

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Audit and Governance Committee**
held on Thursday, 10th March, 2022 in the Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor M Simon (Chair)
Councillor D Marren (Vice-Chair)

Councillors R Bailey, C Bulman, B Evans, A Harewood, M Houston,
P Redstone and M Sewart

EXTERNAL AUDITORS/CONSULTANTS

Muhammed Uzair Khan- Mazars (via Microsoft Teams)
Jonathan Goolden- Independent Legal Advisor

OFFICERS IN ATTENDANCE

David Brown- Director of Governance and Compliance and Monitoring Officer
Alex Thompson- Director of Finance and Customer Services and Section 151
Officer
Josie Griffiths- Head of Audit and Risk
John David- Interim Director of Infrastructure and Highways (via Microsoft
Teams)
Michael Todd- Acting Internal Audit Manager (via Microsoft Teams)
Alan Ward- Complaints Officer (via Microsoft Teams)
Helen Davies- Democratic Services Officer

64 APOLOGIES FOR ABSENCE

There were no apologies for absence.

65 DECLARATIONS OF INTEREST

In the interests of openness and transparency, in respect of item 9) Member Code of Conduct Sub Committee Report (Handforth Parish Council) the Chair noted that three members of the Committee (Councillors Carol Bulman, Rachel Bailey and Margaret Simon) had formed a Hearing Sub-Committee for Handforth Parish Council, however none of the meetings went ahead as they were either postponed or cancelled.

In the interests of openness and transparency in respect of item 9) Member Code of Conduct Sub Committee Report (Handforth Parish Council), both David Brown, Director of Governance and Compliance and the Monitoring Officer and Jamie Hollis, Interim Head of Legal had received complaints made against them that related to Handforth Parish Council and these complaints were not able to be resolved prior to the meeting. As a consequence of this, both officers were not in a position to give any legal advice to the Committee on this matter.

It was noted that the Committee had been provided with an Independent Legal Advisor, Jonathan Goolden, but officers would remain the room to answer questions of fact if needed.

In the interests of openness and transparency, in respect of item 9) Member Code of Conduct Sub Committee Report (Handforth Parish Council), Councillor David Marren noted he had received email correspondence from and although he had read the information, it did not predetermine his view and he was approaching the meeting with an open mind.

Councillor David Marren declared a pecuniary interest in respect of agenda item 8) Internal Audit Plan 2022/23 as the report mentioned Orbitas and Councillor Marren will be the Chair of this Alternative Service Delivery Vehicle, (ASDV), for the next few weeks.

In the interests of openness and transparency, in respect of agenda item 10) Risk Management Update, Councillor Patrick Redstone declared he was a school governor and schools were referred to as part of the update. Councillor Redstone declared this interest during agenda item 10.

66 PUBLIC SPEAKING TIME/OPEN SESSION

Visiting Councillor Liz Wardlaw attended the meeting and addressed the Committee in her role as Chair of the Scrutiny Committee in respect of agenda item 10) Risk Management Update and 9) Member Code of Conduct Sub-Committee Report (Handforth Parish Council).

Councillor Wardlaw noted her concern in relation to Strategic Risk and Corporate Priority SR2: NHS Funding and Integrated Care System specifically changes to NHS colleagues, the impact of changes on services and residents and the need to ensure budget setting is robust and joined up.

Councillor Wardlaw also noted concern in relation to Risk SR13: Reputation specially the reputation of the council in the wake of negative national interest that related to Handforth Parish Council. Councillor Wardlaw noted the need to be mindful of relationships with residents and applying professionalism and speed when dealing with enquiries as some feedback from parish councils alluded to a perceived wall of silence from officers and a lack of joined up thinking.

Ashley Comiskey-Dawson, the clerk to Handforth Town Council attended the meeting and spoke in respect of agenda item 9) Member Code of Conduct Sub-Committee Report (Handforth Parish Council). Mr. Comiskey-Dawson noted the high costs associated with the report before the Committee today arising from an initial complaint emanating over 12-months earlier. Mr. Comiskey-Dawson had experienced distress during this time but that he had followed up with the Local Government Ombudsman as he felt that a bullying culture was present by elected members at all levels of governance. He maintained a need for transparency and facts.

