

Minutes of a meeting of the Corporate Governance Committee held via Microsoft Teams video conferencing on Friday, 29 January 2021.

PRESENT

Mr. T. Barkley CC (in the Chair)

Mr. G. A. Boulter CC  
Mr. J. Kaufman CC  
Mr. J. T. Orson JP CC  
Mr. I. D. Ould OBE CC

Mr J. Poland CC  
Mr. T. J. Richardson CC  
Mr. S. D. Sheahan CC  
Mrs. A. Wright CC

30. Minutes.

The minutes of the meeting held on 25 November 2020 were taken as read, confirmed and signed.

31. Question Time.

The Chief Executive reported that no questions had been received under Standing Order 34.

32. Questions asked by members under Standing Order 7(3) and 7(5).

The Chief Executive reported that no questions had been received under Standing Order 7(3) and 7(5).

33. Urgent Items.

There were no urgent items for consideration.

34. Declarations of interest.

The Chairman invited members who wished to do so to declare any interest in respect of items on the agenda for the meeting.

Mr. T. J. Richardson CC declared a personal interest in agenda item 11 (Quarterly Treasury Management Report) (minute 40 below refers) as he was in receipt of a pension from Lloyds Bank Plc.

35. Risk Management Update.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to provide an overview of key risk areas and the measures being taken to address them. A copy of the report marked 'Agenda Item 6', is filed with these minutes.

As part of this item, the Committee also received a presentation in relation to the Adults and Communities Department on Corporate Risk 7.2 (If departments are unable to

promptly recruit and retain staff with the right skills and values and in the numbers required to fill the roles needed, then the required/expected level and standard of service may not be delivered, and some services will be over reliant on the use of agency staff resulting in budget overspends and lower service delivery) and Corporate Risk 7.3 (If the Department fails to develop and maintain a stable, sustainable and quality social care market to work with it may be unable to meet its statutory responsibilities). A copy of the presentation slides is filed with these minutes.

### Risk Presentation

The description of both risks had been amended following a review of the Department's Risk Management Plan, to reflect the wider risks to the Department around workforce and the sustainability of the care market. In response to comments raised by a member it was clarified that both risks related to the Department's workforce, but Corporate Risk 7.2 focussed on the internal risk factors, whereas, Corporate Risk 7.3 took into account the risk factors in connection with the overall sustainability of the external market, such as the risks brought about by the Covid-19 pandemic and the UK's withdrawal from the EU.

### Risk Management Update

Arising from discussion and questions, the following points arose:

- (i) Regarding the removal of Corporate Risk 6.1 (EU Transition – If a formal trade agreement between the UK and EU is not in place at the end of the transition period, the UK will be treated by the EU as a third country. Trade arrangements will differ, and goods will be subject to full third country controls and a variety of border checks) a member suggested that perhaps a risk regarding the EU Transition should still feature on the Corporate Risk Register, but with a new focus, until there was a better understanding of how systems were operating nationally under the new arrangements and the effects to businesses.
- (ii) A member highlighted the importance of the Council being proactive in understanding the wider issues arising from the Covid-19 pandemic to support longer term recovery and to help determine any areas where further resources were required and where lobbying the Government for such resources would be beneficial. The Director confirmed that the Council was working closely with the Local Resilience Forum and the Leicester and Leicestershire Enterprise Partnership to consider and understand the impact of the Covid-19 pandemic to the local economy and contribute to local recovery plans. In terms of the effects of people suffering with long term medical conditions as a result of Covid-19, there was a plethora of potential issues expected to arise. However, as the situation was still evolving, the full extent of the impact to local services could not be known at the current time making it difficult for local services to plan with any certainty for the longer term.
- (iii) Concern was raised about a report regarding the implications of a recent investigation undertaken by the Local Government and Social Care Ombudsman (LGO) of a complaint made against the Council regarding the Council's operation of the Free Early Education Entitlement (FEEE) scheme with one local provider, which was due to be considered by the Council's Cabinet on 5th February 2021 and had recently been circulated by the Director of Law and Governance to Corporate Governance Committee members for awareness purposes. Members were advised as follows:

- The risks had been considered by the Director of Law and Governance, Director of Children and Family Services and the Head of Internal Audit and Assurance Service as soon as the Council became aware of the LGO's view on the issue and their collective view had been that the issue was isolated to one particular nursery, but there might be wider implications to consider as the case progressed.
- The LGO had since elected to release a public report as it was believed that the issue may have wider implications to other local authorities. Work would now be undertaken by officers to fully assess the details of the implications arising from the public report.
- Regarding the Council's conduct and liaison with the LGO during the period of investigation, the Director of Law and Governance said that it was not unusual in such investigations for exchanges of views and arguments to be put forward on both sides and in her view the opinions and arguments made by Council officers had been legitimate and put forward to the LGO in an appropriate way.

