

GOVERNANCE, AUDIT, RISK MANAGEMENT AND STANDARDS COMMITTEE MINUTES

16 JULY 2019

Chair: * Councillor David Perry

Councillors: * Ghazanfar Ali † Maxine Henson
* Peymana Assad * Amir Moshenson
* Philip Benjamin * Kanti Rabadia

In attendance: Dr JJ Kirkland † Member of Person

* Denotes Member present
† Denotes apologies received

59. Attendance by Reserve Members

RESOLVED: To note that there were no Reserve Members in attendance.

60. Appointment of Vice-Chair

RESOLVED: That Councillor Kanti Rabadia be appointed as Vice-Chair of the Committee for the Municipal Year 2019-20.

61. Declarations of Interest

RESOLVED: To note that there were no declarations of interests made by Members.

62. Minutes

RESOLVED: That the minutes of the meeting held on 16 April 2019, be taken as read and signed as a correct record.

63. Public Questions, Petitions and Deputations

RESOLVED: To note that no public questions, petitions or deputations were received at this meeting.

64. References from Council and other Committees/Panels

RESOLVED: To note that there were no references from Council and other committees/panels.

RESOLVED ITEMS

65. Committee on Standards in Public Life - Review of Local Government Ethical Standards

The Head of Legal Services introduced the report, focusing on the 15 “best practice” recommendations set out in the report of the Committee on Standards in Public Life (CSPL).

A Member asked about the scope of the Code of Conduct and in particular, how it would apply to the Council’s engagement with the private companies established to implement various aspects of the regeneration programme. He was concerned about councillors’ accountability and the transparency of decision-making in these circumstances. The Head of Legal Services advised that, in addition to the information publicly available about the companies in accordance with statutory requirements and Companies House registration, the Council itself could publish relevant information via its own website.

Another Member referred to the important role of the Independent Persons in the assessment of Code of Conduct complaints and asked whether there was a risk of a conflict of interest if an Independent Person had been involved in an initial assessment and was then participating in a formal hearing. The Head of Legal Services confirmed that, in these circumstances, a different Independent Person would be invited to participate in the hearing. Currently, there was provision for three Independent Persons with two in office, the third having resigned recently; recruitment of a replacement for this position would now take place and one of the recommendations in the report was the recruitment of a fourth.

The Member also asked about the timescales for notifying a councillor subject to a complaint of its content and detail. The Head of Legal Services confirmed that the subject Member was provided with the information contained in a complaint at an early stage and invited to provide a response; the Member would also be provided with a draft report of any investigation into the complaint so that he or she could respond in writing before any hearing. Dr

Kirkland added that the subject Member also had a full opportunity at the hearing itself to respond to allegations and the investigator's assessment.

A Member referred to the CSPL best practice recommendation that a councillor should be regarded as having breached a Code of Conduct if he or she refused to comply with any formal investigation process; the Member considered that this was at odds with the principle used in judicial proceedings that a defendant was not obliged to offer a defence with the onus being on the prosecution to demonstrate culpability. The Head of Legal Services advised that the CSPL considered that this would be best practice, arguing that a councillor should engage positively in the process in recognition of their public service responsibilities, and had recommended that all local authorities therefore adopt it as part of their Codes of Conduct. The Chair added that a court of law was often dealing with decisions affecting a person's liberty and in view of that seriousness, it was understandable that different processes and rights would apply. The Member who had raised the point was nevertheless uncomfortable with this best practice recommendation and considered that it should not be formally included in the Council's Code of Conduct.

In response to a question from a Member about the definition of bullying and harassment, the Head of Legal Services pointed to the definition proposed in the report (paragraph 3.2, best practice recommendation 1); she confirmed that this had been drafted by officers for the Committee's consideration and for submission to full Council which would formally determine changes to the Code of Conduct. The Member contrasted this proposal for a formal change to the wording of the Code with the approach to best practice recommendation 14 concerning the standards applying to "separate bodies" established by local authorities. The Head of Legal Services advised that compliance with this recommendation would be achieved by publication on the Council's website of information about such bodies, such as details of directorships, Board minutes, annual reports, etc

The Member suggested that the financial accounts of these separate bodies, such as those associated with the Council's regeneration programme, should be reported to the Committee as a way of improving scrutiny and accountability. The Head of Legal Services advised that the Committee's terms of reference would need to be checked to determine whether this was part of its functions; the Head of Internal Audit suggested that the financial performance of the companies could be included in the Annual Governance Statement as proposed in the best practice recommendation (14) from the CSPL. Another Member considered that there should be some formal proposal brought to the Committee on this issue. The Chair proposed that officers should provide guidance on the mechanism for accountability of these separate bodies, send that guidance to the Chair of the Committee so the Committee could further discuss the matter; this was supported by the Committee.

