

AUDIT AND RISK MANAGEMENT COMMITTEE

Monday, 12 March 2018

<u>Present:</u>	Councillor	A Davies (Chair)	
	Councillors	RL Abbey P Doughty D Elderton	P Gilchrist JE Green C Muspratt
<u>Deputies:</u>	Councillors	J McManus (In place of AER Jones) T Pilgrim (In place of J Hale)	

61 APPOINTMENT OF CHAIR

Councillor Adrian Jones having given his apologies for the meeting and in the absence of a Vice-Chair, nominations were requested for the appointment a Chair for the meeting. It was:

Proposed: by Councillor Ron Abbey

Seconded: by Paul Doughty

That Councillor Angela Davies be appointed as Chair for this meeting of the Audit and Risk Management Committee.

No other nominations were put forward.

Resolved (7:1) –

That Councillor Angela Davies be appointed as Chair for this meeting of the Audit and Risk Management Committee.

62 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor Phil Gilchrist declared a personal interest in various items pertaining to Children's Services contained within agenda reports by virtue of his serving on the Wirral Improvement Board.

63 MINUTES

Resolved – That the minutes of the meetings held on 21 November 2017 (as revised) and 29 January 2018 be approved.

64 **VERBAL REPORT - REF HIGHWAYS MAINTENANCE CONTRACT - MINUTE 54 (29 JANUARY 2018)**

With regard to Minute 54 (29 January 2018), Members expressed their dismay that no written report had been submitted for consideration. David Armstrong, Assistant Chief Executive informed that given commercial dialogue was still ongoing on this matter, it had not been feasible to present a definitive update on negotiations regarding the re-commissioning of highways services at this point in time. A member pointed out that the subject matter had only been presented to Councillors by virtue of a Leader decision published on the Council website (29 November 2017).

The Chair asked the Committee if it wished to receive a written report on the subject at a future meeting. This was confirmed. The Chair advised that given the attendance of the Officers, it would be helpful to Members to receive a verbal report on the background to the re-commissioning of highways services in advance of receipt of the written report.

The Assistant Chief Executive introduced the item and informed that the current contract valued at £6m p.a. (£5m p.a. of which would be contracted out, as at present) was due to end in October 2018 and impacted on 29 staff.

Mr Mark Smith, Strategic Commissioner Environment then addressed the Audit and Risk Management Committee and informed that the Council and contractor Bam Nuttall (BAMN) had recently agreed that the current strategic contract for Highway services would come to an end on 30th September 2018 after one six month extension to the original four year contract that had commenced in April 2014.

As a result, there had been a limited period of time to re-commission these services and an options appraisal exercise using the Highway Maintenance Efficiency Programme (HMEP) Procurement Route Choices Toolkit indicated the most viable way forward was to bring these services back under the direct control of the Council.

For these reasons, re-commissioning of these services, including the commencement of the necessary procurement processes, was based on a 'direct control/ ownership' model. The most viable approach was for the contracted service to transfer back under Council control.

The Audit and Risk Management Committee was informed that there were no changes to service policies or standards associated with the re-commissioning of these services however the matter was considered to be a Key Decision based on financial value (BAMN contract around £6m p.a.) and

being delivered across all Wards. The decision had been published (subject to call-in) in November 2017.

Members were apprised that commencement of the necessary procurement processes and market engagement had been necessary to ensure service delivery arrangements were in place for October 2018 when the current contract arrangement expired. This was especially important for the day-to-day routine work such as pothole and street lighting repairs that ensured the Council met its statutory obligations as Highway Authority.

The proposed model for re-commissioning the services involved the operational functions currently executed by contractor Bam Nuttall (BAMN) being brought back under the direct control of the Council. Client functions would continue to be discharged by staff in Highways Management (Commissioning Support Unit) as they are now, however the Strategic Outline Case process suggested contracting functions could be either brought into the Council's organisational structure in the traditional manner (ie. they would become part of Delivery Services)

The value of the current contract was around £6m p.a. consisting of approximately £1m p.a. revenue for Routine/ Reactive Works and £5m p.a. capital for Structural/ Planned Works.

In terms of staffing, 29 BAM employees were being reassured that the service would continue in some form following the 30 September 2018 when the current arrangements ceased and that the Transfer of Undertakings and Protection of Employment (TUPE) Regulations would apply to those that may be affected – n.b. staff on the 'client' side (Commissioning Support Unit) were not directly affected by this re-commissioning exercise.

