CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Council**
held on Wednesday, 1st February, 2023 in the
The Assembly Room - Town Hall, Macclesfield SK10 1EA

PRESENT

Councillor R Fletcher (Deputy Mayor/Vice Chair)

Councillors Q Abel, S Akers Smith, L Anderson, M Beanland, L Braithwaite, C Browne, J Buckley, C Bulman, P Butterill, J Clowes, S Corcoran, L Crane, T Dean, D Edwardes, S Edgar, H Faddes, A Farrall, JP Findlow, K Flavell, S Gardiner, M Goldsmith, A Gregory, P Groves, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, I Macfarlane, N Mannion, A Martin, A Moran, R Moreton, D Murphy, J Nicholas, J Parry, S Pochin, B Puddicombe, J Rhodes, J Saunders, M Sewart, L Smetham, D Stockton, A Stott, R Vernon, M Warren, P Williams and J Wray.

The Deputy Mayor paid tribute to the late Councillor Stephen Carter and reported that the Mayor had attended his funeral, along with many fellow councillors and officers. He invited the Group Leaders or their nominees to say a few words in tribute and then asked all to stand for a minute of silent reflections in memory of Councillor Carter.

The Deputy Mayor stated that the meeting was being held to meet the requirements of Schedule 7 of the Local Audit and Accountability Act 2014, which was to hold a meeting to consider a Public Interest Report and its recommendations within 1 month of receipt of the report and after issuing a public notice of the meeting 8 days in advance.

The Deputy Mayor reported that he was proposing to vary the Council's Procedural Rules of debate. He would invite the Chief Executive to speak by way of introduction to the cover report and then invite Grant Thornton to introduce the Public Interest Report. He would then allow Members to ask questions of the auditors and following this move to debate. He reminded Members that speaking time during debate was limited to 3 minutes and that members may only speak once. He had agreed to allow Group Leaders to speak for 5 minutes during the debate and would give them the opportunity to speak at the end of the debate for a further 5 minutes to address any matters that arose during debate that related to their group..

61 APOLOGIES FOR ABSENCE

Apologies were received from Councillors M Addison, M Asquith, R Bailey, J Barber, M Benson, J Bratherton, S Brookfield, A Critchley, B Evans, A Gage, L Gilbert, S Handley, G Hayes, S Holland, C Leach, D Marren, C

Naismith, K Parkinson, M Simon, J Smith, L Smith, L Wardlaw, J Weatherill and N Wylie.

62 DECLARATIONS OF INTEREST

In the interests of openness, Councillor A Gregory declared that the former Head of Internal Audit was a personal friend of his.

63 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Stuart Redgard stated that he had asked the Council in December 2017 to investigate the Corefit incident and other incidents that related to Councillor Jones. He was pleased that the Council's governance had changed to a committee system but was concerned about what he saw as failings of the Council to deal with the performance of the Highways Department and asked that an investigation be carried out.

Councillor Craig Browne, Chair of the Highways and Transport Committee, undertook to provide a written response. Councillor Browne commented that the Council was responsible for over 2700km of roads, 1,129 bridges and structures, over 40,000 street lights and 98,000 gullies. The current gross replacement cost for the local highway network with its associated assets and land values, stood at over £6 billion. Although there was a continuous programme of maintenance, the grant received from the Department of Transport was only £15m for this purpose. The Council had chosen to borrow £7m this year and a further £7m in each of the next two years but it was not sustainable to borrow to repair the roads especially as construction inflation was rising annually. Councillor Browne believed that the real issues was the severe lack of funding rather than a governance issue.

Councillor S Corcoran stated that the Labour Councillors had repeatedly demanded an external investigation into the culture of the Council. A Local Government Association review did eventually take place and in 2018 they reported and revealed a bullying culture. A Peer Review was undertaken in 2020 that reported on a transformed culture and that the improvements in culture were allowing challenges to practices when appropriate.

