

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: Vishal Savjani (Ernst and Young).

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 for 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/retretguide/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 (NFI2016) 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)

Ruth Martin, Adult Safeguarding Team Leader and Manager for the Prison and Approved Premises explained that she was attending the meeting on behalf of Jo Sutherland, the statutory services lead.

She gave some background to the Limited Assurance Report on Prisons and Approved Premises – Care Assessment and Management, explaining that she had taken over the management of the team in April 2018. At this time the team had one social worker and she had requested that an audit be undertaken. At this time, the Team had no policy or procedures in place. This had an impact on the service. The Team had been set up on a temporary basis since it was formed three years ago and had had three changes of management. There had also been changes of social work staff so there was no stability within the service. This had led to the limited assurance report.

She explained that she had written policy and procedures that were with senior management for approval and were being worked to as a team. She had also employed another agency member of staff to work alongside the temporary social work in post and they had received supervision. She was working on a Memorandum of Understanding between the Council, the prisons and the social care providers in the prisons. This would lead to the assessments being led by the County Council. She had been given authority to appoint to the team on a permanent basis. This is a complex area and a good level of understanding was required to work in prisons. It can take eight months to gain access to work in prisons, so if a temporary worker is employed for one year it can take almost a year for them to gain access. She assured Members that in a year's time the Audit and Standards Committee would witness an improved service. The current situation was a result of lack of supervision and processes and no policy to guide this.

Members expressed their concern regarding this report, however it was reassuring that control weaknesses had been identified quickly, audited and priorities had been identified. Officers were congratulated on the timescale that they had worked to.

Members asked how the 13 prisoners who were receiving care packages had been identified. Ruth Martin responded that when people enter prison they receive an assessment by the healthcare provider in the prison. They would then be referred to the relevant organisation. There were also weekly custody meetings (some are held fortnightly). Prison visitors could raise issues at these meetings. There were a high number of people in prisons e.g. people with learning difficulties, autism and some mental health needs, who were not receiving the appropriate treatment, because they did not have a physical disability. Some active work was being done in prisons to help staff identify these needs.

Members asked how committed the individual prisons were to assisting the Council to address the key control weaknesses. Ruth Martin stated that it was a challenge. The

Inspector of Prisons had raised this issue and recently social care staff had been contacted to come into the prison. Access to the publically run prisons was easier than access to private prisons and Dovegate (a Category B prison). Individual governors had seen the benefits for the prison population and the support that could be offered to prison officers, now that a permanent team had been established and a Memorandum of Understanding was in place.

Members asked about aftercare for prisons with Alzheimer's and dementia. It was acknowledged that we had an ageing prison population. The majority of the thirteen care packages referred to previously related to prisoners with dementia. The Council was providing advice and guidance and signposting to the relevant training from the voluntary sector. The aim was to give prison staff the advice, guidance and support that they needed to understand and address the issues that they faced. It was hoped that the regular support of the social care staff would help. Prisoners had a care package on discharge which was regularly reviewed by local area teams.

Members asked if the reported shortages of resources in prisons could have an impact on these ambitious targets in the report. Ruth Martin responded that she had written the policy; the Memorandum of Understanding was in draft form and she planned to go round the prisons to discuss this with them and would do this by end of October 2018. The Team would be set up by end of December, or at the latest by the end of January 2019. The actions should be completed by the end of March 2019. This area of work had been prioritised.

Members expressed some concern at the cost of maintaining prisoners with complex care needs in prison. Ruth Martin explained that the decision to keep prisoners in prison was the responsibility of the Ministry of Justice. However, some prisoners are put forward for Executive Release. Unless they are given Executive Release they remained in prison. The decision as to whether they remain in prison is based on whether they are a risk to the public if they were placed elsewhere. The costs were high because there was not the level of care available in prisons that there could be in a specialist nursing home for example, and prison officers had to be offered an appropriate level of support. Ruth Martin was working with NHS England to look at how continuing health care could be offered in appropriate cases in the prison setting.

Members asked what was being done to ensure that we could retain social work staff. The appropriate training and support would be offered to ensure that they had the appropriate skills. It was important to show a level of respect for the work that staff do and to ensure they are offered training.

RESOLVED: a) It was agreed that the Chairman write to the Cabinet Member for Health, Care and Wellbeing expressing support for the recruitment of a permanent team given the current financial challenges b) That a further report on this matter be brought to the Committee in 12 months' time.

44. Special Investigation - Throughcare Cash Payments - update

(Exemption paragraph 3)

A copy of an article in the Sentinel dated Saturday 25 August 2018 was circulated to Members.

The interim Head of Internal Audit and Financial Services referred to the internal audit report that had been presented to the July meeting and reported that Donna Fallows appeared at North Staffordshire Justice Centre in August and admitted the theft from the Council of £6,466,90. Following a probation report she was sentenced to an 18 month community order with a 30-day rehabilitation activity requirement. She was also subject to an eight week curfew order from 10 p.m. to 6.00 a.m. deemed to fit around the shifts of her new employer. She was also required to pay £135 courts costs and an £80 victim surcharge to be repaid at a rate of £20 per calendar month. She did receive remission for repayment of the £6,466,90. In addition personal mitigating factors were put forward by the Defence.

RESOLVED: A short article will be produced for the Intranet highlighting control failures, to flag these up to managers, to ensure they do not happen in their areas of control.

Chairman