Chairman of Handforth Town Council, Councillor John Smith attended the meeting and spoke in respect of agenda item 9) Member Code of Conduct Sub-Committee Report (Handforth Parish Council). Councillor Smith gave reassurances to the Committee that Handforth had changed the name from Parish to Town in an attempt to rebuild the Town Council devoid of the negative

associations it had previously demonstrated. Councillor Smith noted that in the seven years he had served as a town and parish councillor, he had not experienced the positive partnership working now being demonstrated.

Councillor Smith made two requests to the Committee:

- a) He noted that information had been submitted about him that was inaccurate and requested that 60 pages be removed from the published report in an attempt to discourage the spread of inaccurate information; and
- b) The report contained correspondence that was irrelevant to the investigation and contained insulting comments. He requested those elements of the report be redacted or removed in its entirety.

67 MEMBER CODE OF CONDUCT SUB-COMMITTEE REPORT (HPC)

Jonathan Goolden attended the meeting as an Independent Legal Advisor to the Committee. David Brown, Director of Governance and Compliance, and Monitoring Officer advised the Committee that he would remain in the room but was there to answer factual questions on the report only and that Jamie Hollis, Interim Head of Legal would add any detail.

The Interim Head of Legal advised the Committee that across the borough of Cheshire East, there were 108 parish councils comprising of over 1000 parish Councillors. The overwhelming majority had no interaction with the standards process at all.

A working group comprised of members from this Committee had been formed to reconsider the Cheshire East code of conduct and process. Sufficient and robust training and development would be offered to colleagues within Town and Parish Councils, to implement changes and be sufficiently adequate for councillor to challenge where appropriate and resolve local issues.

The Committee were advised that the council had received a number complaints about and between Handforth Parish Council, and this was the first practical application of the member complaints process in five years.

In total, between 2018-2020 a total of 21 formal complaints were received, and rose significantly after media attention in 2020/21.

The costs and resources to deal with these complaints were outlined within the report, and the Committee were advised that the time and proportionality were key to its deliberations on this matter.

Recommendation 2.1 b and c as outlined within the report had been amended after the papers had been published to reflect as follows:

2.1. That the Committee –

- b) Request that the Audit & Governance Committee Working Group consider any consequential amendments to the Code of Conduct and associated process arising from this report;
- c) [Request publication of the investigation reports referred to in this report, following appropriate redaction, within 14 days of this meeting]

The Committee challenged the amendment to the recommendations after publication of the agenda, Councillor David Marren gave reassurances to the Committee that it was normal practice to brief the Chair and Vice Chair of any changes post-publication, and the changes were due to the potential for confusion and lack of clarity on 2.1 b. The new wording made the recommendation clear, and the Chair was confident had these changes not been implemented now, the Committee would have had the same debate to change the wording.

The Committee were reminded that this was a forward looking review, to learn from and it would inform future process.

There was some discussion by the Committee that included:

- The acknowledgement that whilst it was appropriate to outsource this work, there was a substantial cost associated with this report;
- The adoption of the new process would help to mitigate anything like this happening in the future and the need to escalate complaints in a timely manner;
- The personal cost to those involved and the need to support the volunteers within the town and parish councils appropriately; and
- Any emails received by Members related to this matter tended to focus on looking backwards and addressed incidents already dealt with, if Members received such correspondence, they should be directed to the Monitoring Officer for him to deal with appropriately;

The Chair thanked the members of the Sub-Committee and the Committee for robust debate that demonstrated mutual respect. It was noted that this report had come at a financial cost of 25p to every resident of the borough. It was also noted that town and parish councillors work hard and were effective within the structure of democracy and governance, and the incidents at Handforth were exceptional.