Alsager Town Councillor Michael Unett asked what lessons had the Council learnt from the Public Interest Report, what had the political groups learnt and would the current administration do all that it could to ensure that the Council remained a council transformed and would never slip back into the dark days highlighted in the Report.

Councillor S Corcoran responded that he had already referred to the Local Government Association report and was confident that the Council had changed, and that such behaviour would be called out now. Councillor C Browne responded that the Council had moved forwarded since the period referred to in the Report. The Report itself had made reference to an

openness to share, to hear and to learn from good practice and the LGA Peer Review had commented on the progress made in improving workplace culture as well as changes to internal assurances and encouraging officers to provide professional challenge. Councillor J Clowes responded that she agreed with what her colleagues had already said. Councillor P Williams stated that things had moved on since the events in the report with improvements in the culture at the Council and the introduction of the committee system.

64 **PUBLIC INTEREST REPORT**

Council received a report of the Chief Executive that responded formally to the Public Interest Report recently issued by Grant Thornton, who acted as the external auditors for Cheshire East Council from 2012/13 to 2017/18.

Following an introduction by the Chief Executive, Members were invited to ask questions of the representatives of Grant Thornton, who were in attendance at the meeting, in relation to the factual content of the Public Interest Report. The questions and responses given are appended.

On conclusion of the question-and-answer session the Leader and Deputy Leader proposed and seconded the recommendations contained in paragraph 3 of the report of the Chief Executive.

Members debated the report and recommendations. During the extensive debate various comments were made, including the following. Members:

- welcomed the report and stated that it was right that the public had insight into the events of seven years ago.
- asked why the report was being released now and who would be meeting the cost of the report.
- expressed concern that some former officers had not been contacted by Grant Thornton as part of their investigation.
- made a comparison with the Lyme Green report, which had been heavily redacted when the Council had published it.
- expressed concern that Cabinet members at the time failed to act in response to bullying behaviour and that this behaviour was adopted by other members.
- noted that bullying behaviour had not just been experienced by officers, but had also extended to members of the public.
- expressed concern action had not been taken sooner to remove the then Leader.
- made reference to the LGA report of 2018 which had highlighted a bullying culture, and that the LGA Peer Review report of 2020 which reported that the culture of the council had been transformed.
- stated that the events complained of would not happen again, as officers were now empowered to “call-out” and challenge poor behaviour.

- noted that there was a lasting impact on staff, past and present, of the bullying behaviour and the legacy of the actions.
- expressed support for Internal Audit officers' action at the time but raised concern that their then line mangers were the Statutory Officers who were performing poorly during the period of the report.
- expressed concern that the standards regime was inadequate in terms of how it would have dealt with behaviours of the former Leader and that the standards regime should include sanctions against those who broke the code.
- noted that the revised Code of Conduct included the declaration of personal interests.
- the Council needed to learn from the mistakes identified to avoid them being repeated.
- noted that the Council had changed politically, culturally, and structurally since the period of the report.

On conclusion of the debate, a request for a named vote was made.

The Deputy Mayor proposed that a vote be taken on Recommendations 3.1 and 3.2 together, and a separate vote be taken on Recommendations 3.3 and 3.4 together.

A named voted as taken on Recommendations 3.1 and 3.2 with the following results:

FOR
Councillors Q Abel, S Akers Smith, L Anderson, M Beanland, L Braithwaite, C Browne, J Buckley, C Bulman, P Butterill, J Clowes, S Corcoran, L Crane, T Dean, D Edwardes, S Edgar, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, S Gardiner, M Goldsmith, A Gregory, P Groves, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, I Macfarlane, N Mannion, A Martin, A Moran, R Moreton, D Murphy, J Nicholas, J Parry, S Pochin, B Puddicombe, J Rhodes, J Saunders, M Sewart, L Smetham, D Stockton, A Stott, R Vernon, M Warren, P Williams and J Wray.

AGAINST
None

NOT VOTING
None

The motion was declared carried with 51 votes for, 0 against and 0 not voting.

