

# Governance and Audit Committee

Tuesday, 07 March 2017

**Attendees:** Councillor Nick Barlow, Councillor Karen Chaplin, Councillor Peter Chillingworth, Councillor Fiona Maclean, Councillor Chris Pearson, Councillor Dennis Willetts

**Substitutes:**

**Also Present:**

## 45 Minutes

*RESOLVED* that the minutes of the meeting held on 17 January 2017 were confirmed as a correct record.

## 46 Work Programme

Councillor Pearson introduced the Work Programme for 2016-17, which is the final work programme for the municipal year. The report requests that the Committee note the contents of the work programme report.

*RESOLVED* that the Work Programme 2016/17 be noted.

## 47 Member/Officer Protocol - Councillor Lissimore

Andrew Weavers introduced the Member/Officer Protocol report regarding Councillor Lissimore. The report requests that the Committee determine whether the comments made by Councillor Lissimore at the Full Council meeting on 8 December 2016, in relation to a Council employee, breached the Member/Officer Protocol and if so what action, if any, it considers appropriate in the circumstances.

Andrew Weavers informed the Committee that the report was placed on the agenda for the Committee following requests from the Liberal Democrat, Labour and Highwoods and Independent Group leaders. The Member/Officer protocol forms part of the constitution; point 10.3 refers to members raising matters relating to the conduct or capability of an individual Council Officer or Officers collectively at meetings held in public. The Committee were made aware of the options available to them in their deliberations.

### **Councillor Buston**

Councillor Buston commented that he was surprised that this issue had been brought to

the Committee and that he was disappointed that no independent member had been invited to sit on the Committee for this item.

In addition, Councillor Buston believed that the matter, which had a significant amount of public interest, needed to be addressed to avoid the Council falling into disrepute. Given the urgency of the matter Full Council was the appropriate forum to do so.

### **Councillor Davies**

Councillor Davies confirmed to the Committee that the video was receiving a significant number of views on the same day as the Council meeting and was in danger of bringing the Council into disrepute. Councillor Davies highlighted that the Portfolio Holder had been made aware of the video, but that this had not been passed on to the Leader of the Council. Councillor Davies felt that the viral nature and urgency of the matter would override point 10.3 within the Member/Officer Protocol. In raising the issue Councillor Lissimore was preventing further damage to the reputation of the Council.

### **Charlie Palmer**

Councillor Pearson acknowledged a written contribution from Charlie Palmer, a copy of which was circulated to all members of the Committee.

### **Scott Everest**

Scott Everest provided the Committee with his view of the alleged incident, and stated that the relevant Portfolio Holder and other members of the Cabinet through social media were aware of the video. The video, which was originally private before a request from a politician to make it public, was made available to highlight perceived bullying and abuse and to open additional homelessness shelters.

Since the video was posted, Scott Everest stated that he had been threatened with Police and legal action, as well as online abuse. Scott Everest also felt that if Councillor Lissimore was sanctioned this would threaten free speech and whistle-blowing.

### **Simon Crow**

Simon Crow attended the meeting to speak in support for Councillor Lissimore bringing the video to the attention of the Council at a public meeting. Simon Crow was concerned for the alleged victim and whether the investigation into this matter had been correctly undertaken. Simon Crow questioned the validity in bringing this issue to the Committee and provided examples of situations where he believed other Councillors could be investigated for their behaviour.

Simon Crow concluded by stating that sanctioning Councillor Lissimore would not provide any benefit to residents, only to political opponents.

### **Cllr Lissimore**

Councillor Lissimore informed the Committee that she was originally made aware of the video at 5.15pm and as the meeting progressed, given the viral nature of the video, a question had to be asked to bring the matter to the attention of the Council. Asking the question at Full Council would ensure that the matter would be dealt with swiftly. Councillor Lissimore confirmed that, following checks after the meeting, that the Leader of the Council and the Chief Executive had not been made aware of the video before the question was asked.