The Committee had a substantial debate that noted the importance of impressing a positive working culture, behaviours and conduct for new councillors during their induction period. Where the services of the Monitoring Officer have not been employed by town and parish councillors, issues had been resolved internally by councillors supporting and challenging with mutual respect and tolerance. As part of the lessons learned, issues arose when there was a lack of cooperation by people to engage as part of the process, the Committee were advised that compliance with standard was an important aspect of ethical conduct. The council was working to ensure the resources were available to address issues at the appropriate time.

The Committee were in agreement with part a) and b) of the current recommendation and moved to c) to discuss further the question of publication.

The earlier comments from the public speakers in respect of redactions and redrafts were noted as part of a learning opportunity for code of conduct working group. The current code of conduct favoured confidentiality over transparency.

The Independent Legal Advisor gave the Committee some context in relation to the legal position of confidential information vs that in the public domain.

Breaches of the code of conduct were considered in light of councils arrangements, an assessment decision was taken with the assistance of independent persons and the outcome would be either: no action, some action or refer for investigation. Any unsubstantiated allegations would be deemed confidential as the privacy would exceed public interest in respect of transparency. However in the case law: *Deadman vs Information Commissioner* this instance saw that the balance had shifted person, the individual concerned was no longer a councillor, but could still stand and by then the balance had shifted to public interest and transparency.

Should the council receive any Freedom of Information (FOI) requests it would be at liberty to publish the reports in principle subject to redactions.

The Interim Head of Legal advised that the council could comply with legal deadlines for publication plus any redaction that needed to be done.

The Independent Legal Advisor added that in terms of publication of report vs report and schedule and precedent, his advice was to publish reports as this would be proportionate to balance transparency to avoid disclosure of personal data. This would not prejudice how the council drafted arrangements for the future- as this was an exceptional matter. Report publication would not set a binding precedent.

The Chair summarised the main points:

- thanks were extended to the public speakers, the points raised during public speaking time did inform the discussion today;
- The whole experience had been an exercise in learning and handling such a complex complaint. Town and parish councillors were volunteers and they were greatly valued what the work they undertook for the community;
- There were lessons to take away in terms of managing work load and resources;
- This Committee needed assurances in respect of the code of conduct training, and the points raised within the reports would inform continuing working group discussions; and
- Whilst the current process favoured not publishing the focus on the particular report was balanced on confidentiality vs public interest.

Finally the Independent Legal Advisor commended to the working group and Committee the Local Government code of conduct and guidance and process guidance for consideration.

The Committee thanked the public and the valuable experience and advice from the Independent Legal Advisor and officers who have carried the work load ahead of this item coming to Committee.

RESOLVED: That:

- a) the report be received and noted;
- b) any consequential amendments to the Code of Conduct and associated process arising from this report be considered by the Audit & Governance Committee Working Group;

- c) following appropriate redaction, within 14 days of this meeting (25 March 2022), the investigation reports referred to in this report be published.

68 MINUTES OF PREVIOUS MEETING

The Committee considered the minutes of the previous meeting and requested the following changes:

Item 9) Statement of Accounts, page 9 to read:

- The Committee asked to record its thanks to all those in the audit team and external audit team and congratulations to the work being carried out.

Councillor Mike Sewart noted that on page 6, item 53) update on the local ward budgets and 'Top Up' service pilot scheme the substantive issue was for the Highways and Transport Committee and they would be providing the outcome on the future of the scheme.

Councillor David Marren added that the Committee had been advised that a copy of the government criteria for the Highways funding had been promised to the Committee but to date had not been received.

Whilst he appreciated the substantive issue was for the Highway and Transport Committee, the amendment from Council did not mention a pilot scheme, the Chair agreed that it appeared that a decision had been implemented that had not been agreed and this was a matter that needed to be resolved.

RESOLVED:

That subject to the changes outlined above, the minutes be accepted as a correct and accurate record.

69 ACTION TASKS

The Committee reviewed the action tasks from the previous meeting.

