

Contact Officer: Andrea Woodside

KIRKLEES COUNCIL

CORPORATE GOVERNANCE AND AUDIT COMMITTEE

Friday 15th September 2017

Present: Councillor Hilary Richards (Chair)
Councillor Julie Stewart-Turner
Councillor Carole Pattison
Councillor Kath Pinnock
Councillor Ken Sims
Councillor Nigel Patrick
Councillor John Lawson

1 Membership of the Committee

Councillor Lawson substituted for Councillor Wilkinson.

2 Minutes of Previous Meeting

The minutes of the meeting held on 4 August 2017 were agreed as a correct record.

Matters Arising

Pursuant to Minute 9 of the minutes of the meeting held on 4 August 2017, it was advised that KPMG had now agreed to accept the second objection relating to the lawfulness of three of the Council's Private Finance Initiative Schemes and would now initiate a formal investigation prior to being able to provide an audit opinion.

3 Interests

No interests were declared at the meeting.

4 Admission of the Public

All items were considered in public session at the meeting.

5 Deputations/Petitions

There were no deputations or petitions received.

6 Public Question Time

There were no deputations or petitions received.

7 Annual Corporate Emergency Planning and Business Continuity Report

The Committee considered a report providing an update on emergency planning and business continuity issues and developments that had occurred during the financial year 2016/17. The Committee noted that the annual report had been submitted to assist with corporate understanding and create an additional incentive for senior managers to ensure that plans are kept up to date.

The considered report went on to set out the headline developments in relation to emergency planning during the year, including, in addition to work with the Council and the training of officers within the Council in aspects of emergency planning, being active within the local resilience community.

The report advised that the team was involved in the planning, response and/ or recovery to/from over 45 significant emergencies and planned events in Kirklees. The report also provided information in relation to business continuity developments within the Council and the importance of ensuring that plans were in place to maintain critical activities, especially in the light of New Council and the numerous transitions being undertaken by services.

The Committee discussed the Grenfell Towers incident and questioned what learning had been identified as a result of this incident. Officers explained that they were still awaiting formal learning to be published from the formal investigation of the incident but that a number of obvious points had already been picked up and these were reflected in the updated councillor guide. The Committee outlined that one of the clearest failings in the Grenfell Towers incident was the failure to realise the extent of the emergency resulting in extra help not being available in time. Officers explained that Kirklees had an agreement in place with neighbouring authorities to enable help to be called in when needed.

The Committee discussed the role Councillors could play in providing information to members of the public and acting as a conduit between the community and the Council in instances of short notice events and felt it would be useful if information could be provided to all Councillors on the procedure in dealing with such events so that they were able to provide advice when required.

The Committee questioned the learning that had been actioned following the NHS IT incident that had occurred earlier in the year. Officers explained that a full debrief was undertaken with a subsequent action plan having been produced. As a result of this, resilience had been built into the Council's IT system so that the Council was not solely reliant on the data centre.

A query was raised over the safety of public buildings i.e. Town Halls and whether additional security checks should be introduced. It was explained that building

security is constantly reviewed but officers advised that it was always more difficult to secure a public building.

RESOLVED - The content of the Report be noted.

8 Information Governance Annual Report

The Committee received the 2016/2017 Information Governance Annual Report. The reports set out the main Information Governance events and activities for 2016/2017 including; (i) Information Governance matters (ii) Information access requests under the Freedom of Information Act 2000 (iii) Environmental Information Regulations 2004 (iv) Subject access requests made under the Data Protection Act 1998 and (v) an outline of the improvements and developments planned for 2017/2018, particularly in the context of supporting the organisation to achieve compliance with the new General Data Protection Regulation.

It was noted that members of the Information Governance Board had been consulted on the content of the report and endorsed its submission to the Committee. The report advised that the learning from the previous 12 month period and planned activity for the next reporting period would form the basis of the work programme for the Information Governance Board, with a clear focus on compliance with the new General Data Protection Regulation. It was explained that this would be closely aligned to the strategic objectives of the Council in the context of the Corporate Plan.

The Committee noted the content of the report and in particular the cost to the Authority of the Freedom of Information Request process. It was requested that a concise training session be provided to councillors on Data Protection, with a focus on the requirements of the General Data Protection Regulation.

RESOLVED - That the Information Governance Annual Report 2016-2017 be received and noted.

9 Corporate Customer Standards Annual Report 2016-2017

The Committee considered a report providing information on complaints considered by the Local Government Ombudsman relating to Kirklees Council during the year 2016/17. The report indicated that the number of complaints received by the Council at the third stage of the process at which point the ombudsman became involved, were broadly consistent with numbers that had been received over the previous 6 year period and that, during 2016/17, the Council had received no formal ombudsman reports as a result of their investigations into complaints made against the Council.

The report also provided information on revisions to both the Whistleblowing Policy and the reporting mechanism for upheld Ombudsman complaints. The revision to the Whistleblowing policy was as a result of learning from a recent matter and the

amendment to the reporting mechanism for upheld Ombudsman complaints was to be consistent with Local Government Ombudsman advice.

Some discussion took place on how the learning from complaints was used by the Council. It was advised that a project involving the Chief Executive was currently underway and that the results of this would be included within the next report to the Committee.

The Committee highlighted their concern regarding the repetition of the wording within the last paragraph on page 26 of the Whistleblowing Policy. The Committee agreed that officers should consider the options available for amendment of the wording and bring the report back for approval at the next meeting of the Committee.