A named voted as taken on Recommendations 3.3 and 3.4 with the following results:

FOR
Councillors Q Abel, S Akers Smith, L Anderson, M Beanland, L Braithwaite, C Browne, J Buckley, C Bulman, P Butterill, J Clowes, S Corcoran, L Crane, T Dean, D Edwardes, S Edgar, H Faddes, A Farrall, JP Findlow, K Flavell, R Fletcher, S Gardiner, M Goldsmith, A Gregory, P Groves, A Harewood, S Hogben, M Houston, M Hunter, D Jefferay, L Jeuda, A Kolker, I Macfarlane, N Mannion, A Martin, A Moran, R Moreton, D Murphy, J Nicholas, J Parry, S Pochin, B Puddicombe, J Rhodes, J Saunders, M Sewart, L Smetham, D Stockton, A Stott, R Vernon, M Warren, P Williams and J Wray.

AGAINST
None

NOT VOTING
None

The motion was declared carried with 51 votes for, 0 against and 0 not voting.

RESOLVED: That Council

1 notes the content of the Public Interest Report dated 17 January 2023 provided by Grant Thornton LLP in their capacity as external auditors for Cheshire East Council during the period 2014/15.

2 notes the progress and effectiveness of the cultural and governance controls introduced by Cheshire East Borough Council.

3 agrees the three recommendations of the public interest report in relation to events in 2014/15 (Appendix 1 to the report) as follows:

i. The Council should carefully consider this report to ensure all members now understand the events and conditions that led to the issues set out in the report. This consideration could usefully reflect upon: what happened; the governance and cultural arrangements that allowed it to happen; the critical success factors that led to the successful resolution of matters; and the key elements of the Council's current arrangements that can reassure members of the Council's ability to protect itself from such threats to its future governance.

ii. The Council should, as planned, return to the other specific matters investigated by Internal Audit (see paragraphs 4.2 and 5.6 of the Public Interest Report), following the Core Fit issue, and determine if there are further actions to be taken particularly in light of this report.

iii. The Council should discuss with its current external auditors whether there are any matters arising from this report that should be addressed by the current auditor's statutory external audit.

4 agrees Audit and Governance Committee will receive a further internal audit report to conclude the recommendation at paragraph 3.3 (ii).

The meeting commenced at 4.00 pm and concluded at 7.14 pm

Councillor R Fletcher
Deputy Mayor

Questions to Grant Thornton

Cllr T Dean asked on behalf of Cllr Liz Wardlaw - How much has this report cost and who is paying for it and who commissioned it? As a supplementary question, how much has it cost to facilitate this extra full council meeting?

Grant Thornton response - We are not yet in a position to confirm the costs of the work to the Council.

Director of Governance and Compliance response to supplementary - The meeting has some fixed costs, which include items such as the hire of the sound system and printing and postage of agendas, which equates to approximately £4,000. On this occasion the Council has taken every step it can to reduce the costs, by using its own venue and avoiding any other unnecessary expenditure. Members are also entitled to claim expenses through the Members allowances scheme

Cllr L Crane - For those who held Cabinet positions during 2014-2018 but NOT named in the report, do you have any evidence of them speaking out or seeking to rein in the behaviour of Michael Jones?

Grant Thornton response – no, the only evidence of such challenge is that provided to us at interview by Councillor Clowes and subsequent document exchange with her and other former Cabinet members. This is all reflected in the report.

Cllr N Mannion - Can you clarify if any individual current/former council member(s) may be liable to be surcharged/invoiced towards the cost of the report, or if it falls entirely upon the current Council budget?

Grant Thornton Response - The charges for External Auditors sit within the Council's revenue Budget. As such the bill, when moderated by PSAA, will be paid from there. As this is exceptional compared to forecasts it will be a feature of the Finance Team outturn, which is not covered by other reserves. Anything not within the overall budget lands on General Reserves.

There is no power under which councillors may be surcharged anymore – that was removed several years ago.

