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AUDIT AND RISK MANAGEMENT COMMITTEE

Wednesday, 18 September 2013

<u>Present:</u>	Councillor	J Crabtree (Chair)	
	Councillors	S Kelly	J Walsh
		S Foulkes	J Williamson
		K Hodson	
<u>Deputies:</u>	Councillors	L Rowlands (In place of J Hale)	
		J Salter (In place of RL Abbey)	
		G Watt (In place of A Cox)	
<u>Cabinet Member:</u>	Councillor	AER Jones	

16 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 Geoffrey Watt declared his interest in agenda items 7 (Merseyside Pension Fund – Audit Findings Report) and 8 (Merseyside Pension Fund – Statement of Accounts 2012/2013) (see minutes 22 and 23 post) by virtue of him being a member of the Pensions Committee.

17 MINUTES

The Head of Legal and Member Services presented the minutes of the meeting held on 10 June 2013.

The Liberal Democrat spokesperson referred to minute 12 (Corporate Risk Register) and commented that a number of items identified by the Committee for inclusion in the risk register had not yet been referred to the Cabinet for consideration. The Assistant Chief Executive proposed to seek clarification in relation to the Committee referral and to ensure that appropriate action was taken.

Resolved – That the minutes of the meeting held on 10 June 2013, be approved as a correct record.

18 PRESENTATION - EMERGENCY PLANNING

The Council's Senior Manager, Health, Safety and Resilience gave a presentation on Corporate Resilience, which included issues associated with both Emergency Planning and Business Continuity.

He commented that Wirral played a key role in the work of the Merseyside Local Resilience Forum and indicated that Wirral's All Hazards Plan would be renewed and updated to link into the new Merseyside Emergency Response Manual. He was pleased to report that the Wirral Emergency Volunteer Scheme consisted of over 200 volunteers, both staff and members of the

public and he provided an update of the assistance provided by volunteers in times of emergency.

With regard to Business Continuity, he indicated that a review was being undertaken of the Council's 'critical functions' following reorganisation and restructure in many departments. The recent IT failure, as a result of a power spike had highlighted the need for business continuity to be embedded in the Council's culture, to ensure the organisation was always able to deliver its critical functions.

He referred to several recent "emergencies" including the discovery of a pipe bomb at Beechwood, a major fire at Majors Waste Transfer Site and the recent disruption to ICT, and provided details of Wirral's emergency response.

In response to questions from Members, he confirmed that the number one risk was in relation to pandemics and horizon scanning was undertaken to ensure the Council was adequately prepared. In addition to multiple and simultaneous emergencies, other significant risks were related to cyber attack and the effect of solar flares, whilst locally, he commented that considerable work had been undertaken to respond to flooding and other severe weather incidents.

Resolved – That the presentation be noted.

19 INTERNAL AUDIT UPDATE

The Chief Internal Auditor presented an update on the performance of the Internal Audit Section and included details of issues arising from the actual work undertaken during the period 1 June to 31 August 2013. He provided details of items of note for the audit period, in relation to Risk Management and the Shared Lives Scheme (DASS). Management had provided a commitment to implement all of the actions within agreed timescales and he confirmed that the outcome of follow up audit work would be included in reports to a future meeting.

He also provided, in tabular format, an appendix to his report, which identified information related to those audits where recommended actions included in audit reports had not currently been implemented. It was proposed to present the information on a routine basis in future, drawing attention to those items not addressed so that Members could then take action they considered appropriate. The Liberal Democrat spokesperson expressed his concern that little progress was being made in relation to the Mobile Phone Policy and Publishing Public Sector Information.

The Chief Internal Auditor provided details of compliance with relevant Internal Audit Performance Indicators and upon progress being made to deliver the Internal Audit Improvement Plan. Good progress was being made to deliver the program within the agreed timescale and 14 of the 18 actions had been implemented, with work progressing well in the other areas.

Resolved –

- (1) That the report be noted.**
- (2) That, where appropriate, Chief Officers be requested to attend the next meeting of the Committee to provide an update of compliance with audit recommendations.**
- (3) That the monthly audit bulletin for Members of the Committee be sent also to named deputies.**

20 **EXTERNAL ASSURANCES**

The Chief Internal Auditor reported that in order to assist in effective corporate governance and to fulfil statutory requirements, the Internal Audit Section reviewed management and service delivery arrangements within the Council as well as financial control systems. Work areas were selected for review on the basis of risks identified on the Corporate Risk Register and as assessed by Internal Audit in consultation with Chief Officers and Managers.