RESOLVED - That:

- 1) the Corporate Customer Standards Annual Report 2016-2017 be noted.
- 2) the amendments as suggested by the Committee be incorporated within the Whistleblowing Policy and brought back for approval at the next meeting.
- 3) the amendments to the reporting mechanism for upheld Ombudsman complaints be approved.

10 Changes to Procedures - Dismissal of Statutory Officers

The committee received a report advising that a previous report about the potential changes to the legislation relating to the dismissal of statutory officers had been considered by the committee in June 2015. It was advised that the regulations amend the Local Authority's (Standing Orders) (England) Regulations 2001 in relation to the disciplinary process for statutory officers, namely the Chief Executive (the Authority's Head of Paid Service), the Service Director for Finance, IT and Transactional Services (as the Authority's Chief Section 151 Finance Officer) and the Service Director for Legal, Governance and Commissioning (as Monitoring Officer). The regulations provide for new arrangements in the disciplinary process, in particular reference to a panel including Independent Persons before a decision is made.

The report explained that, previously the statutory protection in 2001 legislation required an appointment of a designated independent person (DIP) to investigate any allegation of misconduct against the statutory post holders. Those regulations provided that no disciplinary action in respect of these statutory post holders could be taken other than in accordance with the recommendation in a report made by a DIP.

It was advised that the 2015 regulations remove the mandatory requirements that a DIP should be appointed and outline that the decision should be taken by full Council, considering advice, views or recommendations from a panel, compromising

independent persons, the conclusions of any investigation into the proposed dismissal and the representations from the officer concerned.

The report explained that in order to incorporate the requirements the regulations, changes would be required to some of the following: -

- a) Changes to Personnel Committee terms of reference; or
- b) Establishing a new committee
- c) Changes to the Officer Employment Procedure Rules; and
- d) The possible establishment of a panel of independent persons.

The report provided the committee with two options to consider and advised that it was not currently clear whether the Panel is required to be made up of only Independent persons or whether the panel is required to also include elected members:

- A. Council appoint a new committee named the Statutory Officer Disciplinary Committee. The Committee would include two independent persons when considering whether to recommend dismissal to full Council.
- B. Council extend the composition of the Personnel Committee and widen its functions to address the changes made by the 2015 Regulations. In support and to reflect the requirements of the regulations the Council would appoint a Panel made up of Independent persons only, which is to be convened when Personnel Committee is considering whether to recommend dismissal to full Council.

The committee outlined their concerns regarding the impartiality of the Personnel Committee should their function be extended, due to them being involved in the initial recruitment of these roles. They also highlighted their preference for the independent person to be involved in the proceedings from the start. Therefore, through discussions, the Committee highlighted that their preference would be for a separate committee to be established, to include the independent person along with cross party representation of councillors, separate to those already appointed to the Personnel Committee.

RESOLVED - That the proposal outlined by the Committee be developed into a structure for the Committee to approve at their next meeting.

11 Code of Corporate Governance

The Committee considered a report that requested members approve the Code of Corporate Governance. Samantha Lawton, Senior Legal Officer explained that to assess the quality and health of corporate governance it is good practice to adopt a 'Code of Corporate Governance' to set up the principles and standards of governance to which the Council aspires and against which the Council can benchmark the quality of its governance arrangements. She advised that the previous Code had last been reviewed in 2015.

The key changes since the previous report were advised as being the addition of the new seven key principles and sub-principles of corporate governance which were set out in the draft code attached to the report. It was explained that these principles reflected the components set out in the CIPFA/SOLACE Delivering Good Governance Framework 2016.

The committee questioned how the outcomes of the principles would be identified and measured. It was explained that some of these areas are the responsibility of the Service Director – Legal, Governance and Commissioning and are reviewed each year through the Annual Governance Statement. The action plan arising from the Annual Governance Statement was shared which outlined the areas which required review or further consideration. The annual review had highlighted the Code of Corporate Governance required consideration since it had not been reviewed since 2015. The Service Director – Legal, Governance and Commissioning explained that the draft code can be cross referenced with the Annual Governance statement and any gaps identified to the committee at their next meeting if requested. The Committee were advised they can also ask for a piece of work to be carried out in relation to a particular area if they felt it was necessary.

RESOLVED - That the amendments as suggested by the Committee be incorporated within the code and brought back for approval at the next meeting.

12 Arrangements for selecting an external auditor for the year 2018/19 and onwards

The Committee received a report which advised that, at the meeting of the Corporate Governance & Audit Committee on 27 January 2017, the Committee agreed that the Council be recommended to ask Public Sector Audit Appointments Ltd (PSSA) to carry out Auditor Panel duties on behalf of the Council and nominate a proposed External Auditor to the Council in due course. The Council agreed with this action at its meeting on 15 February 2017.

The report advised that PSSA had carried out a tendering exercise and notified the Council that they wish to formally consult on their proposal to appoint Grant Thornton (UK) LLP to audit the accounts of Kirklees Metropolitan Council for five years from 2018/19. It was explained that the appointment will start on 1 April 2018.

The Committee advised that they were in support of the proposal put forward by Public Sector Audit Appointments Ltd by 9 March 2017.

RESOLVED - That the report be noted and officers be authorised to confirm to PSAA that they have no objection to the proposed appointment of Grant Thornton LLP.