The Strategic Commissioner Environment informed the Audit and Risk Management Committee that, once confirmed, the Business Case was to be the subject of a report and Leader decision as scheduled on the Council's Forward Plan and that the subject was also listed on the Business Overview and Scrutiny Committee Work Programme as a matter for pre-decision scrutiny.

Members questioned the Strategic Commissioner Environment on a number of areas regarding the contract, staffing, service delivery, quality and programming of works.

A Member requested that the issue also be subject of an additional entry in the Council's Risk Register. This was challenged by the Chair and on a show of hands the request to include the issue on the Council's Risk Register was carried eight votes to one.

Members re-affirmed their request that the Audit and Risk Management Committee receive a written report at its July 2018 meeting.

Resolved – Committee wish to be satisfied by way of written report that procedures are in place to ensure full preparation for transfer i.e. costings are in place for plant, equipment, materials, adequate supervision and management resources; and that the issue be subject of an additional entry in the risk register.

65 IMPROVEMENT JOURNEY – UPDATE

Mr Paul Boyce, Director for Children introduced his presentation that provided an update on progress following the Inspection of Children Services, and work underway in preparation for the next Ofsted Monitoring Visit scheduled for the 14-15 March 2018.

The Director for Children informed of the importance of creating the right conditions for best practice to thrive these included:

- Clear direction with purpose and pace
- Strong and visible leadership at all levels
- Wrap the Council around the service and find solutions
- Secure a permanent and motivated workforce
- Focus on the child and the child's journey
- Getting the basics right first

The Director for Children detailed the Improvement Journey in 5 key areas of focus:

- Creation of a clear vision and engagement of staff and partners
- Recruitment, retention and professional pathways
- Lines of accountability and proactive decision making
- Effective Integrated Front Door (access path)
- Is practice improving and are children better off?

Re-affirming his earlier report to the Children and Families Overview and Scrutiny Committee Mr Boyce informed Members with regard to the clarity of vision required and the focus on improving practice within the Children's Service i.e. what the Council is trying to do, and why. He added that by ensuring that the right number and quality of service practitioners were in place to deliver good and outstanding practice, the Council would become an 'employer of choice'. He added that progress in this area had been demonstrated already with 11 new staffing appointments having been made on the 8/9 February 2018, including the senior role of professional development, and next wave in hand. 21 transfers of agency staff onto the Council's payroll had also taken place, with an additional 15 transfers currently in process.

The Director for Children's presentation informed of clarity about lines of accountability and 'who was doing what' to support service improvement and the child. The presentation also informed of the requirement for a stable and effective access path (front door) that could evidence a consistent application of multi-agency thresholds and decision making which was timely, child focused and of high quality.

The Director for Children expressed his personal view that quality remained the key challenge of the improvement journey and that this would be the primary criteria by which individual casework practices would be measured. He explained that work was underway to ensure staff and managers had the right tools, systems and support available to enable them to produce consistently good practice. This work included provision of state of the art Information technology enabling agile working and co-location of staff in the Council's Cheshire Lines Offices, Birkenhead.

The Director for Children closed his presentation informing that instability in the staffing of key roles had resulted in a stop / start approach to the delivery of change, and that the Service was not in dispute with Ofsted about the pace of change, however he believed that Ofsted were satisfied with the actions being taken by the Council and that those actions will have a positive impact on children under the Council's care. In conclusion Mr Boyce informed that next Ofsted Monitoring Visit was scheduled for the 14-15 March 2018 with more thematic visits scheduled take place every three months, providing opportunities to check the Council's progress.

The Chair thanked Mr Boyce for his detailed presentation.

Resolved – That the presentation be noted.

66 INTERNAL AUDIT UPDATE

The Chief Internal Auditor, Mark Niblock, introduced his report that identified and evaluated the performance of the Internal Audit Service and included details of issues arising from the actual work undertaken during the period 1 January 2018 to 28 February 2018. Three items of note were brought to Members attention:

- Human Resources – HMRC IR35 (Deemed Employment)
- Key Corporate Contracts
- General Data Protection Regulations (GDPR)

The Chief Internal Auditor informed that internal audit were pleased to report that controls were firmly in place to ensure the correct status for employment type for contractors ensuring compliance with HMRC IR35 regulations. Internal audit were also able to confirm that the Council had complied with all

legal requirements and as well as its own Contract Procedure Rules leading to the determination of the final partner for the Wirral Growth Company. With regard to GDPR, the Chief Internal Auditor stated that further review was planned prior to the 25 May 2018 deadline, and the findings would be reported to Members. Good progress was being made and comprehensive plans existed for the GDPR delivery and implementation.

