

Medway Council
Meeting of Audit Committee
Thursday, 19 November 2020
7.04pm to 9.35pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

- Present:** Councillors: Browne, Gulvin, Hackwell, Osborne and Tranter (Chairman)
- Substitutes:** Councillors:
- In Attendance:** Katey Durkin, Head of Finance Strategy
Sunny Ee, Head of Regeneration Delivery
Wayne Hemingway, Principal Democratic Services Officer
Nick Halliwell, Assistant Manager, Grant Thornton
Perry Holmes, Chief Legal Officer/Monitoring Officer
James Larkin, Head of Audit and Counter Fraud
Andy McNally-Johnson, Finance Business Partner - Corporate Reporting
Ade Oyerinde, Senior Manager, Grant Thornton
Phil Watts, Chief Finance Officer
Darren Wells, Key Audit Partner, Grant Thornton

412 Chairman's announcement

The Chairman, on behalf of the Committee, thanked the Finance team and Auditors for their work this year, noting the challenge of achieving the audit to even higher standards, while working under covid restrictions, and at the same time coping with grants and ever changing financial issues.

413 Apologies for absence

There were none.

414 Record of meeting

The record of the meeting held on 24 September 2020 was agreed and signed by the Chairman as accurate subject to the inclusion of the following words at the end of the fifth paragraph under minute no. 275:

“and to ensure a report would be produced accordingly”.

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Updates were sought on the following matters under minute no. 274:

Whether the Audit and Counter Fraud team had been redeployed during this current response phase of the pandemic – the Chief Finance Officer confirmed that whilst most of the team had been retained, a couple of members of the team had been redeployed to assist in the distribution of the test and trace isolation grants.

Whether the meeting between the Head of Audit and Counter Fraud and Chairman had taken place – the Chairman stated that this meeting had yet to take place.

Whether the audit of Government grant payments during the pandemic had been scheduled to come forward to a future meeting of the Committee – the Chief Finance Officer reported that there would be an opportunity for the Committee to look at this matter if requested.

415 Urgent matters by reason of special circumstances

There were none.

416 Disclosable Pecuniary Interests and Other Significant Interests

Disclosable pecuniary interests

There were none.

Other significant interests (OSIs)

Councillor Gulvin declared an interest in any reference to Medway Development Company (MDC) Ltd because he is a Director of the company and he relied on a dispensation granted by the Councillor Conduct Committee to enable him to take part in the discussion and vote on this item.

Other interests

Councillor Gulvin declared an interest in relation to the consideration of any matters in his portfolio throughout the agenda.

417 Housing Infrastructure Fund Financial Management Reporting

Discussion:

This report provided details interrelationships between the spend of the £170 million Housing Infrastructure Fund (HIF) budget and the legal status of the signed Grant Determination Agreement (GDA). It also provided details of the measures that the HIF team had put in place, in awareness of the requirements of the GDA and also for accurate budget, risk and programme management.

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The Head of Regeneration Delivery advised the Committee of the aim of the HIF programme which was to deliver infrastructure improvements to the Hoo Peninsula. He explained the process that the HIF Team was currently engaged in with Finance and Audit and Counter Fraud to establish governance, programme management and financial processes to manage risk and to meet the GDA requirements. He advised that he expected the Audit and Counter Fraud team to complete their work on this by the end of November. He also explained that monitoring was being undertaken on a monthly basis and that the Audit and Counter Fraud team would undertake a full audit of the processes in a year's time. He also referred to the financial implications of the programme noting that there was £170 million in the Capital Programme and that the Council would be required to pay the first 1% of any overspend before resorting to other ways of addressing any overspend, for example, by using section 106 funds.

Members then raised a number of questions and comments which included:

Liability for any overspends – in response to a question as to whether the Council would be restricted to paying no more than 1% of any overspend, the Head of Regeneration Delivery stated that any overspend beyond 1% could be paid for by other means such as the use of section 106 monies although it was hoped there would be no overspends.