In response to a Member's question about the CSPL's recommendation concerning new powers to suspend councillors found to have breached the

Code of Conduct, the Head of Legal Services confirmed that such powers existed prior to the reforms brought in by the Localism Act 2011 and that their reintroduction would require amendments to legislation.

The Member also asked about the use of powers under the Regulation of Investigatory Powers Act. Officers outlined the arrangements for authorised Council officers to make decisions on the use of these powers which required endorsement by a Magistrate's Court, and the circumstances of their use most recently, including the investigation of suspected abuses of Right-to-Buy legislation.

In response to the Chair's question about the number of Code of Conduct complaints received by the Council, the Head of Legal Services advised that they were generally low but had been higher than normal in the last year.

RESOLVED:

- a) That the Committee on Standards in Public Life report be noted;
- b) That steps be taken to introduce all the best practice recommendations set out in the Committee on Standards in Public Life report subject to, in relation to best practice recommendation 14, officers providing guidance on an appropriate mechanism for accountability of the separate bodies established by the Council, sending that guidance to the Chair; and
- c) That Members note the number of complaints about Members that have been received and the nil return of RIPA authorisation.

66. Annual Health and Safety Report

The Head of Community and Public Protection introduced the report, highlighting the key trends and developments. He drew particular attention to the increasing awareness among staff and managers of the need to report relevant incidents so that a full picture of health and safety issues could be obtained; this was the dominant factor in the higher number of incidents compared to the previous recording periods.

In response to a Member's question about physical assaults in schools, the Head of Community and Public Protection advised that many of the incidents were related to children in special schools where there were specific factors behind the children's behaviours; the schools were very experienced in appropriate risk assessment and training, and in managing such incidents. The figures were higher this year due to the increased reporting, so he expected the level to stabilise the following year and then, hopefully, reduce over time.

A Member asked about the coordination of reporting processes between schools and the Council. It was explained that staff shared a common corporate software programme which allowed schools to make timely, direct reports of incidents. In response to a Member's concerns about the scale of the increase in reported incidents, the Head of Community and Public Protection underlined the new approach to encouraging reports and also explained that many of the "incidents" were minor with only the potential of risk to health and safety rather than any actual injury.

In response to two further questions, the Head of Community and Public Protection advised that there had been no significant increase in insurance claims related to the incidents reported and that the Occupational Health staff worked independently of the Human Resources function.

A Member asked about the make-up of the "others" category in the summary information in Appendix 1. The Head of Community and Public Protection pointed to the more detailed breakdown of information later in the appendix.

In response to the Chair's questions, the Head of Community and Public Protection advised that reports under the statutory Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 (RIDDOR) had decreased and that the reporting of an individual incident through the database took no longer than 15 minutes, often less than this. The Chair also asked about incidents of self-harm; the Head of Community and Public Protection confirmed these were rare, though there had been increased sensitivity to mental health issues in the new approaches to health and safety reporting. The Chair was pleased to see no enforcement cases involving the Health and Safety Executive (HSE); the Council had maintained a positive, proactive and open relationship with the HSE.

In response to the Chair's question about asbestos management, the Health and Safety Compliance Manager advised that new reporting arrangements had been put in place from the start of the current financial year; it was the first time the Council had such an asbestos management plan. Performance against the plan's targets was on track at this stage.

RESOLVED:

- a) That the Accidents and Incidents report for information be noted;
- b) That the Health and Safety Strategy, as set out in Appendix 3, be approved: and
- c) That the annual Health and Safety Policy in Appendix 6 be approved.

67. Treasury Management Outturn 2018/19

The Treasury and Pensions Manager introduced the report, highlighting the key developments in each relevant area.

