

GOVERNANCE AND AUDIT COMMITTEE

16 January 2024

Present:- Councillor Chris Pearson (Chair)
Councillor Paul Dundas, Councillor Dave Harris,
Councillor Sara Naylor, Councillor Paul Smith, Councillor
William Sunnucks

Substitutions: Councillor Venessa Moffat for Councillor Alison Jay

Also Present:- Councillor David King

402. Minutes of the Previous Meeting

RESOLVED that: the minutes of the meeting held on 28 November 2023 be confirmed as a correct record.

403. Verbal Update from the Council's S151 Officer with regard to the Council's statement of accounts.

The Committee received a verbal update from the Council's S151 Officer with regard to the Council's statement of accounts.

Andrew Small, S151 Officer, attended the meeting remotely to present the update and assist the Committee with its enquiries. The Committee heard that it had been intended that the final accounts for the financial year 2022/2023 would be published on 12 January 2024, but although this date had been missed good progress was being made. One of the concerns which had been raised by Councillors was transparency around the Council's level of reserves and balances, and a position had been struck in relation to these figures which had been circulated to some Councillors. There was confidence that the accounts could be published by the end of January 2024, and the notice on the Council's website had been updated to reflect this. The production of the accounts had been a challenge due to staffing issues, but these had been resolved and good progress was now being made.

A Committee member requested a definitive position and clarity on the Council's reserves, as understanding this position was very important. Were there any big audit adjustments expected which would impact on the Council's reserves, and had all items which could impact the reserves been agreed with the Council's auditors? The difficulty with considering these issues was that the auditors were currently

working on the accounts for 2021/2022, and there was a concern that back dated issues may be discovered as the Council had now been almost 4 years without an audit.

The S151 Officer confirmed that he shared the concerns which had been raised about the length of time it was taking to achieve completed audits. Both he, and colleagues across Essex had been attempting to speed up the completion of the outstanding audits, but similar issues were being experienced by many other local authorities. The Committee heard that accounts had been prepared to the best of the knowledge and understanding of the Council's Finance Team, and there was confidence that they contained the Council's correct position. There was always a risk that the auditors would identify an issue, but the S151 officer believed that all of the issues had been correctly reflected in the accounts at the end of 2022/2023. The government had indicated that it had a plan to ease the backlog of hundreds of outstanding audits across the country, and had published a paper which was to introduce statutory deadlines by which accounts would have to be signed off or qualified by the auditors. This proposal had significant ramifications and a consultation on the proposals was expected in the near future. It was suggested that the date of 30 September 2024 was the date by which all historic accounts would have to be completed, up to financial year 2023/ 2024. The current situation was very disappointing, when the public wished for some reassurance about the state of public finances and it was suggested that the production of qualified accounts would be detrimental to the credibility of the sector.

The Chair of the Committee took comfort from the fact that the S115 Officer and the Deputy S151 Officer were new to the Council, and would have scrutinised the accounts very closely upon starting their employment. He was due to attend a meeting of Audit Committee Chairs in the near future, when a further update in relation to the position of audits across the country was expected.

Concern was expressed by Committee member that an unexpected audit adjustment could potentially be extremely serious for the Council. He supported the introduction of a deadline for the finalisation of outstanding accounts, considering that qualified accounts would be perfectly acceptable provided there was clarity on the Council's reserves position, and what the restrictions on usable reserves were. The Council should be pursuing its auditors to complete the outstanding audits so that the financial position was as clear as it could be.

In discussion, the Committee noted the difficulties which had been attributed to external auditors on a national level, but also the Council's failure to respond swiftly to some of the requests for information which had been made by auditors in the past. The S151 Officer noted that a number of factors had contributed to the delays in audits being completed, including capacity in the audit sector and the over-complexity of local government accounting. The highest priority for the Finance Team at the current time was preparing the budget and final accounts, however, the Chartered Institute of Public Finance and Accountancy (CIPFA) financial self-assessment would be completed as soon as possible.