Contingency testing – in response to a question as to the measures in place to deal with any unexpected issues, the Head of Regeneration Delivery explained the internal processes in place and that this would include escalation to senior management, including the Officer Project Board as appropriate. Such matters would also be reported to the Member Advisory Board, which would meet on a quarterly basis, as appropriate. He also informed the Committee that the Leader of the Council would be briefed once a month on progress and that the Deputy Leader and Portfolio Holder for Housing and Community Services and the Portfolio Holder for Front Line Services would also be briefed on matters relating to their respective portfolios. Ward Councillors would also be briefed on matters as appropriate.

Governance documents and processes – in response to a question as to whether there may be a delay in the Audit and Counter Fraud team completing their review by the end of October because of the redeployment of some team members owing to the pandemic, the Head of Audit and Counter Fraud explained that one of his team was currently in the process of completing this work. He also provided information about the ongoing role of his team once the programme was up and running. In response to a question, the Head of Regeneration Delivery confirmed that the team would follow the Council's procurement processes and he provided a recent example of a contract being submitted to Procurement Board.

Regular monitoring of progress – in response to a question on whether the Committee could monitor progress on the ongoing risks on a regular basis, it was clarified by the Chief Finance Officer and Chief Legal Officer that such a matter would fall outside the Committee's terms of reference. However, it was

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noted that the Committee would have an opportunity to review matters relating to this project, when they are submitted to Committee via existing reporting mechanisms, in due course.

Risk – in response to a question as to why only one risk was set out in the report, the Head of Regeneration Delivery explained that the remit given for this report was quite general in nature and that further detail could be provided in future. In response to a question on the risk set out in section 4 of the report and whether there was a process in place to ensure that deadlines would be met, the Head of Regeneration Delivery confirmed that the team were currently submitting claims on time which were being paid by Homes England and that whilst this would be a significant piece of work, the team was currently well resourced in this area. It was also clarified that risk E2 represented a low likelihood of happening and a high impact.

Decision:

The Committee noted the report.

418 National Fraud Initiative Progress Report

Discussion:

This report provided details of an update on the National Fraud Initiative (NFI) exercise. This was a nationwide data matching exercise, comparing computer records held by the Council against other computer records held by councils and other public bodies, with a view to identifying potential instances of fraud or irregularity.

The Head of Audit and Counter Fraud gave a detailed introduction and referred the Committee to the overall summary as set out in paragraphs 3.39 and 3.40 of the report which highlighted savings of just over £327,000 as a result of this work. He provided an update on the 2019/20 Council Tax exercise by stating that all 2,946 electoral roll matches (single person discount) had now been checked and that just 250 needed further enquiries with 50 of those matches having also been identified in another report relating to HMRC data.

Members then raised a number of questions and comments which included:

Blue Badges – it was noted that there was no evidence of fraud/error in the investigation on the 625 matches on blue badges.

Publicity – In response to a question as to whether this work could be publicised, partly to act as a deterrent, the Head of Audit and Counter Fraud stated he would contact the Communications team on this matter.

Accessibility – in response to a question regarding the future presentation of the report to make the report more understandable, for example the inclusion of tables, the Head of Audit and Counter Fraud took on board these comments and undertook to look into, for example, the use of tables in future.

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Reporting period – in response to a question seeking clarity on the reporting period for this report, the Head of Audit and Counter Fraud stated that the team submitted various datasets to the Government in October each year, and in the following January the Council would receive the results (data matches) on a secure website. The Council would then have to assess these matches. Therefore, for the 2018/19 exercise, the Council submitted the datasets in October 2018 and received the data matches back in January 2019. He stated that the subsequent work undertaken fell across two financial years. In August 2019, as a pilot, further data matches were received from HMRC. He also explained the process around council tax and electoral roll information and the eventual need to switch attention to the newer 2019/20 data matches in an attempt to catch up before the 2020/21 round.

In response to a question as to the number of matches which had not been checked, the Head of Audit and Counter Fraud stated that whilst 70% of matches remained unchecked, most of these would already be subject to other checks, for example, the Finance team had processes in place to investigate duplicate payments. He explained that undertaking the checks on the 70% may not necessarily lead to making many further savings.