A Member queried whether the total borrowing figure of £346m was at odds with the local government prudential code requirement that borrowing should be “affordable, prudent and sustainable”. The Director of Finance confirmed that the overall debt level was carefully monitored and assessed in terms of affordability and that the costs associated with servicing the debt were included in revenue accounts; the absence of separate funding for many key responsibilities, including some related to health and safety, meant that the Council had to make appropriate provision in budgets, including manageable borrowing as part of the package. In response to another Member’s question about the specific level at which borrowing would be considered unaffordable, the Director of Finance advised that, beyond the basic “capital financing requirement”, there would also be a judgment call about affordability which would be influenced by many factors applicable at the time; she considered that the current debt level was manageable. The Member asked about the circumstance in which the debt level might be flagged as a risk item to the Head of Internal Audit. The Director of Finance advised that there were regular discussions at the Corporate Strategic Board and with leading Members, so that appropriate action could be taken in response to any risks identified. She referred to budget revisions made in the previous year due to issues she had raised concerning debt levels. She also explained that the particular circumstances of borrowing items were relevant to the judgements on affordability, for example, where there would be financial returns on an initial investment; in the regeneration programme, much of the expenditure would be covered by eventual capital receipts.

In response to another Member’s query about the percentage increase in the borrowing level since the previous year, the Director of Finance pointed out that the report before the Committee related to the 2018-19 outturn; she could send the Member details of the capital financing plans for the next two years. She underlined that there was a mix of different items financed through borrowing, including some where the Council was making up a shortfall on external funding and others where costs would be recouped at a later stage, such as the depot redevelopment.

A Member asked about the total cash investments. The Treasury and Pensions Manager advised that funds were either invested in the money markets or as fixed-term deposits with banks.

RESOLVED:

That the outturn position for treasury management activities for 2018-19, as set out in the report, be noted.

68. Statement of Accounts 2018-19

The Chair welcomed Lucy Nutley and Gary McLeod from Mazars, the Council's external auditors. Dealing first with the report on the authority's main accounts, Ms Nutley reported that the Council had presented a good quality set of accounts and working papers as background; only minimal adjustments had been considered necessary and the external auditors would be in a position to issue an unqualified opinion in due course. As the Council had helpfully submitted draft accounts at an early stage and this was an early audit committee meeting, work on the audit was not quite complete with the final report expected in the following week. The external auditors' analysis of risks had revealed no significant issues. In respect of the impact of the McCloud case on pensions liabilities, this was not regarded as a material factor requiring any adjustment to the authority's accounts.

A Member compared the £3.8m impact of the McCloud case on pensions liabilities with the adjusted misstatement figures in the external auditors' report and queried why this item had not been included as a misstatement. Ms Nutley advised that should the Council wish to include it as an adjustment, then this was in order, but the external auditors considered that there was no requirement to do so.

The Member also queried why the auditors had not concluded that recommendations on internal controls were required when the Committee itself received regular reports proposing various controls to respond to various risks and issues raised by Council officers. Ms Nutley advised that the scope of the external audit was different to local management action which had a much wider remit; in terms of the requirements of external audit, it had been judged that there were no significant issues to report.

The Member referred to the significant swing in the valuation of pension fund investments from one year to the next, which he had assessed as approximately £80m. Ms Nutley advised that the external auditors relied on the work of the fund actuary which was itself monitored through national arrangements. The figures provided by the actuary had been much as the auditors expected and this scale of movement in investment valuation was in-keeping with many other local government pension funds. Mr McLeod added the assumptions of a range of local government pension fund actuaries, who applied the "IAS 19" standard, had been considered and these were comparable and consistent; the external auditors were alert to such actions as an authority asking an actuary to vary valuation assumptions, but this had not occurred with Harrow and therefore they considered the valuation provided to be acceptable. The Member felt that this amounted to the auditors checking the process rather than the actual valuation figures themselves; he asked whether he could contact the auditors for more detail about this and this was agreed.

Another Member asked about the external auditors' assessment of the decision-making processes related to the Council's regeneration programme since this had been subject to a limited assurance internal audit and a special external review. Ms Nutley underlined that these reviews were about decision-making arrangements prior to the financial year now subject to audit (2018-19). However, the regeneration strategy had been considered in discussions with the Director of Finance and work done on issues relevant to the audit. The Head of Internal Audit confirmed that she had brought a report to the Committee on the issues raised in the reviews of decision-making. The Member wished to register his disappointment that the external auditors had not also addressed the concerns about the regeneration programme as he considered it would have been helpful to the Council to have their perspective. The Head of Internal Audit advised that it was important that the work of her team did not duplicate that of the external auditors, and the regeneration programme had been subject to separate reviews and her own full report to the Committee; in response to the Chair's question, she confirmed that the various actions recommended in her report were being implemented.