The Chief Internal Auditor further informed that for this particular period there were no current outstanding audit actions, although it should be noted that a significant number of follow up audits were currently in progress which may impact on future reports. He added that performance indicators were on track, and feedback from clients was good.

A Member thanked the Chief Internal Auditor for ongoing work that had been undertaken by the internal audit team in respect of initiatives to counter fraud.

A Member questioned the Chief Internal Auditor on the Council's preparation for GDPR. The Head of Internal Audit advised that a detailed update would be presented later in the meeting, but key concerns currently centred on the deadline of implementation on the 25 May 2018 and penalties for non-compliance.

Another Member questioned the Chief Internal Auditor on the subject of HMRC IR35 and deemed employment, and asked how many off-payroll staff this referred to, and whether there was a trend towards this way of engaging staff. The Chief Internal Auditor informed that he would provide the requested numbers to Members of the Audit and Risk Management Committee.

Resolved – that the report be noted.

67 **INTERNAL AUDIT PLAN 2018/19**

The Chief Internal Auditor, Mark Niblock, introduced his report that identified the Internal Audit Plan of work for 2018/19. The report informed that work scheduled for completion had been included to reflect the findings of the extensive planning exercise recently undertaken to ensure relevance of risks previously identified, in addition to any risks to the organisation that had emerged since the original exercise, or that were likely to emerge in the near future. The Audit and Risk management Committee were apprised that the subject would continue to be the basis of ongoing regular report in the future.

The Chief Internal Auditor provided further assurance of the resources allocated to deliver anti-fraud work and advised that internal audit was also contributing to the promotion of appropriate ethics and values within the Council through targeted audit work.

Members questioned the Chief Internal Auditor on a number of matters as detailed in his report, namely Health and Care integration, transformational change, contract management, and regeneration projects e.g. Wirral Growth Company, and asked how these projects would be tracked to ensure benefits were realised. The Chief Internal Auditor informed that, in addition to earlier reports, these topics would continue to be monitored and areas of compliance, calculation of financial savings and procurement processes would continue to be evaluated as part of ongoing work actioned by Internal Audit. A Member requested that the outcome of this work be regularly presented to the Audit and Risk Management Committee. The Chair confirmed that elements of the work were already underway and supported the request stating that findings be reported at the appropriate time.

Resolved – that the work proposed in the Internal Audit Plan be endorsed.

68 **PROCUREMENT - AMENDMENTS TO THE COUNCIL CONTRACT PROCEDURE RULES**

The Head of Procurement, Ray Williams, introduced his report that highlighted proposed amendments to the Council's Contract Procedure Rules as a result of review by the Assistant Director: Law and Governance (Monitoring Officer), in consultation with the Head of Procurement. The report informed that the existing CPRs had been previously approved by Audit and Risk Management Committee on 24 November 2015.

The report informed that the first amendment referred to where a breach of the Rules had taken place, the process for reporting and recording needed amendment. The second was the use of corporate contracts, where if not used, the Council would be in breach of contract and was at risk of not achieving value for money. The third was to ensure that any financial risk relating to third party suppliers or providers was minimised. Further additions to the CPRs included a new clause regarding 'Organised Crime' as recommended by the Home Office, the application of the Council's 'Social Value Policy' approved by Cabinet on 6 November 2017 and the application of price/quality criteria when evaluating contracts.

Members questioned the Head of Procurement on a number of issues relating to the new Wirral Growth Company (WGC), job creation and integration of social impact into project design. The Audit and Risk Management Committee was informed that social value was a focus of the new WGC, and a component part of the updated tender process.

A Member raised concern that evaluation criteria be based upon a 70% price / 30% quality ratio. The Head of Procurement advised that during the evaluation process the two elements were separated to ensure one did not influence the other prior to completion of scoring. He added that subject to

prior agreement this ratio could be adjusted based on a particular project's priorities.

Members noted that the CPRs and inbuilt controls would assist transparency of process and aid protection of the Council's business against possible infiltration by organised crime groups at both selection and award stages in the tender process.