Cllr L Jeuda - At an Audit and Governance meeting on 10 December 2015 Councillor Sam Corcoran raised concerns about the apparent management override of controls and said that at Cheshire East Council the rules can be bent, the rules can be broken. Do you regret not following up on the comments more promptly and do you think the delay affected the eventual outcome?

Grant Thornton response – please see the background paper we have prepared regarding our role at the time. Grant Thornton had opened its file

on the matter in September 2015 and after considering the emerging work of Internal Audit, it was agreed to keep a watching brief until the ongoing internal audit investigation had been completed - that is best practice to let internal audit go first. This approach was in line with NAO formal auditor guidance and was explained to the Audit and Governance Committee. By 10 December the Internal Audit work was well underway and it would not have been appropriate for external audit to commence a formal audit at that time. The Police investigation that commenced on 17 December meant that no external audit work was then possible until the police had concluded their interest in the matter. Events have shown that, even if external audit had commenced a full investigation on 10 December following the Audit and Governance Committee, it would not have been possible to have made any real progress by the time the police stepped in.

Cllr S Hogben - The report highlights the importance of speaking out and acting to stop wrongdoing. Paragraph 9.3 states that “The former Leader was not alone in the inappropriate treatment of officers.” Why are those responsible for that inappropriate treatment of officers not named in the report?

Grant Thornton response – the finding was drawn from interviews with former officers, many of whom made the same point that the behaviour was attributable to some Cabinet members, as commented on in the report. There was sufficient evidence to verify that, but without a much more detailed investigation it would not have been possible to identify the appropriate level of criticism to name individual Councillors. It would not have been proportionate to have widened the investigation out any further. However, we were also clear that the main instigator of inappropriate behaviour came from the former Leader and at least some of the former Cabinet members were also the victim of this treatment, which is why we have focussed on him specifically.

Cllr S Pochin – in the minutes of the December 2015 Audit Governance Committee, Grant Thornton told the committee that regarding Core Fit there was ‘No evidence of wrongdoing that an outside agency would have an interest in investigating’. How was this said in 2015, and 8 years later we are where we are. Can Grant Thornton provide some comment on that?

Grant Thornton Response - The comments came from progress that internal audit had made on its investigation at the time. Grant Thornton letter to the then Chief Executive (detailed in the supplementary paper), noted there were procedural irregularities certainly raised at that point, but internal audit had not identified any links to any inappropriate behaviour from members or influence at that time of the magnitude that would create a need for a report like this. That was a snapshot at that moment in time, there was no comment that there would be no further interest, it was agreed to keep a watching brief and to see what internal audit would come

up with in the course of this work. Over the passage of time we now have evidence of interviews, emails and far more material that demonstrates conduct issues that were clearly apparent but not evidenced from internal audit work.

Cllr S Gardiner – having read the report, I am bemused that there is no reference to the then Director of Adult Social Care and Director of Public Health. Both of whom I am aware raised matters with the Chief Executive and others at the time that the Core Fit contract was being expanded to included parts of their service areas. I would like to know why that is not included, and secondly, I am somewhat concerned that the report seems to be very light on the information of the work undertaken of the acting Chief Executive of the time and the then Leader who both did an awful lot of work in very controlled circumstances because of the pending police investigations to turn the council around.

Grant Thornton Response – as referred back on matter of fees, there comes a point where we needed to draw a line under our work. Have we got sufficient evidence to make the points that we feel are relevant in the public interest? We believed we had reached that point. It could have been easy for us to keep extending the scope time and time again as people raised matters as to who to speak to and what we should consider and look at. As said in the introduction, we did have to draw a line at some point. The first officer, we did reach out to, but they declined to be involved. The second officer, fell into the category of where we felt we had done enough work at that point to get the issues properly set out.

Cllr S Gardiner – would like to make sure that we are talking about the same person, as I do know that the person who the Director of Public Health and Director of Adult Social Care reported to was at interim management level and they declined. I wasn't aware the Director of Adult Care had even been approached.