Effect of pandemic on fraud – in response to a question relating to the impact of the redeployment of the team earlier in the year, the Head of Audit and Counter Fraud explained that there had been no choice on this matter given the pandemic and that Local Authorities up and down the country had done the same thing. In response to a comment that there may be an increase in fraudulent claims as a result of the financial impact of the pandemic, the Head of Audit and Counter Fraud shared these comments and pointed out that a number of reports in the media related to the furlough scheme which was a matter for the Government. It was unclear what the impact would be on the Local Authority at this stage.

Benefits claims – in response to a question on the issue of investigating fraudulent benefit claims, the Head of Audit and Counter Fraud explained that this matter was dealt with by the Department for Work and Pensions. Matters in this report related to the work of the Revenue and Benefits team.

Recovery of overpayments – in response to a question relating to the recovery of overpayments, the Head of Audit and Counter Fraud confirmed that steps were taken to seek repayments, for example, sums would be added back on to Council tax bills as arrears. The overpayment relating to the care home, as set out in paragraph 3.39 of the report, had been recovered in the next payment run.

Decision:

The Committee noted the report.

419 External Audit Plan 2019/20

Discussion:

This report provided details of External Audit Plan of the Council's Auditors, Grant Thornton, for the audit of the Council's Statement of Accounts for the financial year 2019/20, as set out in Appendix 1 to the report and the Update to the External Audit Plan, as set out in Appendix 2 to the report.

The Chief Finance Officer informed the Committee that this report was originally scheduled to be submitted to Committee back in March, however, the meeting was cancelled owing to the pandemic.

The Engagement Manager, Grant Thornton, advised the Committee that the Plan reflected, in part, areas of work which needed more focus and these were referred to as significant risks although he confirmed that work had been undertaken across the other areas of the financial statements. He also referred to the second aspect of the Plan which reflected the risks associated in reaching the value for money statement. He referred to the Audit Plan Update, as set out in Appendix 2 to the report which dealt with the emerging issues arising from the pandemic.

Members then raised a number of questions and comments which included:

Negative Dedicated Schools Grant Reserve – in response to a question on the implications of the negative reserve, the Engagement Manager, Grant Thornton, explained that CIPFA's guidance stated that there was no basis for having a negative reserve. He advised that some Local Authorities in the country, including Medway, faced this situation owing to pressures on the Dedicated Schools Grant (DSG), and this pressure should be offset against the general balance fund. He stated that CIPFA and the Government were implementing a statutory override for the next financial year to ensure where negative reserves arise they could be reflected without being in conflict with the CIPFA code. The Chief Finance Officer advised the Committee of the background to the significant pressures on the DSG following the 2014 Special Educational Needs and Disabilities (SEND) reforms which he considered had resulted in an unfunded burden being placed on Local Authorities.

Fees – In response to a question as to the rationale for the increase in fees, the Engagement Manager, Grant Thornton, advised the Committee that the increase was a consequence of the Financial Reporting Council raising the bar for the quality of work being undertaken by Auditors. This meant that Auditors now had to undertake more work which had led to an increase in costs.

Decision:

The Committee noted the External Audit Plan for 2019/20, including the variation to the core fees from 2019/20 for the remainder of the contract.

420 Statement of Accounts 2019/20 and Audit Findings Report 2019/20

Discussion:

This report provided details of the Draft Statement of Accounts 2019/20 as set out in Appendix 1 to the report and also provided an update on the ongoing audit by Grant Thornton with their Audit Findings Report, as set out in Appendix 2 to the report, which had been included in Supplementary Agenda No.1.

The Chief Finance Officer paid tribute to both the Finance team and the Auditors for undertaking this work during difficult circumstances as a consequence of the pandemic. He explained that the Statement of Accounts were not quite concluded at this stage and referred the Committee to the recommendations set out in the report to take account of this.

The Engagement Manager, Grant Thornton, highlighted that working remotely had made matters more time consuming, therefore, the work had not been concluded thus far. He expected that a number of Local Authorities around the country, potentially including Medway, would not meet the 30 November deadline this year as a consequence of the pandemic.