Resolved – That the amendments to the Council's Contract Procedure Rules be approved (to come into effect on 1 April 2018)

69 AGS SIGNIFICANT GOVERNANCE ISSUES ACTION PLAN

The Director of Finance and Investment, Shaer Halewood, introduced her report that provided Members with a progress update on actions taken by officers to address items of concern identified in the Annual Governance Statement for 2016/17. The report informed that progress had been made to address all issues identified in the action plan. Targets, timescales and responsible officers having been identified and tasks allocated and work underway.

The Director of Finance and Investment informed the Audit and Risk Management Committee on the RAG status of each of the significant issues and progress updates as detailed in her report, namely:

- Improvement Notice issued by the Secretary of State for Education (30 September 2016) – status amber.
- ICT Business Continuity Planning – status green.
- ICT Resilience Planning – status amber.
- Compliance – Absence Management – status amber (*sickness target not met – target 10.75 days, current projected levels 10.78 days*).
- Essential Training – status red (*date not met - rated red at 62% of staff Rfl training module completed by deadline of 31 October 2017 – figure is now 83%*).
- Compliance – Contract Procedure Rules (CPRs) – status green.
- Performance Appraisals (*not a significant Governance Issue in the 2016/17 AGS, and reported for information only*) – status amber.

Members questioned the Director of Finance and Investment on the procedures in place to track and follow up those issues rated as amber. Members were informed that all significant issues were continually monitored and subject of report to the Audit and Risk Management Committee (ARM), and in the case of the action plan in respect of the OFSTED item the Director of Children had also been invited to provide assurance of progress to the as requested. The Chair added that Members may also request reports on any topics or issues of concern they may have.

The Chair asked Members to note the report, and in doing so requested that Committee's positive feedback be passed back to the relevant officers. The Chair further requested that a quarterly report on staff performance appraisals be brought back to the ARM Committee to include some form of qualitative review, possibly gathered via a satisfaction survey of a proportion of staff. The Chief Internal Auditor informed that a small data sample could be collected for this purpose.

Resolved – That the report be noted.

70 **ORDER OF BUSINESS**

The Chair proposed and it was agreed that the meeting's order of business be varied and that Agenda Item 12 'General Data Protection Regulation (GDPR) Implementation Update' be considered before Agenda Item 8 'Corporate Risk Register' given that visiting officers were in attendance specifically for this item.

71 **GENERAL DATA PROTECTION REGULATION (GDPR) IMPLEMENTATION UPDATE**

The GDPR Project Manager, Gareth Webb introduced a report of the Assistant Director: Law and Governance (Monitoring Officer) that sought to provide assurance to the Audit and Risk Management Committee on the implementation of the Council's GDPR project plan.

The GDPR Project Manager informed that the project was working to achieve the following agreed objectives:

- Create a framework and environment for the Council to become GDPR compliant by 25 May 2018.
- Build GDPR compliance into Council policies and procedures.
- Continually assess the Council's compliance with the GDPR.
- Manage the training and awareness for staff on data protection, in line with the GDPR.
- Create Data Protection Officer (DPO) job description and role.
- Implement all identified requirements for change in high risk areas within the Council.

The GDPR Project Manager informed that the project was at a key phase of its implementation, where it would inform and seek involvement from all Council departments to implement actions to meet the 25 May 2018 deadline. He added that the project was progressing and that the objectives were currently half-way towards completion i.e. codes and guides were still under development, but on target for the planned deadline.

The report provided information on the key features of GDPR, namely:

- Appointment of a Data Protection Officer
- Information, Notification and Consent
- Subject Access Requests
- Security
- Penalties
- Governance Structure
- Risk Management

Members noted that a significant amount of work had already been undertaken and requested further information on the detail of what Elected Members could and could not action under the new regulations. In response to Member enquiries, the GDPR Project Manager informed that specific training would be provided to Members, particularly around data held in respect of day to day case work and personal information held by Councillors in support of their Ward work, past and present.

Resolved – That

- (1) the report be noted; and**
- (2) the GDPR project be supported.**

72 CORPORATE RISK REGISTER

The Senior Risk and Insurance Officer, Mike Lane introduced a report of the Director of Finance and Investment that informed that the Council was improving and modernising its arrangements for corporate governance. The report informed that risk management framework was a key element of those arrangements. To support the wider programme and to respond to changes both within the Council and the wider environment a number of amendments were proposed to the risk management framework. The progress report dealt specifically with proposals for a revised approach to the oversight of the Council's corporate risks.