In relation to the protocol, Councillor Lissimore highlighted that it is provided as guidance, which at times needs to be viewed in different ways depending on the situation. Councillor Lissimore also confirmed that she was not aware of the Officer in question, and that her use of the word perpetrator was not attributing blame but only served to highlight that something had occurred. Councillor Lissimore informed the Committee that she has the utmost respect for Officers in their dedication to provide services across the Borough.

The Committee discussed the evidence provided and the contributions from members of the public, Councillors and Councillor Lissimore. In response to a query from a Committee member as to why the Leader of the Council and Chief Executive were not informed prior to the meeting taking place, Councillor Lissimore stated that she was only made aware of the video shortly on her way in to the Full Council meeting and the number of views of the video increased during the meeting.

The Committee also considered the circumstances, the wording used by Councillor Lissimore and the Member/Officer Protocol which is provided as guidance. Members felt that in raising the issue, despite the perceived urgency of the matter, Councillor Lissimore had breached the Member/Officer Protocol, however as it is only provided as guidance no further action should be taken. Committee members also felt that the Member/Officer Protocol should be reviewed and brought back to the Governance and Audit Committee at the next opportunity in order to establish whether the protocol should become mandatory.

*RESOLVED* that;

- a. The Member/Officer Protocol had been breached by Councillor Lissimore, but no further action should be taken
- b. The Member/Officer Protocol be reviewed by the Governance and Audit Committee at the next available opportunity.

## **48      Audit Plan**

Steve Heath introduced the report, which requests the Committee reviews the contents of the Audit Plan for year ending 31 March 2017. Kevin Suter, Director, Ernst and Young and Dan Cooke, Audit Manager, Ernst and Young attended the meeting to present the Audit Plan report.

Kevin Suter gave the Committee a brief overview of the Audit Report. Kevin Suter informed the Committee that the Audit Plan includes the information that is required to be communicated to members in accordance with the International Standards of Auditing. The report includes information on two key responsibilities, including providing an opinion on the financial statement and to conclude whether adequate arrangements are in place to ensure value for money. The report also highlights two significant risks to Local Authorities, including whether there is any fraud in revenue recognition; this ensures that revenue is categorised in the correct audit year and whether capital expenditure is accounted for correctly. The second risk is the possibility of management override as officers within an organisation are in a unique position and could potentially override the controls that are set in place.

Kevin Suter informed the Committee that following amendments to the Code of Practice on Local Authority Accounting the presentation of the comprehensive income and expenditure statement is required to change. This change will require audit review, which could potentially incur additional costs. In addition to this the auditors are also required to assess the Property, Plant and Equipment, and Pensions valuations which are based on a large amount of estimation techniques.

The Audit Plan also provides information on the value for money assessment, which assess the risks identified at the present time. This includes assessing the Council's budget and medium term financial forecasts to establish whether the savings and incomes targets identified are achievable. Kevin Suter highlighted that the report also includes a section on the independence of Ernst and Young from the Council to ensure that the work can be relied upon.

Councillor Pearson questioned whether at this stage there are any value for money risks that have been identified. In response Kevin Suter stated that the work in this area is yet to start, but any issues will be brought to the Committee.

Councillor Pearson also questioned whether the risks associated with leaving the European Union had been considered. In response Kevin Suter confirmed that there are uncertainties going forward, particularly in relation to the effect on the Council's ability to plan for the Medium Term Financial Forecast. Ann Hedges confirmed that this issue had been added to the Council's Risk Register.

*RESOLVED* that the contents of the Audit Plan for year ending 31 March 2017 be noted.

## **49 Review of Meetings and Ways of Working Progress update**

Andrew Weavers, Monitoring Officer, introduced the Review of Meetings and Ways of Working Update report. The report requests that the Committee note the progress to date, as well as confirm the ideas that should be prioritised. The report also requests that a full cost analysis of options for streaming Committee meetings be undertaken, as

well as trailing the use of digital agendas for Councillors on three Colchester Borough Council Committees.