He informed the Committee that conclusions had been reached in a number of areas but further work was required elsewhere. He also referred to where agreement had been reached to make changes to the financial statements. He advised the Committee that at this stage, the Auditors had not found anything which would alter the audit opinion, therefore, he anticipated giving an unqualified audit opinion. He also advised the Committee that the final audit opinion would include an emphasis of matter paragraph, given an issue relating to the valuing of plant, property and equipment. He also referred to risks relating to Minimum Revenue Provision and Value for Money.

Members then raised a number of questions and comments which included:

Minimum Revenue Provision (MRP) – in response to a question reflecting the difference in opinion between the Council and the Auditors on the approach taken with the MRP, the Chief Legal Officer advised the Committee that the Auditors had raised the issue of the decision taken by the Chief Finance Officer on the MRP, and the Chief Legal Officer had reviewed this decision. Having discussed matters with the Auditors and the Chief Finance Officer, the Chief Legal Officer accepted that there were differences between the Auditors and the Council on this matter and that the Council was entitled to take the decision based on the law and the guidance it had sought.

Pensions liabilities – in response to a question around the likelihood of material changes to the Council's pensions liabilities, the Engagement Manager, Grant Thornton, referred to the work undertaken on this matter (page 22 of the addendum report). He advised that the Council used an Actuary to arrive at the calculation. The Auditors also used an Actuary to review this work which helped reach a conclusion. He advised there were no current concerns, however, this work was not quite finished yet.

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Reserves – in response to a question on the level of reserves, the Engagement Manager, Grant Thornton, referred to pages 30-35 of the addendum report which set out the Auditors' views on the Council's arrangements for financial sustainability. He advised that whilst the Auditors were of the view that the Council's reserves were not at the upper end (of Local Authorities), it was not for the Auditors to comment on whether the Council's reserves were adequate or sufficient and that this was a matter for the Chief Finance Officer, in his capacity as the Section 151 Officer. He advised the Committee that, dependent on Government funding, there was the potential for the Council's reserves to be reduced to a dangerous level.

The Chief Finance Officer advised the Committee that there was a strategy to rebuild reserves, as set out in the Medium Term Financial Strategy and that more money had been added to the reserves in the past couple of years. However, the risks associated with the pandemic would impact on these ambitions. In addition, he advised that he sought to rebuild reserves gradually over time, balancing this against the need to continue to deliver front line services.

Pentagon Centre – in response to a question regarding the revised categorisation of the Pentagon Centre as "other land and buildings" (Note 21 to the accounts), the Senior Manager, Grant Thornton, confirmed that on the basis of the Council's investment in the Pentagon Centre, it had not been categorised correctly and this had now been fixed. The Head of Finance Strategy confirmed that this was the case and that the accounts now reflected the correct category.

Parish Council precepts – in response to a question as to the increase in precepts of 5%, the Chief Finance Officer advised that Parish Councils were not subject to the same referendum limits as Medway Council, therefore there was the ability for Parish Councils to set higher council tax increases.

Unpaid invoices and pension costs – it was agreed to answer detailed questions on these matters outside the meeting.

Collection of Council Tax and Business Rates – in response to a question regarding the projected shortfall of £18 million for 2020/21 and how this would be addressed going forward, the Chief Finance Officer advised that the Council's initial reporting to Government during the early part of the pandemic had included matters such as collection rates and the Council had initially reported a worst case scenario on this issue. Subsequently, the Government's financial support for Council Tax and Business Rates payers had meant that the Council had not experienced the impact on the collection fund as initially expected. He referred to the assumptions set out in the Medium Term Financial Strategy recently reported to Cabinet which reflected a slight decrease in Council Tax collection and an increase in Business Rates collection.

In response to a question on whether there could be a lag into next year on collection rates owing to an increase in unemployment, the Chief Finance Officer stated that an estimation was made around collection rates and that the

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Government would now allow any in-year losses to be spread across three years but he did not anticipate significant in year losses, subject to any changes in the level of Government support going forward.

