

## Minutes of the Audit and Standards Committee Meeting held on 24 September 2018

Present: Martyn Tittley (Chairman)

### Attendance

Derek Davis, OBE	Bernard Williams
Mike Davies	Victoria Wilson
Colin Greatorex	Jill Hood
Ian Lawson	Paul Northcott
Jeremy Oates	Susan Woodward
Carolyn Trowbridge (Vice-Chairman)	

**Also in attendance:**

**Apologies:** Michael Greatorex, David Brookes and Ross Ward

### PART ONE

#### 34. Declarations of Interest

There were no declarations of interest.

#### 35. Minutes of the Meeting held on 30 July 2018

**RESOLVED** – That the minutes of the meeting held on 30 July 2018 were confirmed and signed by the Chairman.

#### 36. Annual Audit Letter 2017-18

Vishal Savjani, Ernst and Young, introduced the Annual Audit Letter for the year ended 31 March 2018. The content of the Letter sections 1-5 had just been reported, minuted and approved. Ernst and Young reported that they audited the accounts and provided a clean opinion and were satisfied with the arrangements for value for money. At the time of the last meeting Ernst and Young had not completed the Annual Governance Accounts audit. This work had now been completed and there were no new issues to report. Turning to Section 6 of the report, the key parts highlighted were the application of the new accounting standards due in the future. The impact on the Council was summarised in the report and had implications for the Finance and Resources Team.

Members referred to Section 6 IFRS 16 Leases and asked if all leases were fully documented.

**RESOLVED:** The interim Head of Internal Audit and Financial Services agreed to ask the Deputy Director of Finance and Resources if all leases were fully documented and report back to Members.

### **37. Local Government Sector Update Report**

Vishal Savjani introduced this report drawing Members' attention to the section on key questions for the Audit Committee. Members asked if the Committee was in a position to answer these questions. Mr Savjani stated the Director of Finance and Resources was aware of these questions and had taken them into consideration in producing the Medium Term Financial Strategy. Members stated that they should reassure themselves that they could answer these questions. In regard to interest rates, quoted on page 46 of the report, Members asked if there was an accepted norm. Mr Savjani stated that he would go back to Ernst and Young's experts in this field and let the Committee have a response.

**RESOLVED:** a) That the interim Head of Internal Audit and Financial Services request a written response to the key questions for the Audit Committee referred to in the report from the Director of Finance and Resources b) That Ernst and Young report back on the question regarding interest rates.

### **38. General Data Protection Regulation and Data Protection Act 2018**

Liann Stibbs, Access Manager, Information Governance Unit, gave a presentation on the General Data Protection Regulation (GDPR) and Data Protection Act (DPA) Act 2018. This legislation replaced and amended the previous legislation and prepared the Council ready for the digital age. The legislation came into force on 25 May 2018. Fines had increased, for example, if personal data was lost the fine could be £17.5m. Fines for public authorities would be lower than this, but higher than the previous maximum of £500,000. There was an onus that everyone knew what to do with data and if data was lost that people were aware of what to do to mitigate the risks.

People's rights had also increased. They could request that their data was erased and that data processing was stopped. If they disagreed with something a review could be undertaken. There was much more onus on the individual to own their data. Emails had reduced in number since May as people now had to opt in to receiving data in specific instances. The Information Commissioner's (IC) Office had issued guidance and assistance to ensure they could respond if a data breach occurred.

There was a dedicated unit at the Council that monitored emails outside working hours should a breach occur. A review of what had happened was undertaken, and advice on the necessary steps to mitigate against any further breach. There was mandatory reporting to the IC's office of 72 hours if a breach occurred. There was a statutory position within the Council of a Data Protection Officer held by Tracy Thorley. She would be aware of any serious breaches and was responsible for the Council's Information Governance Strategy.

Transparency was key. There were more requirements now for people to know what is happening to their data, and more control over what they consented should happen to their data. A Member questioned the relevance of some data that had been held in regard to him by a motoring organisation. He was advised that he could ask why this data was being held through the IC's office.

In terms of getting ready for the review, the government announced that they were going to write the GDPR but there was a lack of sufficient information and guidance for local authorities, so interpretation of the legislation had been left to those working in the information governance field supported by advice from the IC's office. The DPA had made changes in terms of adapting the GDPR for the UK, so reference was made to fraud, for example in respect of social services. Children's consent is set at 13 years, in line with UK case law rather than the European standard. The terms GDPR and DPA are currently used interchangeably, but after Brexit there would just be the DPA 2018.

A gap analysis had been undertaken. The Authority generally complied with the legislation, but some key areas were identified. Project leads had been identified beginning at a senior manager level to support the introduction of GDPR, and operational managers who could assist the IGU and make changes. IGU worked closely with the Communications Team to get messages to staff in a user friendly language. E-learning was created and rolled out to individuals and there had been a campaign in the run up to May whereby staff were offered help and assistance. There were Question and Answer sessions with relevant partners e.g. social care and human resources. However, the ICO guidance was slow. People have right to request their personal information and there must be a response within 30 days. This deadline can be expanded in complex cases. There was no definition of "complex". In regard to the DPA, it was written quickly. There was some duplication and the IC's office were looking to streamline this. The gap analysis had been completed, but work with staff was ongoing. The ICO do use case law, so it is ever-changing. Guidance is regularly updated.

In terms of ongoing work staff training was mandatory and reports are regularly sent to managers on staff attendance. The IGU was in the process of changing contracts and efforts were made to ensure that contracts are compliant with the legislation. The internal Fair Processing Notice and consent would be reviewed to ensure that it was compliant. The ICO guidance was awaited in regard to some key areas.