Grant Thornton Response - No, they hadn't. We would have to check on the job designation, but it was certainly the key commissioning officer that we approached. The other two cases, we felt we had sufficient evidence to make the points around culture.

We do acknowledge the progress in the immediate Michael Jones procedure, I don't think we named Cllr Bailey formally in that, but certainly she was the person we were talking about at that point and started to lead the council's improvement journey.

Cllr J Parry – what involvement, if any, would you suggest that the Leader of the Council should have with the external auditor particularly in light of recommendation R3?

Grant Thornton Response – one challenge that exists in the audit regime is that it disconnects somewhat between auditors and members as there is

a different focus, but periodical dialogue between the Leader and External Auditor is really good practice and is common practice to meet every 6 months or annually as part of the audit process. This is part of the wider work to bring the audit process closer and appropriately to councillors, not just in audit committee but more widely. The National Audit Office has introduced a new approach to value for money and the auditors annual report, which provides a commentary on the councils VFM arrangements which are very useful and all councillors should read the annual report when published as it gives a synopsis of the auditors view of arrangements in the council. In answer to the question, yes, the view is either every 6 or 12 months there should be a meeting for 2 sided discussions on matters relating to audit so both parties are aware of all issues relating to that process.

Cllr J Clowes – in relation to the report, on several occasions you refer to Core Fit as being of 'low value' others refer to it as 'immaterial sums' but quite rightly at 7.73 you highlight the importance of public perception. I don't know about anybody else but £130,000 is a significant sum to my residents and to the residents of this borough, therefore, my concern is that at the Audit and Governance Committee meeting in December 2015 you made reference to an 'insignificant sum' in the context of the audit and governance and external audit work. Why is it that in this report you recognise the importance of public perception but at that Audit and Governance meeting when you already had information from internal audit, you did not?

Grant Thornton Response – the answer to that question relates to the opinion that we had given on the financial statements that operates to material audit standards which for Cheshire East is at least £10 million so that was the context of the phrase 'insignificant sum'. The matter of value for money audit and again the findings at that time, on 30 September, only a month after us being called, the internal audit findings to date had identified procedural irregularities of around £170,000 procurement which for a council with next expenditure of £400 million, would not have a bearing on itself without all of the other public interest elements of political overlay behind it in impacting on the VFM conclusion at the time.

Cllr A Gregory – paragraph 2.19 of report states, whilst some members were highly concerned, others provided support. As council taxpayer, why can those others not be mentioned in your report?

Grant Thornton Response – everyone that we seek to name, we would have to consult, interview, share reports with. They then might take legal advice etc., which may have extended the process. We sought to be selective and talk to the key protagonists in order to get sufficient coverage to make the points around culture and governance which is where we believe the underlaying public interest lies and not for seeking to name

absolutely everyone either positively or negatively in the course of the work.

Cllr J Buckley – The Council have got to pay for the report, can we recoup fees for those mentioned negatively in the report, or have we just got to pay the bill?

Grant Thornton Response - From Audit perspective, we set the cost estimate for PSAA and its for them to determine, that is as far we would take it.

Director of Governance and Compliance Response – we would not be looking to recover any costs from any former member of the chamber.

Cllr M Houston – why was nothing done about the behaviours of Cllr Jones, why was he allowed to become Council Leader in the first place? What did the Conservative Association do? Did they have checks and balances when choosing their candidates? Going back to 2013 and before, how did this come about? What are checks and balances going forward in the Conservative Association to make sure that suitable people who can be relied on for integrity in public office, are they now being selective?

Deputy Mayor – not a question for the Auditors, for the political party.

Cllr A Farrall – can the Auditors confirm whether their work and cost involvement and indeed this meeting, would it be necessary if it hadn't been for the systematic failures of the leadership during 2014 – 18?

Grant Thornton Response – We have a duty to consider matters such as this, clearly if the issues hadn't happened we wouldn't be sitting here now reporting to you. Our work is driven by the issues that happened in 2015.