



Minutes of a meeting of the Corporate Governance Committee held at County Hall, Glenfield on Monday, 21 November 2022.

PRESENT

Mr. T. Barkley CC (in the Chair)

Mr. N. D. Bannister CC
Mr. D. C. Bill MBE CC
Mr. G. A. Boulter CC

Mr. J. G. Coxon CC
Mr. J. T. Orson CC
Mr. T. J. Richardson CC

16. Minutes of the previous meeting.

The minutes of the meeting held on 30th September 2022 were taken as read, confirmed and signed.

17. Question Time.

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

18. 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).

19. Urgent items.

There were no urgent items for consideration.

20. 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 non-registerable interest in agenda item 15 (Treasury Management Update) as he was in receipt of a pension from Lloyds Bank Plc.

21. Presentation of Petitions under Standing Order 35.

The Chief Executive reported that no petitions had been received under Standing Order 35.

22. Change to the Order of Business.

The Chairman sought and obtained the consent of the Committee to vary the order of business from that set out on the agenda for the meeting.

23. Update on the External Audit of the 2021/22 Statement of Accounts, Annual Governance Statement and Pension Fund Accounts

The Committee considered a report of the Director of Corporate Resources, the purpose of which was to provide an update on the external audit of the 2021/22 financial statements and the appointment of the external auditor from 2023/24. A copy of the report marked 'Agenda item 8' is filed with these minutes.

The Chairman welcomed Mr Mark Stocks from Grant Thornton LLP, the Council's external auditors, to the meeting.

Arising from discussion and questions, the following points were noted:

- (i) The Pension Fund audit had now been completed. Members noted that as at the end of March 2022, the value of investments had increased substantially compared to what had been predicted in the financial statements, but this was not wholly unusual and did not give rise to any concerns. The Director confirmed that given more recent events the position had changed and the value of investments had fallen but were now showing signs of recovery.
- (ii) Regarding the audit of the Council's accounts, nothing had arisen from the work undertaken to date which suggested there were any issues and no substantial amendments were required.
- (iii) The delay in completing the accounts resulted from the County Council, like most authorities, not having the infrastructure asset records now required to be included. A statutory instrument to be introduced on Christmas Day would temporarily address the issue to enable the accounts to be signed off and the audit completed by the end of the year. A report on the external audit of the County Council and Pension Fund accounts would then be presented to the Committee in January.
- (iv) The introduction of the Statutory Instrument would prevent an unnecessary burden being placed on many local authorities and external auditors by allowing time for both, in discussion with CIPFA, to consider the best way to measure and account for infrastructure assets in the future. It was a complex issue affected by a number of factors that would take time to resolve.
- (v) Members noted with concern the substantial increase in the external auditors' fees which essentially equated to a 150% increase. Members further noted that as the Council had joined PSAA (Public Sector Audit Appointments), which undertook the procurement process and ultimately appointed the external auditors for many local authorities and police bodies collectively, the Council was not able to negotiate this fee.

RESOLVED:

That the update on the external audit for 2021/22 and the appointment of external auditors from 2023/24 be noted.

24. East Midlands Shared Service - Internal Audit Work undertaken by Nottingham City Council

The Committee considered a report of the Director of Corporate Resources which provided detail on the internal audit of the East Midlands Shared Service (EMSS) for the year 2021/22 undertaken by Nottingham City Council's Internal Audit Service. The report also set out the progress made against the planned internal audit work for EMSS for the year 2022-23. A copy of the report, marked 'Agenda Item 7', is filed with these minutes.

The Chairman welcomed Mr Simon Parsons, Audit Manager at Nottingham City Council, to the meeting.

Arising from discussion, the following points arose:

- (i) There had been a delay in the completion of the audit this year and only limited assurance could be provided in respect of the HR and Payroll systems. This had been as a result of challenges faced by EMSS in implementing the new Oracle Fusion system.
- (ii) Members noted that it had not been possible for some of the planned audit work to be completed by Nottingham City Council's Audit Service due to data and document access issues. EMSS staff also had reduced capacity to provide the support needed to complete planned audits given their focus on implementing the new system.
- (iii) Whilst many of the issues had now been resolved, there were still some ongoing problems being experienced in respect of the HR and Payroll systems which had also added to the limited assurance opinion being given.
- (iv) There had been a reduction in the assurance given (reduced from significant to moderate) in the accounts payable audit. Members noted that this had also been due to data access issues as the new Fusion system had been implemented, again preventing some planned audits from being completed.
- (v) A member questioned why a value for money audit was not intended to be undertaken as part of Nottingham City Council's audit plan for EMSS next year. Members noted that performance of the EMSS had recently been considered by the County Council's Scrutiny Commission which had expressed concerns that the system was not working as effectively or cost effectively as it should. Mr Parson's advised the Committee that Nottingham City Council's Audit Service had been tasked with auditing EMSS as it operated, and so no such audit was planned. As the procurement had been a joint exercise this would be a matter for both partner Councils to consider undertaking jointly. Members acknowledged that it would not be appropriate for Nottingham City Council to undertake such an audit in isolation as part of its normal annual audit process.

RESOLVED:

That the internal audit of the East Midlands Shared Service undertaken by Nottingham City Council be noted.

25. Risk Management Update

The Committee considered a report of the Director of Corporate Resources which provided an overview of key risk areas and the measures being taken to address these. The report also provided an update on mitigating the risk of fraud. A copy of the report marked 'Agenda Item 9' is filed with these minutes.

As part of this item the Committee received a presentation from the Director of Adults and Communities on Corporate Risk 7.4 (Social Care Reform, implementation of charging reform and assurance processes). A copy of the presentation slides is filed with these minutes.

Arising from discussion, the following points were made:

Risk Presentation

- (i) Whilst there was still some uncertainty, following the Chancellors Autumn Statement last week, it was now understood that the introduction of the cap on personal care costs, changes to the financial threshold for assistance and the ability for self-funders to ask local authorities to arrange their care would be delayed until 2025. This delay had been welcomed by many from a delivery, capacity and cost perspective and it reduced the current risks being faced by the Council across all those areas. A member commented, however, that the delay, particularly regarding the cap on care costs, would be disappointing for many residents.
- (ii) Members noted that a key risk related to the fair cost of care. The Government had asked all local authorities to review over Summer 2022 what a cost of care package might look like based on a formula provided by Government. The Council had submitted its views to the consultation in October following consideration by the Cabinet. Notwithstanding the delay of some of the charging reforms, much of this information was now already in the public domain and would likely give rise to expectations by adult social care providers that such costs identified through that exercise (which had been identified as being higher than those currently delivered) would be met by local authorities. This could add inflationary pressure on all local authorities that may have to be addressed when next setting fees for care homes and domiciliary care.
- (iii) The Committee was pleased to hear the work taking place to mitigate the risks arising from the proposed reforms which included quarterly reporting on progress to the Adults and Communities Overview and Scrutiny Committee.
- (iv) A self-assessment assurance document was being prepared for submission to the Care Quality Commission in April next year. It would be unlikely the Authority would get an excellent rating given feedback received through the annual service user and carers survey. Such reviews currently placed the Council in the third/fourth quartile compared to other similar authorities. A Member commented that whilst the Council provided similar services, feedback received had been consistently worse in Leicestershire County for some years. It was not clear why, other than expectations in Leicestershire seeming to be higher than in other areas. This had been a long standing issue and assurance was provided that this was high on the agenda for the Adults and Communities Overview and Scrutiny

Committee.

- (v) Some additional funding had been announced in the Autumn Statement which was expected to be allocated in 2023. However, it was not clear how much this would be or what conditions would be attached to this. Until such time as allocations were announced and guidance received the Council would be unable to determine how best to use this locally. It was also thought that the overall funding announcements assumed a condition of the funding that the Council raised council tax next year by the maximum amount.

Risk Register

- (vi) Members were reassured that whilst there had been a dip in resources in recent times due to staff leaving or retiring, there continued to be sufficient capacity within the Service to deliver the work set out in the audit plan. The Audit Service had now, however recruited and was back to full capacity which was welcomed.
- (vii) Members commented that risk 4.2 (concessionary travel appeal by Arriva) was still showing on the Register, but it had been expected that this matter had now been resolved. Members requested, and the Director undertook to provide, an update on this risk at the following meeting.
- (viii) Members questioned the separation of risks relating to those seeking asylum in the County as referenced in risk 1.9 under the Medium Term Financial Strategy, and those seeking asylum as a result of the war in Ukraine, set out in risk B. It was noted that they had been separated as specific funding had been allocated by Government to support those fleeing the war in Ukraine, but it was recognised that this was not a short term issue and posed longer term risks for the Council across a range of service areas. The Director undertook to liaise with the risk owner to determine if and when the two risks should be merged.