### **Nick Chilvers**

Nick Chilvers attended the meeting and highlighted his interest in the report. Mr Chilvers felt that Cabinet was only a rubber stamping exercise and that Scrutiny was not strong enough in demanding answers from attendees. Nick Chilvers also felt that Full Council questions to Portfolio Holders should come at the beginning of the meeting and that the Cabinet should hold listening sessions at the weekend every three months.

Nick Chilvers also suggested that there should be improvements in the publicity of Have Your Say! and that engagement with members of the public needed to occur outside of the Town Centre. Nick Chilvers also commented that the Council should consider asking members of the public for the items that they wish to be discussed at Cabinet or Scrutiny.

### **Cllr Harris**

Councillor Harris supported the introduction of supplementary questions as part of Have Your Say! as well as the introduction of digital agendas.

Councillor Harris also stated that to attract Councillors from all walks of life it is necessary ensure that the Council has the right facilities and is accessible; Councillor Harris suggested the use of Skype to allow for video conference participation to enable people to attend meetings as well as introducing later start times.

### **Cllr Davies**

Councillor Davies welcomed the report and thanked the members of the public for responding to the survey. Councillor Davies felt that the responses provided showed that members of the public were feeling disenfranchised.

Councillor Davies acknowledged the number of requests for the introduction of supplementary questions and felt that this should be implemented. Councillor Davies also stated that, whilst not commented on by members of the public, a place for members to congregate before meetings would be beneficial to the meetings process. In addition, Councillor Davies suggested changing the public speaker position at Full Council meetings to make it more welcoming and to improve publicity around meetings. Councillor Davies also commented on reducing the amount of jargon within reports and making agendas easier to read.

Councillor Pearson thanked the attendees for having their say. Councillor Pearson recognised the importance of making meetings less daunting for members of the public and for Councillors. Councillor Pearson also welcomed the comments about the members' room, and felt that the cost provided within the report was too high. It was suggested that the Grand Jury Room be used as a location for Councillors to meet prior

to Full Council meetings.

### **Andrew Weavers**

Andrew Weavers presented the report to the Committee and highlighted to Councillor Harris that Councils are currently not able to hold meetings virtually, however this is currently being considered for Joint Committees given the geographical distances between partner authorities.

Mr Weavers informed the Committee that the Governance and Audit Committee would have the opportunity to lead the way in using digital agendas, following the required training. The Committee may also wish to extend invitations to the Scrutiny Panel and the Revolving Investment Fund Committee to use digital agendas from next year. Mr Weavers also outlined the two streaming options provided and informed the Committee that the Leader of the Council has requested that the May Local Plan Committee meeting is streamed online due to its significance. Mr Weavers also highlighted the options available for shorter agendas, altering meeting start time and the review of Have Your Say! to include a supplementary question. The issue around supplementary questions would need to be carefully considered particularly in relation to the regulatory Committees. Mr Weavers also provided a summary on the work undertaken in terms of improving social media, the members room and member training.

Committee members welcomed and discussed the ideas included in the report. Committee members agreed with the three Committee trial of digital agendas, but stressed the importance of providing adequate devices where required as well as the need to install power supplies in meeting rooms. Regarding live streaming of meetings, the Committee felt that due to the cost an audio only solution should be prioritised. Members also requested that further research be undertaken to assess whether there is a local company that could provide a cheaper bespoke solution.

The Committee discussed and subsequently agreed to trial the start time of the Governance and Audit Committee at 7pm for the next municipal year. The Committee felt that the later start time would allow those Councillors and members of the public who commute to get back to Colchester in time for the start of the meeting, it would also allow those more locally to eat before a meeting begins. Councillor Barlow highlighted the issue of informal meetings for members of the public to discuss topics at length with members of the Cabinet. A meeting with the Cabinet, which was included in the public consultation responses, could take place at the weekend.

With regard to the shorter meeting reports and agendas, the Committee acknowledged the importance of making sure that agendas are accessible for members of the public, but with the requirement that the reports contain sufficient information in order to make appropriate decision.