Ms Nutley turned to the pension fund accounts, reporting that the Council had presented a good quality set of accounts and helpful working papers as background; only minimal disclosure errors had been identified and the external auditors would be in a position to issue an unqualified opinion in due course.

A Member queried what appeared to be different figures for the Council's contributions to the pension fund as between the Council's accounts and the Pension Fund accounts. The Treasury and Pensions Manager advised that the £22m figure in the authority's accounts reflected the actuary's estimate of contributions while the £19m figure was the actual employers' contributions; he referred the Member to Note 7 (analysis of contributions receivable) as the explanation. The Member suggested this item might have to be addressed in the accounts as a "related party transaction" and in response, Ms Nutley agreed to check this point.

The Chair was pleased at the external auditors' acknowledgement of the quality of officers' work on the accounts, and at the positive assessment of the Council's financial management reflected in the auditors' provisional judgements; he considered this to be a significant achievement especially against a background of severe financial pressures on local government.

RESOLVED:

- a) That the reports of the External Auditor on matters arising from the audit of the Statement of Accounts 2018-19 and the Pension Fund Annual Report 2018-19 (appendix 4) be noted;
- b) That the Statement of Accounts 2018-19 at appendix 1 (which are subject to the issue of the audit opinion) and the Pension Fund Annual Report 2018-19

at appendix 2, be approved and that the Chair be authorised to sign the accounts;

- c) That the Director of Finance, following consultation with the Chair, be authorised to make any final amendments to the Statement of Accounts and Pension Fund Annual Report arising from the external audit prior to the issue of the audit opinion and signing of the accounts by the auditor; and
- d) That the Summary Statement of Accounts 2018-19 (appendix 3) be noted.

69. Annual Governance Statement

The Head of Internal Audit introduced the report, highlighting its key aspects.

RESOLVED:

That the Annual Governance Statement 2018/19 be noted in line with the Committee's terms of reference and that it be recommended for approval by the Leader and Chief Executive.

70. INFORMATION REPORT - Internal Audit and Corporate Anti-Fraud Year End Reports 2018/19

The Head of Internal Audit and Head of the Corporate Anti-Fraud Team introduced the report, highlighting the main issues arising.

In response to a Member's question, the Head of Internal Audit advised that it had taken longer than expected to complete the review of the Kingsley School budget management issue; a report would be brought to the next meeting of the Committee.

A Member queried the timescale for establishing a methodology for assessing fraud losses. The Head of the Corporate Anti-Fraud Team advised that, due to staff vacancies, it had not proved possible to advance this work, but he was confident it would be completed in 2019-20; the Council made use of best practice examples from other authorities.

In response to a Member's question about the procedures used for recovering losses suffered through fraud and the sums involved, the Head of the Corporate Anti-Fraud Team reported that the actual recovery of losses was handled by the relevant service department, but his team would make recommendations on future controls, processes and safeguards, and advising on any specialist mechanism such as the Proceeds of Crime legislation. He underlined that as much as 90% of the identified total loss figure was notional

and based on the value of accommodation occupied fraudulently; equally, there were cases where the discovery of a fraud could mean the loss of an income opportunity, for example, where a Right-to-Buy purchase was stopped leading to the “loss” of the capital receipt but a “saving” of the discount to the purchaser.

In response to the Chair’s questions, the following information was provided:

- a) The Community Directorate had been subject to the highest number of amber and red reviews in 2018-19, but it was not known if this was part of a particular trend from previous years;
- b) The target for the recovery of social housing units was generated by a formula linked to staff resources available; the Housing Revenue Account funded a dedicated post and even though the Harrow Council housing stock was relatively small, it was difficult to cover the cases which arose;
- c) The priorities for anti-fraud work were driven by the annual risk assessment, advice from service departments and national reports on topical issues; the Council took these into account in deciding which areas to focus on.

RESOLVED:

That the report be noted.

71. Any Other Urgent Business

A Member raised the question of the considerable length of the agenda for this meeting which had made it very difficult for Members to prepare for discussion of the items, especially in view of the technical nature of much of the information; he suggested that this should be addressed for future meetings so that agendas were more manageable. The Chair asked the Corporate Director, Resources to address this point in discussion with Democratic Services.

(Note: The meeting, having commenced at 7.35 pm, closed at 9.52 pm).

(Signed) COUNCILLOR DAVID PERRY
Chair