Members requested that a report on the final outcomes of the investigation be provided at a future meeting.

- (iv) Members requested that a presentation be provided at the Committee's next meeting on Corporate Risk 4.3 (If as a result of the impacts of the coronavirus pandemic bus operators significantly change their services, then there could be substantial impacts on communities accessing essential services and lead to required intervention under our Passenger Transport Policy and Strategy).

#### RESOLVED:

- (a) That the current status of the strategic risks facing the County Council be approved and the Director of Corporate Resources be requested to give consideration to the comments now made;
- (b) That the contents of the presentation provided on Corporate Risk 7.2 (If departments are unable to promptly recruit and retain staff with the right skills and values and in the numbers required to fill the roles needed, then the required/expected level and standard of service may not be delivered, and some services will be over reliant on the use of agency staff resulting in budget overspends and lower service delivery) and Corporate Risk 7.3 (If the Department fails to develop and maintain a stable, sustainable and quality social care market to work with it may be unable to meet its statutory responsibilities) in relation to the Adults and Communities Department be noted;
- (c) That at the Committee's next meeting a presentation be provided on Corporate Risk 4.3 (If as a result of the impacts of the coronavirus pandemic bus operators significantly change their services, then there could be substantial impacts on communities accessing essential services and lead to required intervention under our Passenger Transport Policy and Strategy);
- (d) That a report on the final outcomes of the Local Government and Social Care Ombudsman investigation of a complaint against the Council regarding the

Council's operation of the Free Early Education Entitlement (FEEE) scheme with one local provider be provided at a future meeting;

- (e) That the updates regarding Covid-19 recovery planning and the Risk Management Policy and Strategy be noted.

36. Process for the Removal of Local Authority Nominated Governors.

The Committee considered a report of the Director of Children and Family Services, the purpose of which was to seek the Committee's agreement to the introduction of a new process to manage requests from maintained schools to remove a Local Authority Nominated School Governor and to agree to the delegation of this function to the Director of Children and Family Services. A copy of the report marked 'Agenda Item 7', is filed with these minutes.

Arising from discussion the following points arose:

- (i) In terms of how often removals happened, the Director confirmed that in her experience such events occurred infrequently and if the matter arose it would only be as a last resort following a full investigation. Some members also commented on their own past experiences as a School Governor and confirmed that removals had rarely, if ever, occurred, but in any event, it would be sensible to adopt a process should the matter arise.
- (ii) Whilst the regulations did not provide for a right of appeal, best practice guidance recommended the ability of an appeal so having a process in place for the County Council to handle requests for the removal of a Local Authority Nominated School Governor, whereby third-party scrutiny could be given to the concerns raised and the investigation process, was expected to provide additional safeguarding and assurances in ensuring a fair outcome.
- (iii) A member suggested that given the role of a Local Authority Nominated School Governor was more comparable to the role of being a member of the Council than that of an employee, the option to set up a panel of elected members to consider removal proposals (Option 2 as set out in Appendix B) may offer the most appropriate solution.
- (iv) The Committee agreed with the need for a process to be put in place for handling requests for the removal of a Local Authority Nominated School Governor and approved Option 1 as set out in Appendix A of the report.

RESOLVED:

- (a) That the proposed options for dealing with requests made by maintained schools to remove a Local Authority Nominated School Governor be noted;
- (b) That the Process for handling requests for the removal of a Local Authority Nominated School Governor as set out in Option 1 and Appendix A to the report be approved;
- (c) That the Director of Children and Family Services, following consultation with the Director of Law and Governance and the Chair and Spokespersons of the Corporate Governance Committee, be authorised to:

- (i) consider and determine representations seeking the removal of a Local Authority Nominated School Governor;
- (ii) amend the Process for handling requests for the removal of a Local Authority appointed school Governor as set out in Option 1 and Appendix A.

37. Regulation of Investigatory Powers Act 2000 and the Investigatory Powers Act 2016.

The Committee considered a report of the Director of Law and Governance, the purpose of which was to advise the Committee on the Authority's use of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA) for the period from 1 October 2019 to 31 December 2020 and to request that the Committee reviewed the Covert Surveillance and the Acquisition of Communications Data Policy Statement relating to RIPA. A copy of the report marked 'Agenda Item 8', is filed with these minutes.