The Committee acknowledged the support for the introduction of supplementary questions as part of Have Your Say!, and suggested that this idea be implemented as

soon as possible. Councillor Willetts felt that Have Your Say! needed to be further improved, particularly in relation to the interaction with Councillors when members of the public are speaking.

Regarding the Members Room, the Committee stated that the specification as outlined in the report is too expensive, whilst recognising the importance of having a location for Councillors to meet. In terms of Members training Councillor Pearson also suggested that there should be refresher training courses for Chairman at the beginning of the municipal year, as well as training for the new Mayor and questioning skills for the Scrutiny Panel.

*RESOLVED;*

- a. That the progress of the Review of Meetings and Ways of Working made to date be noted
- b. That all initiatives be progressed with further updates provided at the next Governance and audit Committee meeting.
- c. That a full cost analysis of audio streaming be provided, as well as further research into a local streaming solution.
- d. that the Governance and Audit Committee trial using digital agendas from the start of the next municipal year and invite the Chairman of the Scrutiny Panel and the Revolving Investment Fund Committee to do the same.
- e. That the Governance and Audit Committee trial starting meetings at 7pm from the beginning of the next municipal year.

## **50 Financial Monitoring Report – April to December 2016**

Darren Brown, Finance Manager, introduced the Finance Monitoring Report for the period from April to December 2016. The report requests that the Committee considers the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first nine months of 2016/17.

Darren Brown stated that the income to date is below target, with a net overspend of £691,000 on the General Fund. This figure consisted of £606,000 overspend in service budgets, which included one off spends and service demand pressures such as the provision of Bed and Breakfast and the cost of recovering the Silver Leaf boat in Brightlingsea. The total also includes £110,000 of carry forward funding for the next financial year and a technical item underspend of £25,000. Darren Brown stated that it is likely that further adjustments will be made for the final year figures.

Regarding the Housing Revenue Account, this is underspent by £843,000 up to quarter three; the forecast spend for the year is predicted to be on budget.

Councillor Willets questioned why the overspend figures provided to Full Council in deciding the budget had not been updated with the forecast presented in the quarter three financial report. In response Sean Plummer, Finance Manager, stated that the report to Full Council uses the half year outturn forecast due to the report originally being

submitted to the Scrutiny Panel and Cabinet at the beginning of the year. The forecast is provided with confidence and there are possible variations to the forecast. Final figures of the budget position are only provided once the end of the year is reached and the required accounting has taken place. The budget also includes a number of carry forwards which can be reviewed depending on the final outturn position, as well as other items that may remain unspent through the year.

Following the response from Sean Plummer, the Chair stated that officers may wish to consider how Full Council can be provided with an up to date outturn forecast when making its decision on the budget.

*RESOLVED* that the Committee considered the financial performance of General Fund Services and the Housing Revenue Account for the first nine months of 2016/17.

## **51 Capital Expenditure Monitor 2016/17**

Steve Heath, Finance Manager, introduced the Capital Expenditure report 2016/17. The report requests that the Governance and Audit Committee review the level of capital spending during the first nine months of 2016/17, and forecasts for future years.

Steve Heath stated that for the first nine months of the year £13.7m of the Capital budget for the year has been spent, which represents 56% of the total budget. Whilst this is a low percentage this is typical for this part of the year; expenditure to quarter three was 49.5% in 15/16, but this increased to 89% by year end. Any balance that is not spent during one financial year is rolled forward to the next financial year. Of those projects that overrun this tends to be caused by changes in the expected timing of payments to contractors. The Committee were informed that the Capital Programme had increased by £18.9m since the previous report and now stands at £56.6m.

Steve Heath highlighted that there was an overspend of £100,000 for the Creative Business Hub, which will be referred to the Revolving Investment Fund Committee for consideration. There are currently eight schemes classed as amber. The Committee welcomed the inclusion of a description for red, amber and green schemes.

*RESOLVED* that the level of Capital spending during the first nine months of 2016/17, and forecasts for future years be noted.