Highways Funding: was deferred to Josie Griffiths- for a potential item on the Work Programme.

Partnerships Funding: David Brown, Director of Governance and Compliance and Monitoring Officer circulated a note to the Chair and Vice-Chair for consideration ahead of anything further being added to the Work Programme.

The other items remained on the Action Log for progression as soon as possible. It was noted that John David, Interim Head of Highways and Infrastructure had been present via Teams to address the Committee on item that related to the Update on the Local Ward budgets and 'Top Up' service pilot scheme but had to leave so his item would return to a future committee meeting.

RESOLVED:

That the Action Log be received and noted.

70 EXTERNAL AUDIT PROGRESS AND UPDATE REPORT

Muhammed Uzair Khan, External Auditor from Mazars attended the meeting via Microsoft Teams and updated the Committee on the report and update.

The Committee were advised that a national evaluation issue had been identified that related to the value of infrastructure assets. Two major suppliers had communicated to their clients intention to pause sign-off on all local authority audit reports and opinions until this issue could be resolved. Mazars took the same approach with Cheshire East, risk was minimal and should not have a material impact on service delivery, however it could affect the amount the council value assets.

The Committee thanked the External Auditor and Alex Thompson, Director of Finance and Customer Services and Section 151 Officer for their responses to this issue, and noted that the valuation point of assets are always a point in time and never fluid.

RESOLVED:

That the verbal update be received and noted.

71 CERTIFICATION OF GRANTS AND CLAIMS

Alex Thompson, Director of Finance and Customer Services and Section 151 Officer advised the Committee that there were two items to note within the report for this item and they related to external audit and teachers pension.

RESOLVED: That

- a) the findings of the external audits regarding these certification processes be received and noted;
- b) no errors or exemptions were found following the testing of the 2020/21 Housing Benefit Subsidy claim and no recommendations for improvements were made to the DWP be noted.
- c) a number of minor findings were reported to management following the audit of the Teachers' Pension Certificate be noted.

72 INTERNAL AUDIT PLAN 2022/23

Councillor David Marren left the room.

Josie Griffiths, Head of Audit and Risk advised the Committee that the current plan was based on current resource and priorities rather than the traditional 3-year plan previously used, this was to enable agility and the focus to be on emerging issues.

Current resources would ensure sufficient work to be undertaken to deliver an annual opinion for 22/23, but fragility within the resource was noted as two posts were being covered with temporary posts. This was allowing work to be delivered efficiently and effectively.

The Chair thanked the Head of Audit and Risk for the team response and efforts during challenging times without a full suite of staff.

There was some discussion on:

- Complaints via schools that the B4B financial system had not worked properly for 3-months, the Head of Audit and Risk advised there was ongoing planned learning from the B4B system but any feedback from Members would be helpful;
- The Audit team was carrying small vacancy but that had not impacted on work, options that related to apprenticeships had been explored, but the recruitment issue to this sector was being seen at a national level. Whilst there was a place for agency staff, there was an economic cost and a potential risk that dependency on that resource could leave the service vulnerable;
- Internal Audit provided services to PATROL and Cheshire East was the Accountable body for the Cheshire and Warrington Local Enterprise Partnership (CWLEP), the Committee noted that in view of bringing in income from other sectors the council must have assurances on the permanence of the work force to avoid paying additional costs for temporary/agency staff but then losing income from that work outside of capacity. The Committee requested an update to next committee and a watching brief on this area of work.

It was noted by the Committee that the external auditors had stayed on the Teams call and were interested in the discussions by the Committee.

RESOLVED: That:

- a) the Internal Audit Plan 2022/23 be received and noted;
- b) priority work during quarters 1 and 2 along with additional areas for consideration during quarters 3 and 4 be received and noted; and
- c) progress against the plan, and the priorities for the last 6 months be reported back as part of the regular updates to the Committee.

73 RISK MANAGEMENT UPDATE

Councillor David Marren came back into the room.