Arising from discussion and questions the following points arose:

- (i) Members were advised that all of the surveillance activities listed in paragraph 14 of the report related to investigations carried out by the Council's Trading Standards Service. The level of surveillance activity during the reporting period had been relatively low and some of the investigations that utilised surveillance activity had had to be scaled back due to the additional demands on the Service due to the impact of the Covid-19 pandemic.
- (ii) Directed and covert intelligence surveillance activities could only begin once authorisation had been obtained from the Magistrates Court. Since the Covid-19 pandemic began there had been a number of issues with securing court hearings in this regard. In terms of the risks of court hearings being delayed and ensuring people were protected, it was queried whether it would be useful for a recommendation to be made to the Cabinet for a letter to be written to Government ministers to highlight the issues. The Director advised that the issues had mainly occurred at the beginning of the pandemic, but the situation had since improved, and the Council had direct contacts within the Court to be able to progress an urgent case forward if the Council was able to demonstrate this was necessary. It was also confirmed that more recently, in terms of prosecution cases, the Council was beginning to see court hearings being listed by both the Crown and Magistrates Court for those that had previously been delayed. For example, a court hearing relating to a rogue plumbing scam that had been delayed by 7-8 months, where the Council had been awaiting a decision regarding confiscation of assets, had recently been settled and the victims compensated as the defendant had been enabled to attend the hearing remotely.
- (iii) Where the Council was considering applying for directed surveillance to observe a particular premises, staff would be permitted to carry out a drive-by observation to determine surveillance capability without the need to apply for judicial approval.
- (iv) Local authorities were only authorised to deploy covert surveillance activities if the investigation related to a serious crime such as fraud.
- (v) In response to a query about the thresholds for conducting open source material investigations (e.g. Facebook activity) it was advised that apart from an immediate response to events, where there was an intention to obtain evidential material via

open sources, the activities to obtain this material would be considered as “pre-planned” and require both internal authorisation from a Council authorising officer and judicial approval from a Magistrates Court. Paragraph 9 of the Council’s Covert Surveillance and the Acquisition of Communications Data Policy Statement reminded staff of the considerations that needed to be made when undertaking such activities. If staff were planning to obtain information through an open source surveillance process regarding a person’s identity, movements and interactions, an authorisation was still required to be sought and levels of privacy would also need to be considered. For example, there was a number of issues relating to the sale of counterfeit and unsafe products via Facebook and Facebook groups on “Marketplace”, so if staff were planning to make investigations by joining one of these groups to make purchases the level of intrusiveness would be considered as part of the authorisation process.

RESOLVED:

- (a) That the report on the Authority’s use of the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 (IPA) for the period from 1 October 2019 to 31 December 2020 be noted;
- (b) That a recommendation be made to the Cabinet that the County Council’s current Policy Statement on the use of RIPA (attached as an appendix to this report) remains fit for purpose;
- (c) That the Committee continue to receive an annual report on the use of RIPA powers and report to the Cabinet on an annual basis on both the use of RIPA powers and whether the Policy remains fit for purpose.

38. CIPFA Financial Management Code - 2021.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to inform the Committee of the Council’s compliance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code for 2021/22. A copy of the report marked ‘Agenda Item 9’, is filed with these minutes.

RESOLVED:

That the report regarding the Council’s compliance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code for 2021/22 be noted.

39. Treasury Management Strategy Statement and Annual Investment Strategy 2021/22.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to provide the Committee with an opportunity to review the Treasury Management Strategy Statement and Annual Investment Strategy for 2021/22. A copy of the report marked ‘Agenda Item 10’, is filed with these minutes.

Arising from discussion the following points arose:

- (i) It was recognised that due to the lasting implications of the Covid-19 pandemic to the financial markets, in exceptional circumstances, in order to protect capital balances and liquidity, the Director of Corporate Resources may be required take immediate action that breached the limits within the Treasury Management

Strategy and Statement on a temporary basis. Following a suggestion, it was agreed that any decision in this regard would ideally be made in consultation with the Chairman of the Committee, but if immediate action was required to be undertaken and it was not possible for the consultation to take place, the Chairman should be informed as soon as practicable after the action had been taken. The Director confirmed that any action would only be taken as a last resort and would also be reported to the Committee at the earliest opportunity.