Medway Commercial Group – in response to a question relating to the repayment of the £4 million debt, the Chief Finance Officer advised the Committee that a new Chief Executive and Board was now in place to build the business and improve performance. The Council had recently agreed to advance a loan to MCG to repay the debt on a long term basis to sustain the long term future of the company.

Group accounts – in response to a question on materiality, the Head of Finance Strategy and the Chief Legal Officer confirmed that the Council had worked with the MCG and Medway Development Company Boards to discuss these issues and that group accounts would be produced for the next financial year.

Decision:

- (a) The Committee noted the issues raised and judgements made by the Auditor as presented at Appendix 2 to the report.
- (b) The Committee approved the Statement of Accounts 2019/20 at Appendix 1 to the report, subject to amendments agreed by the Chief Finance Officer with the Council's Auditor, and noted that if any material amendments are required after the meeting by the Council's Auditor, the Chairman will be asked to approve a revised Statement of Accounts 2019/20 on behalf of the Committee.

421 Whistleblowing Policy

Discussion:

This report provided details of the draft "Speak Up" policy as a new whistleblowing policy for Members' consideration, prior to consideration by the Employment Matters Committee on 2 December 2020 and Full Council on 21 January 2021.

The Chief Legal Officer informed the Committee that the draft Policy had been developed taking into account work that he had been undertaking as part of his MBA studies, as well as work with the HR team. The draft Policy reflected the findings set out in the review, as set out in Appendix 1 to the report and aimed to provide a Policy which would be easier to read and understand setting out the Policy and the process to be followed by anyone wishing to raise concerns. He also advised the Committee that it was proposed that concerns would initially be considered by the Chief Legal Officer, Chief Finance Officer and the Head of HR, the aim of which was to provide an assurance from the outset that any concerns would be treated seriously.

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Members then raised a number of questions and comments which included:

Number of concerns raised under the current Policy – the Chief Legal Officer advised the Committee of the number of concerns raised in the last few years, including three in the last year.

Terminology – it was commented that the draft Policy represented a much clearer approach, in particular, the new name of the draft Policy. In response to a question about whether the draft Policy reflected the Council being at the forefront of new ways of thinking on this issue, the Chief Legal Officer stated that the Council was forward thinking and that the academic work that he had undertaken had resulted in the term Speak Up Policy being used to improve accessibility to the Policy.

Use of electronic links – it was commented that providing weblinks within the draft Policy ensured the document was user friendly.

Current version of the Policy – in response to a question about multiple versions of the current Policy being available online, the Chief Legal Officer confirmed that he had contacted the Digital Team following the last Committee meeting for investigation and that he would follow up on this matter.

Relationship between the draft Policy and the Council's complaints and compliments process – in response to a question, the Chief Legal Officer confirmed that the draft Policy would allow members of the public to raise serious concerns which would not be covered by the complaints and compliments process.

The likely impact of the Policy – in response to a question as to whether the introduction of this Policy may result in increasing the number of concerns being raised, the Chief Legal Officer stated that whilst he did not know what the number may be, the intention was to make the Policy more understandable and ensure that the Council did not miss any concerns being made. He advised that it may take a couple of years to start to see the effect of the Policy. He hoped that the launch of the Policy may also help raise awareness, which in turn, may lead to an increase in the number of concerns being made.

Wording – Committee Members suggested the following amendments to the draft Policy:

Paragraph 2.0 of the draft Policy - replace 5th bullet point "Company" with "Council". It was also suggested whether matters relating to ethics and the public interest could be included in this section.

Paragraph 1.0 of the draft Policy, fourth paragraph replace "will be subject..." to "could be subject..."

References to whistleblowing in the draft Policy should be removed.
Paragraph 4.0 – reference to "employees of the Council" should also include reference to subsidiaries.

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Paragraph 8.0 – it should be made clearer as to how members of the public could raise concerns.

The Chief Legal Officer thanked Committee Members for their comments and he confirmed that he would give consideration to updating the draft Policy as necessary. He undertook to include references to ethics and the public interest within the body of the draft Policy, details of which would be provided outside the meeting.

Decision:

The Committee agreed to forward its comments on the draft Policy as set out above to the Employment Matters Committee.

Chairman

Date:

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