RESOLVED:

- (a) That the current status of the strategic risks facing the County Council be approved;
- (b) That an update on risk 4.2 (concessionary travel appeal by Arriva) be provided at the next meeting of the Committee;
- (c) That the presentation provided on risk 7.4 (Adult Social Care Reform) be noted and a copy of the presentation slides circulated to all members of the Council for information;
- (d) That a presentation on risk 7.6 (If Adults and Communities fail to provide robust evidence of good practice for the CQC inspectors, then this will result in a poor inspection outcome and incur reputational risk alongside extra resources and possible external governance to undertake any actions required to make the improvements necessary to fulfil statutory requirements) be provided at the next meeting as part of the usual Risk Management update;
- (e) That the update regarding mitigating the risk of fraud be noted.

26. Clinical Governance Annual Report 2021/22

The Committee considered a report of the Director of Public Health which provided an update on clinical governance monitoring arrangements and key issues dealt with since November 2021. A copy of the report marked 'Agenda Item 10' is filed with these minutes.

In considering the overview arrangements as set out in the appendix to the report, a Member queried if the balance was right in terms of the information presented to this Committee and that presented to the Health Overview and Scrutiny Committee. Members agreed that it was necessary for this Committee to assure itself that the clinical governance processes put in place were appropriate and working effectively. However, it was suggested that exception reports and lessons learnt might be better considered and monitored through the scrutiny process. The Director of Law and Governance agreed to consider the current reporting approach as detailed in the report to ensure the proper balance was being struck.

RESOLVED:

- (a) That the clinical governance annual report for 2021/22 be noted;
- (b) That the Director of Law and Governance be requested to consider the current reporting approach to the Committee and the Health Overview and Scrutiny Committee, as detailed in the appendix to the report, to ensure the proper balance was being struck.

27. Contract Procedure Rules - Annual Update 2021/22

The Committee considered a joint report of the Director of Corporate Resources and the Director of Law and Governance which provided an update on the operation of the Council's Contract Procedure Rules between 1st July 2021 and 30th June 2022. A copy of the report marked 'Agenda Item 11' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) In response to questions raised regarding contract spend during the Covid-19 outbreak, assurance was provided that whilst nationally there may have been problems, locally no such issues had been identified. The Director of Corporate Resources confirmed that internal guidance had been issued early on to all departments to ensure that, whilst additional money allocated by Government during the pandemic had often been subject to a short spending timeframe, normal contracting processes were followed as far as possible.
- (ii) Members noted that a national Covid-19 Inquiry by Baroness Hallet had been commissioned by the Government and as part of that, management of procurement processes by local authorities would be considered.
- (iii) Approved exceptions and extensions had increased substantially but Members were assured that whilst this was partially due to Covid, this was also as a result of improvements now introduced through the new Oracle Fusion system which provided increased visibility on lower spend contracts which had now been captured by this report.

- (iv) Members raised concerns that the report did not contain adequate information regarding the exceptions and extensions agreed either by the Cabinet or Officers under delegated powers during the period and so could not assure itself that proper processes had been followed.

RESOLVED:

- (a) That the contents of the report on the operation of the Contract Procedure Rules between 1 July 2021 and 30 June 2022 is noted;
- (b) That it be noted that the Committee is of the opinion that it is unable to draw any conclusions regarding the adequacy of the Council's processes in agreeing contract exceptions and extensions in accordance with the Council's Contract Procedure Rules based on the information now provided;
- (c) That the Director of Corporate Resources and the Director of Law and Governance be requested to present a further, more detailed report at the next meeting of the Committee on the processes adopted for approving and recording contract exceptions and extensions and providing more detail on those exceptions which required approval by the Cabinet.