Josie Griffiths, the Head of Audit and Risk introduced the report to the Committee and invited any questions or comments.

The Committee noted the earlier comments that related to reputational risk raised during public speaking time by Councillor Liz Wardlaw. Some Committee members had also had similar feedback from parish councils in respect to a perceived wall of silence from officers and a lack of joined up thinking. There was some discussion about the need to understand customers in times of crisis and how front-line officers can best respond to them.

There was an acceptance from the Committee that Place-based activities for the council posed the greatest risk to reputation given that residents will judge these services more because they have direct experience with them.

RESOLVED:

That the Strategic Risk Update for Quarter 3 2021/22 be received and noted.

74 APPOINTMENTS

Jamie Hollis, Interim Head of Legal introduced the report to the Committee that provided an update to the Committee on the appointment of co-opted independent members to the Audit and Governance Committee, and a briefing on the appointments process for the Council's Independent Persons.

Currently one co-opted member of the Committee had been recommended for approval from a panel that consisted of Members from this Committee and two Independent Persons had been recommended for approval via for approval by officers who had undertaken a recruitment and assessment process.

The Committee noted there was still one position open for the remaining co-opted Independent Member and asked that this vacancy be advertised as soon as possible.

RESOLVED:

That:

- a) the report be received and noted;
- b) the co-option of the first Independent Member to the Committee (identified within the report) for a period of 4 years; and the appointment of two Independent Persons (identified within the report) under the Localism Act 2011, for a period of 4 years be recommended to full Council; and
- c) the remaining co-opted independent member vacancy for the Audit and Governance Committee be re-advertised using the same process and member panel to shortlist and interview and any recommendations be considered by this Committee before any endorsement to full Council.

75 UPHELD COMPLAINTS TO THE LOCAL GOVERNMENT OMBUDSMAN

Alan Ward, Complaints Officer attended the meeting via Microsoft Teams to introduce the report. The Committee were advised there had been two upheld complaints between 1 December 2021 and 31 January 2022. One related to Special Educational Needs and Disabilities (SEND), and one to Highways.

The Committee considered the report and the following points were made:

- The costs attributed to upheld complaints through delays by the council;
- The acknowledgement that officers get things wrong but when complaints were upheld the possibility of appropriate measures to motivate improvement; and
- Reports to Councillors via the Town and Parish Councils that complaints are not resolved and the impact of this on the reputation of Cheshire East Council.

The Committee considered what reassurances could be implemented, the Director of Governance and Compliance and the Monitoring Officer noted that the

Committee had agreed, as part of the Action Tasks, that a consolidated report of upheld complaints would be compiled to help identify themes and trends. The Chair requested that each theme be considered on its own merit to recognise lessons learned and seek reassurances that things will get better and that the reputation of the Council would not drop.

RESOLVED:

That the report be received and noted.

76 STANDING ITEM: WORK PLAN 2021/22 AND 2022/23

There was a request by the Committee for further detail on the Medium Term Financial Strategy Earmarked Reserve that included criteria of spend and spend to date.

The Director of Finance and Customer Services and Section 151 Officer noted that the same question had been raised at Corporate Policy Committee and as a result this had been added to the Work Programme of Finance Sub Committee for June where speculative figures would be used not forecasts. To avoid duplication of work this Committee could attend that meeting and receive their report and minutes for assurance.

RESOLVED:

That:

- a) the Work Programme be received and noted;
- b) the Work Programme be brought back to the Committee throughout the year for further development and approval;
- c) the Chair and Vice Chair meet John David, Interim Director of Infrastructure and Highways via Microsoft Teams to discuss potential items for this Committees Work Programme and shared with the Committee;
- d) the item on the Medium Term Financial Strategy Earmarked Reserve be added to this Committees Work Programme to review the decisions made by Finance Sub-Committee; and
- e) an item on Reputational risk and assurances on the customer experience be added to this Committees Work Programme.

The meeting commenced at 10.30 am and concluded at 2.38 pm

Councillor M Simon (Chair)