His report summarised the findings of work conducted by Internal Audit to assess the progress made by the Council in implementing actions arising from external inspection reports produced for the 2012/2013 financial year. Twelve reports were received by the Council for the period and the overall summary finding was that management had either implemented or were making progress towards implementing the majority of actions identified in the reports within satisfactory timescales.

However, work was still required to complete the implementation of actions arising in some areas. The findings had been reported to senior management and a firm commitment provided that all actions would be implemented as agreed.

He reported that follow up work, and more detailed testing would be conducted over the forthcoming months and the outcome reported to the Committee with any action required by Members highlighted.

Resolved – That the report be noted.

21 **ANTI-MONEY LAUNDERING POLICY**

The Chief Internal Auditor reported that the Anti-Money Laundering Policy had been reviewed as a result of the implementation of the Money Laundering (Amendment) Regulations 2012. He indicated that although the amendment regulations did not directly affect the Council, the opportunity had been taken to review and amend the current Policy to take into account internal changes within the organisation. The Policy had an accompanying Briefing Note, which acted as a quick guide to inform front line employees of the fundamental areas of the Policy that applied to them.

Resolved – That the report be noted and the revised Anti-Money Laundering Policy be endorsed.

22 **MERSEYSIDE PENSION FUND - AUDIT FINDINGS REPORT**

The Director – Assurance (Grant Thornton UK LLP) presented the Audit Findings for the Merseyside Pension Fund (MPF), which had been considered by the Pensions Committee on 16 September 2013 (minute 28 refers) and highlighted the key issues arising from the audit of the MPF financial statements for the year ended 31 March 2013. He highlighted one unadjusted error that had been identified in the financial statements, the effect of which was that both property rental income and the total net assets of the Fund were understated by £3.194m. Management did not consider the error to be material to the total fund assets of £5.819bn and the income would be accounted for the 2013/2014 financial year.

He referred also to audit findings against significant and other risks and commented that the audit assessment was appropriate and disclosure sufficient for accounting policies, estimates and judgements. Accordingly, he anticipated providing an unqualified opinion on the Funds Financial Statements.

In response to comments from Members, the MPF Investment Manager provided an explanation as to how the unadjusted misstatement occurred. He referred also to matters in relation to fraud and highlighted transfers to overseas funds that were not authorised by HMRC

Resolved – That the report be noted.

23 **MERSEYSIDE PENSION FUND - STATEMENT OF ACCOUNTS 2012/2013**

The Interim Director of Resources presented his report that had been considered by the Pensions Committee held on 16 September 2013 (minute 28 refers), which presented the audited Statement of Accounts of the Merseyside Pension Fund for 2012/2013 and the Council's response to the Audit Commission Annual Governance Report Audit 2011/2012. He commented that the Audit Opinion would be issued following final completion of the audit, consideration of the Annual Governance Report and approval of the amended Statement of Accounts at both the Pensions Committee and the Audit and Risk Management Committee. Once approved, Grant Thornton had indicated that they would again issue an unqualified opinion, and state that the accounts presented fairly the financial position of Merseyside Pension Fund as at 31 March 2013. Subject to this, the accounts as now shown would form the basis of the Annual Report for the year ended 31 March 2013.

Resolved – That the report be noted.

24 **ANNUAL GOVERNANCE STATEMENT 2012/2013**

The Chief Executive reported that the preparation and publication of an Annual Governance Statement (AGS) was necessary to meet the statutory requirement set out in the Accounts and Audit (England) Regulations 2011, Regulation 4(3). It was necessary for the Council: to have approved and adopted a Code of Corporate Governance that complied with the principles of the CIPFA/SOLACE Framework Delivering Good Governance in Local Government; and to report publicly through the Annual Governance

Statement the extent to which the governance processes outlined in the Code were operating effectively in practice. He identified six core principles of good governance identified in the Framework and commented that the production of the Council's Annual Governance Statement was based on relevant supporting evidence provided by Internal Audit, with the overall direction provided by the Chief Executive Strategy Group to ensure high level corporate engagement and ownership.

Appended to his report was the final Annual Governance Statement and an action plan for approval. He submitted also the Council's updated code of corporate governance and evidence of compliance.