## **52 Amendments to the Council's Covert Surveillance Policy**

Andrew Weavers introduced the report, which requests that the Governance and Audit Committee note the outcome of the recent Office of Surveillance Commissioners Inspection Report. The report also requests that the Committee approve the amended Covert Surveillance Policy and the Use of Social Media in Investigations Policy and Procedure, and that both policies be recommended to Council for inclusion in the Council's Policy Framework.



Andrew Weavers informed the Committee that whilst this Policy was approved in October, a further update is required following an inspection from the Office of Surveillance Commissioners. The inspection received a positive response, however some amendments were recommended to improve the effectiveness of the policy.

The amendments include clarification on areas where a covert human intelligence source may have been inadvertently discovered, as well as a reduction in the number of authorising officers from 10 to four and regular training for all officers potentially involved in the process. One of the main changes is the recommended inclusion of a new provision to deal with social/personal media. This has been recommended to all Local Authorities whose Policy did not deal with social media.

Andrew Weavers confirmed that Colchester Borough Council had not requested the use of these powers since 2013, and that if social media surveillance were to be used it would have to go before a magistrate.

The Committee welcomed the amendment to the Policy; Councillor Chillingworth questioned whether politicians would be involved in the decision-making process for conducting covert surveillance. Andrew Weavers stated that whilst the Policy requires an Officer to make the decision, there is no reason why the Leader of the Council could not be informed of the decision.

In response to a question from Councillor Willets, Andrew Weavers confirmed that Colchester Borough Homes is not permitted to undertake covert surveillance. Whilst officers who manage Anti-Social Behaviour are within Colchester Borough Homes, Colchester Borough Council is responsible for making the decision to conduct covert surveillance and must be satisfied with the evidence presented to them in order to approve the use of covert surveillance.

*RESOLVED;*

- a. That the outcome of the recent Office of Surveillance Commissioners be noted
- b. To *RECOMMEND* to Council that the amended Council's Covert Surveillance Policy be included in the Council's Policy Framework.

## **53      Income and Debt Policy 2017**

Samantha Preston, Customer Solutions Manager, introduced the report which requested that the Governance and Audit Committee review and agree the proposed Income and Debt Policy 2017. The report also requested that the Income and Debt Policy should be included as part of the annual review of the Council's Ethical Governance Policies.

Samantha Preston highlighted the key changes in the policy to the Committee. This included additional information on how customers make a payment and receive information about outstanding debts following a payment. In addition, the reviewed

Policy has streamlined the information provided in previous versions.

The Policy also includes information about payment by direct debit, as well as how older payment options such as cheques, payment cards and postal orders will slowly be phased out. Customer are supported through the process of changing their payment methods. With regards to the write-off process, the new policy changes the write off authorisation limits as well as streamlining the process. Samantha Preston highlighted to the Committee that the focus is to move from a paper based process to a system based process.

Councillor Pearson questioned what provisions are in place for those customers who may find it difficult to obtain a bank account. In response Samantha Preston stated that Colchester Borough Council and Colchester Borough Homes have been working with those who have difficulty in accessing a bank account. Colchester Borough Homes have a good working relationship with Lloyds Bank to assist in this process and from their experience the only circumstances so far in which they would be declined is if they have committed fraud.

Councillor Willets questioned whether there had been any progress in improving the Council's ability to retrieve business rates from those companies that have defaulted and then been made insolvent. Samantha Preston confirmed that whilst the team has done work on this issue it is extremely difficult as there are agreed legal processes that must be followed to recover the money. Samantha Preston confirmed that this situation is commonly known across Local Authorities.

Councillor Willets also questioned whether as the Governance and Audit Committee had reviewed the Income and Debt Policy, it should also review the write-offs. Andrew Weavers confirmed as the write-offs were agreed as part of a Portfolio Holder decisions the responsibility would remain under the Scrutiny Panel rather than the Governance and Audit Committee.

*RESOLVED* that;

- a. The Income and Debt Policy 2017 be agreed
- b. The Income and Debt Policy form part of the Ethical Governance Policies reviewed annually by the Governance and Audit Committee.