- (ii) It was confirmed that there was a possibility of interest rates in the UK reducing further, and potentially becoming negative. This could see a situation where banks begin to charge their customers for holding cash. Since the impact of the Covid-19 pandemic, some of the Council's money market fund balances had moved to zero and with the Bank of England base interest rate currently at 0.1% there was the risk of negative interest rates coming into effect in the near future. If negative interest rates were introduced the difference between the small returns currently received and the small potential charges banks would make was unlikely to be substantial. However, it was recognised that any charge for storing funds would be far from ideal and best avoided where possible. There would always be a need for the Council to have the ability to invest in short term measures. One option was to seek to increase investments with lower credit rated organisations to potentially gain a higher return, but advice from Link Asset Services suggested that the additional risk involved in doing this did not justify the small additional financial benefit that would arise. Members agreed with this advice and were assured that officers would always consider the options available to weigh up the risk with the reward to ensure the best outcome for the Council's portfolio.

RESOLVED:

- (a) That the contents of the Treasury Management Strategy Statement and Annual Investment Strategy 2021/22 be noted;
- (b) That if in order to protect capital balances and liquidity the Director of Corporate Resources is required to take action that breaches the Treasury Management Strategy and Statement this decision be made in consultation with the Chairman of the Corporate Governance Committee and if immediate action is required and it is not possible to consult with the Chairman, the Chairman be informed as soon as practicable afterwards.

#### 40. Quarterly Treasury Management Report.

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to update the Committee on the actions taken in respect of treasury management for the quarter ending 31 December 2020. A copy of the report marked 'Agenda Item 11', is filed with these minutes.

RESOLVED:

That the actions taken in respect of treasury management for the quarter ending 31 December 2020 be noted.

41. Update on Developments in Local (External) Audit Arrangements.

The Committee considered a joint report of the Director of Corporate Resources and the Director of Law and Governance, the purpose of which was to provide the Committee with an update on developments in local (external) audit arrangements, that were associated with the Committee's responsibilities. A copy of the report marked 'Agenda Item 12', is filed with these minutes.

RESOLVED:

That the update on developments in local (external) audit arrangements including the Ministry of Housing, Communities and Local Government (MHCLG) responses to the Redmond Review recommendations be noted.

42. Internal Audit Service Progress Report.

The Committee received a report of the Director of Corporate Resources which summarised the work conducted during the period 7 November 2020 to 8 January 2021, highlighted audits where high importance recommendations had been made, provided updates on how the coronavirus had affected the Internal Audit Service and reported on internal audit work for the remainder of 2020-21. A copy of the report marked 'Agenda Item 13', is filed with these minutes.

In introducing the report, the Director highlighted that CIPFA had issued guidance to Heads of Internal Audit Services' (HoIAS) in recognition of the impacts of the Covid-19 pandemic to internal audit functions which it acknowledged could lead to limitations to HoIAS' providing their annual internal audit opinion. In light of this the Council's HoIAS had almost concluded an exercise to review resources input so far during 2020-21 to ascertain whether there had been sufficient coverage across the control environment and it was confirmed that so far, there were no significant issues to bring to the Committee's attention and that an annual report would be produced and presented to the Committee in due course in the usual way.

Arising from questions regarding the high importance recommendations set out in Appendix 2 to the report, the following points arose:

- (i) Regarding the high importance recommendation relating to health recharges for hospital discharges and avoidances, it was clarified that the Adults and Communities Department had made sufficient progress on this recommendation, so the item was now able to be removed from the high importance recommendations list.
- (ii) A member raised concern regarding the delay with progressing the work around Direct Payments (Personal Budgets), the fact that the deadline had been extended from December 2020 to May 2021, and the potential for the deadline to be extended again. The Director confirmed that a pragmatic view had had to be taken against the Department's other priorities. Assurance was also provided that the HoIAS would continue to monitor the situation and although the delays with the annual review process were not ideal, they were also not unusual when compared with other organisations and previous annual review cycles as each cycle would usually see a number of new Direct Payment users requiring a review in addition to the number of reviews required to be carried out for existing users. It was the



intention that the work would be completed by the end of April 2021 and the Committee would be provided with a further update at its next meeting in June.

RESOLVED:

That the audit work undertaken during the period 7 November 2020 to 8th January 2021 and actions taken to implement high importance recommendations be noted.

43. Date of next meeting.

It was noted that the next meeting was scheduled to be held on Friday 4th June at 2.00pm.

10.00 – 11.50am  
29 January 2021

CHAIRMAN