It was moved by Councillor Rowlands and seconded by Councillor Watt –

“That the recommendation set out in the Chief Executive's report be deleted and replaced with –

- “(1) That the Annual Governance Statement and Action Plan for 2012/2013 and the updated Code of Corporate Governance be not agreed.
- (2) That the Committee does not accept that the current system of a 10 person Cabinet with, effectively, 3 working Policy and Performance Committees is the best form of governance. We remain of the view that a Committee system which allows for all-party representation at every level of decision making, according to the respective strengths of the parties, is the most appropriate, effective and most democratic method of governance for Wirral”.

In response to questions from Members, the Head of Legal and Member Services confirmed that, if carried, the motion would have to form the basis of a recommendation to the Council as any proposed change to the system of governance was clearly outside the remit of the Committee.

The Liberal Democrat spokesperson indicated that he believed the AGS to be inadequate for differing reasons than those set out in the motion. In particular, he did not accept that the 'What Really Matters' consultation captured the views and aspirations of local residents (principle 1), and he questioned claims in relation to transparency and openness (principle 2). In addition, he expressed his disappointment that there was no evidence of a partnership register within the Council and referred also to matters that had yet to be referred to the Cabinet for inclusion in the Corporate Risk Register (minute 12 (10 June 2013) refers).

Members commented however, that a great deal of progress had been made and that significant governance issues were addressed in the accompanying action plan. Furthermore, a rejection of the AGS would inevitably result in a failure to meet the statutory requirement for its publication.

The motion proposed by Councillor Rowlands and seconded by Councillor Watt was put and lost (3:6)

Resolved (5:4) – That the Annual Governance Statement and Action Plan for 2012/2013 and the updated Code of Corporate Governance be agreed.

25 WIRRAL COUNCIL - AUDIT FINDINGS REPORT

The Director – Assurance (Grant Thornton UK LLP) presented the Audit Findings report for Wirral Council, which highlighted the key matters arising from the audit of the Council's financial statements for the year ended 31 March 2013. One non-material adjustment affecting the Council's reported financial position had been identified, which related to the incorrect inclusion of a £1.2m community asset that was no longer owned by the Council. Nevertheless, he anticipated providing an unqualified opinion on the financial statements and provided details of key issues arising from the audit. In response to comments from Members, the Interim Director of Resources confirmed that the financial statements would be adjusted in 2013/2014. The sum was not material in the context of the overall Council finances and to do so now would require changes to a number of the Statements and supporting notes but would not impact upon the financial position of the Council.

The review of the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2013 had highlighted a number of issues that would give rise to a qualified 'adverse' Value for Money conclusion. Although systems and processes had begun to be improved, for the year overall, the Council's arrangements were inadequate. However, a report would be provided by exception on the arrangements for good governance and internal control.

Members expressed concern in relation to weaknesses in the Council's arrangements for promoting and demonstrating principles and values of good governance in respect of key issues, such as whistleblowing and conflicts of interest. Members commented upon the need to deal fairly with whistleblowers and also to be fair to those who were the subject of a complaint. The Assistant Chief Executive indicated that the Whistleblowing Policy had been rewritten and circulated to staff, as had guidance in relation to conflicts of interest.

Resolved –

- (1) That the report be noted.**
- (2) That an update report on whistleblowing be presented to the next meeting of the Committee.**

26 WIRRAL COUNCIL - REVIEW OF ARRANGEMENTS FOR SECURING FINANCIAL RESILIENCE

The Director – Assurance (Grant Thornton UK LLP) presented a detailed Review of Wirral Council's Arrangements for Securing Financial Resilience for the year ended 31 March 2013. The review considered whether the Council had robust financial systems and processes in place to manage its financial risks and opportunities and to secure a stable financial position for it to continue to operate for the next 12 months.

For overall arrangements in 2012/2013, the Council had been assessed as Red, which was defined as high risk, the Council's arrangements being

generally inadequate or having a high risk of not succeeding. However, the review indicated that more robust arrangements had been introduced during the latter part of the year and the outlook was now Amber, defined as a potential risk or weakness, with adequate arrangements or characteristics being in place in some respects, but not all. There was evidence that the Council was taking forward areas where arrangements needed to be strengthened.