Resolved – That

- (1) the proposals provided sufficient assurance that the arrangements are able to support the effective governance of the organisation; and**
- (2) proposals for other improvements to the risk management framework be brought to future meetings of the Audit and Risk Management Committee.**

73 MANAGEMENT OF INSURANCE AND CORPORATE RISK

The Senior Risk and Insurance Officer, Mike Lane introduced a report of the Director of Finance and Investment that set out the key actions to be taken in relation to corporate risk and insurance management during 2018/19 and highlighted any key decisions that needed to be made. Recent progress made in relation to key actions planned for the current year was also included.

The report informed that regular update reports would continue to be presented to the Committee on work in relation to risk management and insurance in support of the Risk Management framework, thereby maintaining the successful management of the Council's insurance programme.

The Senior Risk and Insurance Officer highlighted that clarification on the actuarial study that had confirmed that the funds held by the authority to cover Liability claims should be sufficient to meet the liabilities that it will have at the end of the current financial year. He added that more detail on the study was to be reported to the Audit and Risk Management Committee in July as part of the Insurance Fund Annual Report. The Senior Risk and Insurance Officer also informed that the study recommended that the annual contribution to the Insurance Fund should be increased in the coming years to cover rises in the cost of self-insured claims, and that this had been reflected in the forecast of the Council's Liability insurance costs for 2018/19.

Resolved – That the report be noted.

74 EXTERNAL AUDIT - WIRRAL COUNCIL CERTIFICATION LETTER 2016/17

Mr Chris Whittingham of Grant Thornton UK LLP, presented the External Auditor's Annual Letter – Certification work for Wirral Council for year ended 31 March 2017.

Mr Whittingham highlighted one particular area, informing that the external auditor had certified the Housing Benefit subsidy claim for the financial year 2016/17 relating to subsidy claimed of £129.2 million. He informed that a number of issues had been identified from the certification work which had been highlighted for Members attention with further detail set out in the Annual Letter Appendix A. As a result of some minor errors identified, the claim was amended (by £259) and qualified, and findings reported to the Department for Work and Pensions (DWP).

Mr Whittingham explained that the HB COUNT methodology required the external auditor to calculate a notional maximum error value where overpayments were based on the 'headline cell value'. This resulted in a potential extrapolated error of 4% of the total subsidy claimed. The external auditor had already discussed and agreed a proposed methodology to review relevant cases with the Chief Internal Auditor.

Mr Whittingham concluded his report stating that the external auditors wished to acknowledge the continued support and co-operation of the Council's Benefits team throughout the audit. The fee for certification work 2016/17 was £23,850.

Resolved – That the report be noted.

75 **EXTERNAL AUDIT - WIRRAL COUNCIL AUDIT PLAN 2017/18**

Mr Chris Whittingham of Grant Thornton UK LLP, the Council's external auditors, presented a report to Members on work undertaken with regard to progress in the delivery of their responsibilities as External Auditor covering the Year ending 31 March 2017.

Mr Whittingham provided a brief update on a number of key areas contained within his report that included:

- Understanding the challenges and opportunities that faced the Council - commercialisation;
- Changes in financial reporting requirements relevant to the audit – taking account of national audit requirements as set out in the CIPFA Accounting Code 2017/18;
- Value for Money Statement; and
- Significant Risks identified as set out under ISA 240 – The external auditor identified these and presumed risks; and the report set out proposed responses and procedures (completed and planned) in each case.

Mr Whittingham provided Members with additional background information on matters that included Materiality – focusing on greatest risk (and the impact of cumulative errors); Financial Planning and use of balances – the Northamptonshire County Council section 114 notice; Wirral Growth Company – potential to deliver services; and OFSTED – ongoing monitoring of work in response to the 2016 report.

Members questioned Mr Whittingham on a number of items contained within his report that included sustainability and non-pay expenses. Mr Whittingham responded, providing assurances regarding the procedures in place regarding the sampling of data and post year-end analysis.

The Director of Finance and Investment provided further assurance to Members that quarterly financial reporting to the Cabinet and the Business Overview and Scrutiny Committee was set to include savings targets and additional information on percentage savings achieved, and that this

information would be shared with Members of the Audit and Risk Management Committee.

The external auditor concluded his report summarising his Value for Money assessment and fees.

The Chair thanked Mr Whittingham for his report.

Resolved – That the report be noted.