that had been issued and confirmed that they were appropriate at this point in time, and also, it was a good spur for the Council to consider the actions that it needed to take to ensure that the risks were well managed and was confident that there was the evidence base to support them.

He referred to the issue raised regarding outsourcing and confirmed that there was not any preference for one method or another and that all they had attempted to do, was to summarise what they knew to be the options available and to encourage the Council to consider them all robustly, rather than write any off at the outset.

Clive Heaphy, Strategic Director, Finance, confirmed that the working relationship with the Council's auditors was a critical one and that both he and Dawn valued this enormously and highlighted the importance of all working closely together.

He shared concerns with regard to some of the processes and stated that he would be taking it up with the auditors to ensure there was a real understanding of the way the Council worked, and that the auditor would be regularly updated as to what was taking place in the organisation. He highlighted the importance of transparency and openness and that the Audit Committee was correctly informed from the auditor's opinion that was independent to the way the council operated, which was the way that it should be.

He referred to the report and whilst it identified a number of risks suggested that there were no new risks. With regard to specific issues where there were a number of risks they would continue to monitor them. He referred to the level of reserves and briefly explained how they had to manage the system in order to strike the right balance, adding that it was an important area of work.

He confirmed that they would be taking the recommendations seriously and take on board the Committee's comments which would be included within the covering report submitted to City Council next week. He highlighted the importance of having a full and open discussion in City Council regarding the recommendations and the Council's response to them and in how they differ/progress from the previous recommendations that were seen before.

Phil Jones, referred to 'strong political leadership' and gave various examples which included the refuse service of where politicians would be required to demonstrate real leadership in moving forward, adding that it was all the more important when linking to the finance issues (potential transformational savings) in order to get these things moving correctly it will need political leadership going forward in an environment where it was going to become tougher.

Frances Done, Birmingham Independent Improvement Panel, reported that the Panel would be stepping down on 31 March 2019. She referred to the final letter and report to the Secretary of State and confirmed that it would include similar information detailed in the external auditor's report and be submitted to the Secretary of State early April 2019.

She stated that it was inappropriate to share the information with the Committee as there were ongoing discussions with the Council. She added that they had taken into account the stocktake report which was submitted to Cabinet this morning, it was a public document and that they were looking at that as a basis of reporting to the Council with regard to the risks and issues in moving forward.

She referred to members' comments and confirmed that those issues were reflected in the report and also there was some reflection on how well the Panel had been able or not able to influence improvement in the Council. She highlighted the importance of the documents that had been submitted to the committee today and added that all members of the Council would receive a copy of the Panel's final report in due course.

Several comments were made by members relating to the Birmingham Independent Improvement Panel and the positive influence it had had on the Council and subsequently thanked them for their input.

Several comments were made by members regarding the importance of having the right people with the right skills set in place and reference was specifically made to the Waste Service and the need for the person in post to fully understand what was required in the running and the managing of the service.

Dawn Baxendale, Chief Executive officer highlighted the importance of members and officers collectively taking ownership as this was crucial to the organisation in going through the changes that were having to be made and to continue to do so, and it was about how this was driven together with being honest and with the high challenge and high support that flows from that.

She referred to the importance of employing competent staff and confirmed that they would be looking to employ an Assistant Director that would have the appropriate waste experience and fully understand the expectations of the service.

The Chair thanked Frances for the support that had been provided and hoped that the City was now in a better state than when they had first joined, adding that there was still a great deal of work to do over the next few years.

The Chair concluded by thanking officers for attending the meeting and presenting.

101

RESOLVED:-

The Committee noted:

- 2.1 The S24 Recommendations which would be reported and responded to at a meeting of Full Council, and
 - 2.2 the Committee's role in monitoring progress and implementation of the management actions proposed.
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AUDIT FINDINGS REPORT RECOMMENDATIONS – PROGRESS REPORT

The following report of the Chief Finance Officer was submitted:-

(See document No. 4)

Martin Stevens, Head of City Finance Accounts, made introductory comments to the report.

102

RESOLVED:-

- i) That the progress in implementing management actions, set out in Appendix 1 to the report, to address the recommendations set out by the External Auditor in his Audit Findings Report issued in July 2018 be noted;
- ii) That officers be requested to submit updated reports to future meetings of this Committee on the continued progress in implementing the management actions proposed.

BIRMINGHAM AUDIT – INTERNAL AUDIT PLAN 2019/20 take after 24 recs

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

(See document No. 5)

Sarah Dunlavey, Strategic Director, introduced the plan and provided a comprehensive breakdown of how it was compiled.

She highlighted that they had kept back a number of contingency days at the earlier stage in the year in order to be able to apply to emerging issues during the year.

She referred to the information in the appendices of the report and subsequently highlighted that due to discussions with each of the corporate directors, this had contributed towards the detail in Appendix B of the report.

Upon further consideration, it was:-

103

RESOLVED:-

That the Committee:-

- i) Noted the progress and the methodology applied and assumptions made in developing the 2019/20 internal audit plan;
 - ii) Considered the proposed audit coverage and identified any areas they wish to suggest for inclusion in the risking process; and
- subject to any agreed adjustments, approved the proposed plan.

BIRMINGHAM AUDIT – EXTERNAL AUDIT PLAN

The following report of the External Auditor was submitted:-

(See document No. 6)

Phil Jones, Grant Thornton, provided a comprehensive breakdown of the report. He highlighted the concern regarding the staffing levels within finance and that it was a risk to be managed in order that the plan was delivered on time.