Members noted that the review had been set against a national and local context and had recognised that the current Spending Review announced by the Chancellor of the Exchequer represented the largest reductions in public spending since the 1920's. The Council's 2012/2013 budget of £297m was set in the context of a significant reduction of around 10% from the finance settlement and the need to generate some £16.5m in savings during the year. The Council faced a £109m budget deficit over the next three years and estimated that it would receive a 57% reduction in grants, or £62m less from central government to spend on services. Wirral was also facing increased demand of approximately £47m over the next three years, including costs associated with increasing numbers of older people in local communities, who were living longer and requiring more support from the Council.

Resolved – That the report be noted.

27 **WIRRAL COUNCIL - STATEMENT OF ACCOUNTS 2012/2013**

The Interim Director of Resources reported that the Council's Constitution allocated responsibility for approval of the Statement of Accounts to the Audit and Risk Management Committee. The Statement for 2012/2013 had been published on 28 June 2013 and had been subject to audit by Grant Thornton, the Council's External Auditors, who had presented their findings within the Audit Findings Report (see minute 25 ante). He set out amendments to the Statement of Accounts, requested by the Auditor, which were detailed in the Audit Findings report and presented a draft action plan as a response to the Audit Findings Report. Grant Thornton would issue their Audit Opinion before 30 September 2013 and Grant Thornton had indicated that this would state that the accounts were a true and fair view of the financial position of the Council at 31 March 2013. The Auditor's report would be incorporated within the final version of the Statement of Accounts to enable them to be agreed and published by the statutory deadline of 30 September 2013.

He presented also a draft Letter of Representation and indicated that, although the Annual Governance Statement (minute 24 ante) was not required to be included in the Statement of Accounts, the agreed AGS would be included to show how the Council had demonstrated the effectiveness of its systems for ensuring that it operated legally and that public money was properly used and accounted for.

Resolved –

- (1) That the Audit Findings Report presented by Grant Thornton and the actions taken over the amendments to the Statement of Accounts be noted.**

- (2) That the Interim Director of Resources, in conjunction with the Chair, be authorised to sign off the Council's Statement of Accounts 2012/2013 for publication by the statutory deadline of 30 September 2013.**
- (3) That the Interim Director of Resources be authorised to sign off the Letter of Representation, in consultation with the Chair and the Chief Executive.**
- (4) That the updated draft Action Plan within the Audit Findings Report, be approved, subject to any changes to it being notified to Members.**
- (5) That the Statement of Accounts for 2012/2013 and the arrangements for further amendments be approved.**
- (6) That a report be presented to the next meeting of the Committee to conclude the Statement of Accounts process for 2012/2013.**

28

PROPOSED REVISED CONTRACT PROCEDURE RULES

The Assistant Chief Executive presented the proposed revised Contract Procedure Rules, in final draft form, which reflected comments made by Members to an earlier draft (minute 63 (15 April 2013) refers). The document had also taken account of comments received from the Council's External Auditors, Grant Thornton.

He commented that a decision had been taken to use a set of CPRs from Cheshire West and Chester Council (with their permission) as the starting point for the review and as the basis for Wirral's proposed procedures. He outlined the benefits of such an approach and commented that greater commonality would make it more straightforward to build on existing shared service relationships and potential future opportunities for further joint working.

He outlined the proposed revisions and indicated that, taking account of the feedback from Members to the earlier draft, additional requirements had been added to the CPR's in respect of reporting to the Committee of all contracts with a total value in excess of £500,000, instances where variations were agreed by the Director of Resources and instances where there was a waiver or breach of the CPR's in relation to a contract which exceeded £50,000 in value. Alongside those changes, which also reflected the external audit feedback, a series of other detail changes and clarifications had been made as a result of the external audit feedback and further feedback from departmental staff involved in contract procedures.

Resolved –

- (1) That the final draft of the revised Council's Contract Procedure Rules be agreed.**
- (2) That the revised CPRs be published and introduced in a planned way across the Council, with appropriate training for relevant staff.**

29 **PROPOSED REVISED FINANCIAL REGULATIONS**

The Interim Director of Resources presented for approval the proposed revised Financial Regulations, in final draft form, which reflected comments received on an earlier draft (minute 63 (15 April 2013) refers) from Committee Members, Council officers and the External Auditors, Grant Thornton. The review of the Regulations had involved a group of key financial staff and a decision had been taken to use a set of Financial Regulations from Cheshire West and Chester Council (with their permission) to support the review and to build upon existing and support the development of future, shared service relationships. He indicated that, although the two sets of Regulations were broadly comparable, the opportunity had been taken to enhance Wirral's Regulations in key areas related to virements, carry forwards and the Pension Fund.