Members asked how much guidance the Council gave, for example, to social workers, in terms of retaining information, bearing in mind the length of time that service users may have contact with the Council. Secondly, Members asked what support IGU gave to local parish councils and asked if parish councils were required to have their own DPO. Leanne Stibbs responded that the Council uses retention schedules that give service users advice e.g. adoption records are kept for 100 years, and records for children in care are kept for 75 years. The National Archive was used as a guide on the time records should be retained, but this was adapted according to business needs. Some records were kept for 6 years, but where someone had engaged with the service over a period of time, this time was extended. Some cases are complex and it could take longer than the statutory period of 30 days to retrieve this information.

The IGU still offered a service to Parish Councils. Parish Councils do not require a DPO, but many Parish Councils were still choosing to receive a service from the IGU.

Members asked about the role of Members, acknowledging that Members had been offered training, and asked how many Members had taken up training. Members also

asked how long information should be retained by Members who take on casework and information that is retained for election purposes.

The Head of Law and Democracy responded that all Members had been offered training (e learning or face-to-face training) and more training could be arranged if required.

The Scrutiny and Support Manager responded that 20 (out of 62) Members had not taken up the offer of training for Members. A Member session had been run, with a mixed reception from Members, but a further session tailored to Members' needs could be offered and Members' questions were welcomed.

Members acknowledged the need for training of all staff. Managers received regularly updates on those that had, or had not, taken up training.

The Chairman agreed to write to those Members who had not received training and request that they attend. It was suggested that a tailor-made training session be set up for Members.

Finally, the Chairman emphasised the need to audit GDPR (and DPA) to ensure that it was being implemented properly and asked that this be considered for inclusion the internal audit plan.

**Note by Clerk:** A link to the retention schedule is given below:

<https://www.intra.staffordshire.gov.uk/governance/igu/secretguide/home.aspx>

**RESOLVED:** a) That the Chairman writes to all Members who have not taken up GDPR training urging them to do so; b) That feedback on the training provided be evaluated, and a decision taken on future training; c) That consideration be given to auditing the implementation of GDPR (and the DPA) across the Council.

### **39. National Fraud Initiative 2018**

The Counter Fraud Audit Manager updated Members on progress with the NFI 2018.

In two weeks' time the Council would be uploading data to the Cabinet Office to undertake a data matching exercise principally involving public sector organisations. An increasing number of private organisations are taking part. The last NFI helped identify £300m of fraud including £145m in pension overpayments, £50m in benefit overpayments or fraud, the revoking of 234 concessionary travel passes and 31,000 blue badges were revoked or removed. The Council's participation this year will involve uploading data including payroll, creditor payments and creditor standing data, information from pensions and supported private care home residents, concessionary travel pass holders, blue badge holders and direct payment recipients. The data would be uploaded in line with GDPR and the DPA requirements. Fair Processing Notices had been issued. Data would be uploaded from 8 October and the Council was hoping to have resultant interesting matches for the Council to look over from the end of January 2019. The NFI report relating to the previous data matching exercise (NFI 2016) was available from the Cabinet Office and would be available on the Intranet shortly.

Members asked for clarification on how the £145,994 recovered in 2016 in Staffordshire compared with previous years. The Counter Fraud Audit Manager stated that the information was available in the Annual Report that came to the Committee in June 2018. Details would be circulated to Members.

Members asked for a differentiation between intentional or malicious fraud and unintentional fraud. The Counter Fraud Audit Manager explained that this was taken into consideration, for example in cases where a resident was found to have two blue badges due to a recent house move. There was only an entitlement to one blue badge, and one would be cancelled. No further investigation would take place.

Members asked how we worked with local district councils in regard to this matter and asked if the £3,750 fee charged for County Council participation in the NFI could be shared between district and borough councils.

The Counter Fraud Audit Manager explained that there was a mandatory scale of fees that is different for each Council. Each participating Council is charged a mandatory fee set by the Cabinet Office. Data is shared across all participating organisations including district councils. Potential data matches between Councils are dealt with on a case by case basis.

Members were concerned that potentially there was a conflict between data protection and confidentiality and asked how such conflicts were resolved. Members also stated that the time, effort and amount of money spent on detecting and preventing fraud was a concern compared with the financial return. The point was made that fraud was not endemic.

Members were reassured by the policy and process for retaining and releasing information at Staffordshire County Council.

**RESOLVED:** a) The report was received b) The previous years' fraud recovery figures would be circulated to Members.

#### **40. Forward Plan**

Members asked if, where the County Council had appointed independent investigators to investigate issues and there were financial implications relating to systemic or structural issues across the organisation, if these issues were routinely included in the Forward Plan.

The interim Head of Internal Audit and Financial Services stated that the items in the Forward Plan came from the external audit requirements and the internal audit plan. The internal audit plan would look at the control environment across the organisation and may pick up these issues.

**RESOLVED:** the Forward Plan was agreed.

#### **41. Exclusion of the Public**

#### **42. Exempt minutes of meeting held on 30 July 2018**

(Exemption paragraph 3)

**RESOLVED:** The exempt minutes of the meeting held on 30 July were signed as a correct record.

**43. Prisons and Approved Premises Team – Care Assessment & Management Final Audit Report**

Exemption Paragraph 3

**44. Special Investigation - Throughcare Cash Payments - update**

Exemption Paragraph 3

**Chairman**