In response to members' comments, Phil confirmed that the public sector audit team was dedicated to delivering public sector audit and was completely separate to the private sector audit, and also was confident that the systems that were in place delivering public sector audit was working well.

Martin commented that although there had been an unprecedented level of staff illness within the Accounts and Finance Teams, this was now beginning to reduce with some staff returning and the utilisation of staff from other areas within Finance, highlighting they were liaising regularly with the auditors in this regard.

Upon further consideration, it was

104

RESOLVED:-

That the report be noted.

GRANT THORNTON – EXTERNAL AUDIT PROGRESS REPORT

The following report of the External Auditor was submitted:-

(See document No. 7)

Phil Jones, Grant Thornton provided a comprehensive breakdown of the report and highlighted that they should be in a position to deliver an opinion on 31 July 2019.

He provided a brief description of the data security breach that had taken place and confirmed that it had not included any personal information. He confirmed that BCC had been informed of the breach and was confident that any risk to BCC was low, adding that the file names had now been changed and that password protection could be looked into as a further security measure.

The Chair thanked Phil for reporting the data breach.

Upon further consideration, it was

105 **RESOLVED:-**

That the report be noted.

GRANT THORNTON - INFORMING THE AUDIT RISK ASSESSMENT

The report of the External Auditor was submitted:-

(See document No. 8)

Phil Jones, Grant Thornton, made introductory comments to the report and highlighted that they were satisfied with the responses received from management.

Upon further consideration, it was

106 **RESOLVED:-**

That the report be noted.

ADOPTION OF ACCOUNTING POLICIES FOR 2018/19

The report of the Chief Finance Officer was submitted:-

(See document No. 9)

Martin Stevens, Head of City Finance Accounts, introduced the report and explained the two major standards that were applicable for 2018/19 detailed in 5.1 and 5.3 of the report.

Upon further consideration, it was

107 **RESOLVED:-**

That the Committee:-

Considered and adopted the accounting policies for the determination of the Council's accounts for 2018/19; and

Noted the implications for future years' accounts arising from the changes in accounting standards.

HRA FUNDING OF WASTE COLLECTION

The report of the Chief Finance Officer was submitted:-

(See document No. 10)

At this juncture, Councillor Trickett declared a non-pecuniary interest as this fell within her remit as Cabinet Member during the time that this happened.

Clive Heaphy, Strategic Director, Finance, highlighted that the overriding principle that members should be aware of was that generally council tax payers did not subsidise services, and housing revenue account payers, did not fund general fund services.

He briefly explained how the whistle blowing complaint had arisen and the actions that had been undertaken as a result of the complaint. He confirmed that a review had taken place and that the cost had related to a health and safety issue rather than pure waste collections.

He reported that due to the blocked shutters within the HRA tower blocks during the waste dispute, urgent action needed to be taken as this was a danger to the health and wellbeing of the residents. Therefore the HRA staff had picked up the cost quite rightly as an emergency measure and then what should have followed, and did not, was a subsequent review as to whether the cost should remain there or charged back to the general fund.

He confirmed that they would look to correct this and that a wider investigation would be taking place across the HRA to provide assurance that they were not picking up any other non HRA costs and vice versa which was what needed to be established. He added that if there were any policy decisions that fell into the grey area then they would be taken as proper policy decisions.

He confirmed that they would be discussing with the auditor whether they make an adjustment for this or not and briefly explained the issues of materiality, highlighting that he would be taking into account the auditor's views in this regard.

Sarah Dunlavy, Strategic Director, provided a brief account of the investigation that had taken place and explained that at the point of the interviews taking place, was unaware of the identity of the whistle blower involved, and as there was no dispute about the facts presented, in this case it was not necessary to have any discussion with the whistle blower.

Upon further consideration, it was

108

RESOLVED:-

That the Committee:-

Noted the results of the investigation, and that some of the charges were likely to be non-compliant with the statutory ring-fence and a level of reinstatement of HRA balance should be considered; and

In addition, a full review of HRA charges should be commissioned, including internal charges.

EQUAL PAY UPDATE

109 The following report of the Corporate Director Finance and Governance was submitted:-

(See document No. 11)

Kate Charlton, City Solicitor, suggested that due to time constraints the above-mentioned item be deferred until the next meeting.

The Committee after a brief discussion agreed that the item be deferred until the first meeting of the Municipal Year, and suggested the following:-

- Equal Pay – that the Committee receive the relevant papers within the appropriate timescale prior to the next meeting, and
- To include - Agenda item – Settlement of Senior Officers when exiting the authority.

DATE OF NEXT MEETING

110 The next meeting was scheduled to take place on Tuesday, 18 June 2019 at 1400 hours in Committee Room 2.

SCHEDULE OF MEETINGS FOR NEW MUNICIPAL YEAR 2019/20

111 The following schedule of Meetings was noted:-

All meetings to take place on Tuesdays at 1400 hours:-

18 June 2019	- Committee Room 2
30 July 2019	- Committee Room 6
25 Sept 2019	- Committee Room 6
19 Nov 2019	- Committee Room 6
28 Jan 2020	- Committee Room 6
24 March 2020	- Committee Room 6

OTHER URGENT BUSINESS

Note of Appreciation

112 The Chair thanked members and offices for their efforts and support over the past year and subsequently thanked Phil Jones and his team and wished him well in his retirement.

AUTHORITY TO CHAIRMAN AND OFFICERS

113

RESOLVED:-

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

EXCLUSION OF THE PUBLIC

114

RESOLVED:-

That, in view of the nature of the business to be transacted, which includes exempt information of the category indicated, the public be now excluded from the meeting:-

Exempt Paragraph 3