28. Internal Audit Service - Progress Against Plan

The Committee considered a report of the Director of Corporate Resources, which provided a summary of work conducted during the period 9 April to 28 October 2022 and an update on progress with implementing high importance recommendations. A copy of the report marked 'Agenda Item 12' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) There had been no new high importance recommendations during the period. Progress on those that remained had been slower than expected, but when tested, the delays were identified to be for valid reasons and no further issues or concerns had been raised.
- (ii) The overspend on the Early Years' grant had totalled approximately £4m. Members noted that this had been previously reported to the Committee and had oversight through the relevant overview and scrutiny committee.
- (iii) A Member questioned the further extension of the action date for the ICT Externally Hosted Contracts audit which had first been reported to the Committee in July 2020. The Director confirmed that the dates had been pushed back due to system changes being introduced. Previously contracts had been held within departments by their own contract management teams. However, work had been undertaken to now have these stored centrally to provide better oversight and control. The implementation of this system had taken longer than expected and Covid had also impacted. The recommendations had also been expanded considerably to cover the whole Council and to provide for the development of a toolkit for officers providing advice on best practice in respect of contract/procurement matters which had resulted in extra work.

RESOLVED:

- (a) That the internal audit work and progress with implementing high importance recommendations during the period 9 April to 28 October 2022 be noted;
- (b) That future reports provide an explanation or include a glossary of the acronyms used to help improve both member and public understanding.

29. CIPFA's Audit Committee Guidance

The Committee considered a joint report of the Director of Corporate Resources and the Director of Law and Governance which provided an update on revised guidance produced by the Chartered Institute of Public Finance and Accountancy (CIPFA) published in October 2022 and set out the implication of this on the role, responsibilities, and makeup of the Committee, including the need to amend its terms of reference. A copy of the report marked 'Agenda Item 13' is filed with these minutes.

Arising from discussion, the following points were made:

- (i) A Member welcomed the guidance and its acknowledgement that audit committees should be non-political. Members highlighted that this Committee had operated on this basis for some years, with no need for political group pre-meetings, which it agreed should be commended.
- (ii) A Member suggested that the workload of the Committee would likely increase in light of the new guidance which included a long list of core functions that all audit committees should undertake. It was questioned if this would likely result in the Committee being split into a separate audit and governance/standards Committee or if there might be a need for additional meetings. The Director of Law and Governance emphasised that the current Terms of Reference for the Committee already included the core functions listed in the guidance and so only minor updates had been made as set out in the Appendix. For now, therefore, it was not proposed that the structure of the Committee would change, though this could be reviewed at any time if considered necessary in the future.
- (iii) Members requested a private briefing to enable them to better understand the guidance and how this affected their role and responsibilities. A Member commented with concern that the Committee already had a substantial workload and any further increase might affect the Committee's ability to undertake its role effectively. A briefing would enable discussion on any such practical capacity issues which might need to be addressed.

RESOLVED:

- (a) That the update now provided on the Chartered Institute of Public Finance and Accountancy (CIPFA) Audit Committees: Practical guidance for local authorities and police 2022 be noted;
- (b) That revised membership and terms of reference for the Corporate Governance Committee contained in Part 2 and Part 3 of the Council's Constitution respectively and as set out in Appendix C be noted and support;

- (c) That a briefing be held for members of the Committee to discuss the wider implications of the CIPFA guidance, how this affected their role and the work of the Committee and what practical capacity issues might need to be addressed;
- (d) That the comments now made by the Committee be reported to the Constitution Committee at its meeting on 25th November 2022.

30. Governance Arrangements - External Bodies

The Committee considered a joint report of the Chief Executive, Director of Corporate Resources and Director of Law and Governance which advised of the governance arrangements for external bodies in relation to which the County Council had a key role (i.e. the East Midlands Freeport, the Eastern Shires Purchasing organisation, the Local Government Pension Scheme (LGPS) and LGPS Central, the East Midlands Shared Service and Active Together. A copy of the report marked 'Agenda Item 14' is filed with these minutes.

In welcoming the report a Member asked for further information on how these bodies were scrutinised. The Director of Law and Governance undertook to provide this information outside the meeting. It was noted, however, that as external bodies with their own governance structure the Council's scrutiny bodies would have only a limited role in some instances.

RESOLVED:

- (a) That the contents of the report on the current governance arrangements for external bodies in relation to which the County Council had a key role be noted;
- (b) That it be noted further updates on the governance arrangements for these bodies and any new similar such bodies established would be provided to the Committee as appropriate;
- (c) That the Director of Law and Governance be requested to provide more detail on how these external bodies were scrutinised after the meeting.