The main changes to the earlier draft updated the role and involvement of the External Auditor and the other revisions essentially gave greater clarity to the narrative in respect of roles and responsibilities. As the updated Financial Regulations were implemented, and areas such as the review of the Risk Management Policy and Strategy were concluded, there would be opportunities to review and refine the Regulations in accord with the procedures detailed in the Council's Constitution.

Resolved –

- (1) That the final draft of the Council's Financial Regulations be agreed.**
- (2) That the revised Financial Regulations be published and introduced in a planned way across the Council with appropriate support and training for relevant staff.**

30 **MANAGEMENT OF INSURANCE AND CORPORATE RISK**

The Interim Director of Resources reported upon progress made since the last meeting of the Committee in relation to the key actions in Corporate Risk and Insurance Management planned for 2013/2014, reported to Committee on 31 January 2013 (minute 47 refers).

Resolved – That the report be noted.

31 **INSURANCE FUND ANNUAL REPORT 2012/2013**

The Interim Director of Resources presented a review of Risk and Insurance activity during 2012/2013 and the plans for 2013/2014 and beyond. He provided details of the underwriting arrangements and recent loss histories for the principal areas of insured risk and described the impact of measures taken to improve their management. The report identified the provisions and reserves within the Insurance Fund at the end of 2012/2013 and set out the release of resources of £0.9m to the General Fund.

To help ensure that the Fund was sufficient meet the cost of liability claims but was not over resourced, a review was usually undertaken every two/three years by an external actuary who assessed the amount needed to fund anticipated liabilities for previous years. In the intervening years a self-evaluation was undertaken for the same purpose. He confirmed that an external review had been commissioned to examine the liabilities incurred as at 31 March 2013 and indicated that it would be available later in the year.

He reported that the Council continued to play a national role in relation to the ongoing reforms to civil litigation funding and costs (the “Jackson” reforms). This was a complex issue in which a Wirral officer had invested considerable effort over the last 4 years representing the views of the public sector. This had led to Wirral having direct dealings with Ministers, MP’s, senior Whitehall Civil Servants and leading trade bodies such as the Association of British Insurers (ABI) and the Federation of Insurance Lawyers (FOIL). The officer now also formally represented the interests of the Association of Local Authority Risk Managers (ALARM) in relation to liability and claims matters. The Council’s expenses in relation to this Jackson work were met by ALARM and the legislative and process changes were now being enacted. Officers were amending the Council’s own standards and procedures to take advantage of the positive aspects of the reforms and mitigate any negative impacts.

The Director commented also that the insurance facility for Academy schools, established in 2011/2012, continued to prove very popular with schools that had taken the decision to convert. The authority assisted schools with obtaining competitive quotations for academy-specific insurance packages, critically appraised policy wordings, verified all policy documentation and provided support with claims and general risk management advice. He commented also that the service generated income of approximately £36,000 in 2012/2013 and helped to offset the Council’s own insurance administration costs.

Members noted that Wirral was clearly seen as a leader in relation to public sector insurance liability and claims and thanked the officers for their commitment and diligence.

Resolved –

- (1) That the release of £0.9m from the Insurance Fund to the General Fund be noted.**
- (2) That the results of the actuarial review be reported to a future meeting of the Committee.**
- (3) That the thanks and congratulations of the Committee be accorded to the officers for the national role played in relation to the ongoing reforms to civil litigation funding and costs.**

32 REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Head of Legal and Member Services reported that the use of covert surveillance for the purposes of preventing or detecting crime or preventing

disorder was governed by the Regulation of Investigatory Powers Act 2000 (RIPA). However, the Protection of Freedoms Act 2012, which came into force on 1 November 2012, required a magistrate's approval for a local authority's use of RIPA. In addition, directed surveillance was confined to cases where the offence under investigation carried a custodial sentence of six months or more, except in relation to underage sales of alcohol and tobacco, where the sentencing threshold did not apply. There had been no use or attempted use of covert surveillance between 1 June and 1 September 2013.

He presented the updated Policy and Procedure on the Use of Powers under RIPA and drew the attention of Members to the updated list of current authorising officers. He reported also that training was to be provided to officers on 23 September 2013 by Ibrahim Hasan, one of the leading authorities on RIPA.

Resolved – That the report and the updated Policy and Procedure be noted.

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