31. Treasury Management Update

The Committee considered a report of the Director of Law and Governance which set out the actions taken in respect of treasury management for the quarter ending 30 September 2022 (Quarter 2). A copy of the report marked 'Agenda Item 15' is filed with these minutes.

A Member commented that the economic outlook for the UK and globally would have a significant impact on the County Council and what it was seeking to deliver in terms of growth in the County. It was noted that such impacts would be addressed and accounted for as part of the refresh of the Council's Medium Term Financial Strategy which would go through the usual scrutiny and Cabinet process in the New Year.

RESOLVED:

That the update now provided on actions taken in respect of treasury management during the quarter ending 30 September 2022 be noted.

32. Revised Members' Planning Code of Good Practice

The Committee considered a report of the Director of Law and Governance which presented a revised Members' Planning Code of Good Practice for consideration prior to it being submitted to the County Council for approval on 7th December 2022. A copy of the report marked 'Agenda Item 16' is filed with these minutes.

Members welcomed the revised Code and commended the good behaviour of Members and officers of the County Council who complied well with both this Code and the Members' and Officers' Code of Conduct.

A Member queried whether the section on site visits should also include some information on the circumstances in which a site visit should take place and requested that the Director of Law and Governance consider whether any changes might be needed in this regard.

RESOLVED:

That the County Council be recommended to adopt the revised Planning Code of Good Practice as appended to the report, subject to the Director of Law and Governance being requested to consider whether any further information should be included in the Site Visit section of the revised Code setting out when a site visit should take place.

33. Local Government and Social Care Ombudsman Annual Review 2021/22 and Update on Complaints and Freedom of Information Requests

The Committee considered a joint report of the Chief Executive and the Director of Corporate Resources which advised the Committee of the Local Government and Social Care Ombudsman annual review letter for the Authority for 2021/22, provided an update on improvements to the Authority's complaints procedures and on handling Freedom of Information Act and Environmental Information Regulations. A copy of the report marked 'Agenda Item 17' is filed with these minutes.

A Member raised concerns that the report suggested that no public reports had been published by the Ombudsman but commented that in October Members had been notified of a public report in respect of an adult social care matter. The Director of Law and Governance explained that the report was correct as this did not cover the period up to and including October 2022 when the public report referred to had been received. Members noted that this would be captured in the following years annual report to this Committee in accordance with the Council's usual reporting cycle. The Director of Law and Governance undertook to specifically confirm the period covered by the report now presented.

In response a query that this would be some 12 months after the public report had been issued, Members were assured that proper processes had been followed in that the Ombudsman's public report had been considered as an urgent item to the Cabinet at its meeting on 25th October 2022 immediately after the report's release (the report having been embargoed by the Ombudsman up to 20th October). The Cabinet report confirmed that the criticisms of the Ombudsman had been accepted and set out the actions required and the remedial work taking place to address these. Members noted that the Director of Adults and Communities had attended the Cabinet meeting to answer questions and provide details of the work taking place.

Members further noted that the remedial work required was now almost complete and that details would be reported to the Ombudsman in 6 months time (i.e. by April 2023) in line with its reporting requirements.

It was suggested that if a Member wished to consider further the issues arising from the Ombudsman public report or the actions taken by the Adults and Communities Department to address these, then this could be suggested as a possible future item for consideration by the appropriate Overview and Scrutiny Committee.

Whilst noting the information now provided, Mr G. A. Boulter CC requested that his concerns now raised be noted by the Committee.

RESOLVED:

- (a) That the Local Government and Social Care Ombudsman annual review letter for the Authority for 2021/22 be noted;
- (b) That the Director of Law and Governance be requested to clarify the period covered by the report after the meeting;
- (c) That the concerns now raised by Mr Boulter CC be noted.

[Subsequent to the meeting the Director of Law and Governance confirmed to Members that the Local Government and Social Care Ombudsman annual review letter for the Authority for 2021/22 covered the period 1st April 2021 up to and including 31st March 2022. Members were also directed to the Cabinet report published on the Council's website (<https://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=6745&Ver=4>) which provided detail on the Ombudsman Public Report referred to.]

34. Date of next meeting.

RESOLVED:

That the next meeting of the Committee be held on 27th January 2023 at 10.00am.

10.00 am - 12.05 pm
21 November 2022

CHAIRMAN

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