RESOLVED that: the contents of the verbal update be noted.

404. Interim Review of the Annual Governance Statement 2022/2023 Action Plan

The Committee considered a report which reviewed the implementation of the actions highlighted on the 2022/23 Annual Governance Statement (AGS), which was reported to the Governance and Audit Committee in June 2023.

Hayley McGrath, Corporate Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee were requested to consider the interim review of the Council's Annual Governance Statement (AGS), the AGS itself for the financial year 2022/2023 having been presented to the Committee in June 2023. Audit regulations required the Council to provide a review of the governance control methods which were in place, identifying any areas where these controls could be improved. In June 2023, the Committee had considered the AGS before this was signed off by the Leader and Chief Executive of the Council, and as part of this process an interim report was presented to the committee to provide an update on the action plan. For 2022/2023 year, 5 areas had been identified where the controls in place could be improved:

1. Implementation of the Colchester Borough Homes (CBH) Independent Review Recommendations
2. The Chartered Institute of Public Finance and Accountancy (CIPFA) Financial Management Code
3. Review of the Capital Programme
4. External Audit Implications – Carried forward from 2021/22
5. Company Governance – Carried forward from 2021/22

It was considered that items 2 and item 4 had been dealt with earlier in the meeting by the verbal update which had been provided by the Council's S151 Officer.

In respect of item 1, an independent review of Colchester Borough Homes (CBH) and also Colchester Commercial (Holdings) Limited (CCHL) had identified several recommendations, and an oversight group had been established to consider these. At a meeting of the oversight group on 31 August 2023, it had been confirmed that all outstanding actions relating to CBH had been completed. The Committee would receive final reports as part of the internal audit update which would be presented to it later in the year.

The Committee heard that key elements of the review of the Council's Capital Programme concerned the Council's strategic approach to the programme, the move towards a corporate landlord model of delivery for Council assets, and the creation of a Northern Gateway Development Board.

In respect of item 5 relating to the independent review of CCHL and the recommendations which had been made in relation to Colchester Amphora Energy Limited (CAEL), and Colchester Amphora Housing Limited (CAHL), reports would be presented to the Committee in due course.

A Committee member was anxious to understand the working of CBH in more detail. It was suggested that the costs of running CBH and the Housing Revenue Account (HRA) were twice what they should be, and this needed to be understood. Was the report which had been considered by the oversight group in August 2023 a secret report, and if so, how could this be subject to appropriate scrutiny? The Corporate Governance Manager confirmed to the Committee that this report was not a confidential report, but it did have to go through the correct reporting process for CBH. The Committee was assured that the oversight group which had been set up to receive these reports consisted of cross-party Councillors including all Group Leaders, along with the Leader of the Council and senior Officers of both the Council and CBH and CCHL, and the Chair of the Governance and Audit Committee.

Further information on the operation of the HRA and acquisitions was sought, and specifically whether such acquisitions would form part of the suggested corporate landlord model the Council was to adopt. Where was the governance of the HRA, as this did not appear to reside within CBH? This was an important governance issue. The Corporate Governance Manager would seek clarification from relevant Officers, and provide the Committee with further clarity when this was received. The need for a member briefing on the HRA was noted so that all Councillors could have an appreciation of its function.

In relation to the review of the Council's Capital Programme, a Committee member noted that some of the projects contained within it were now 3 or 4 years old, and business cases for these could now be out of date. Was it possible for Councillors to see the financial new appraisals of the projects which were continuing, and which had informed the rationale for making the decisions around these projects? The Corporate Governance Manager would seek this information on behalf of the Committee.

In discussion, the Committee considered that the costs associated with some of the projects on the Capital Programme could change significantly over the time it took to deliver the projects, and that such increases in costs could impact the Council's accounts in 3 or 4 years time. The Corporate Governance Manager assured the Committee that the risks associated with capital projects and their delivery was very well understood. There was a clear and defined risk evaluation process for capital projects, and consideration was being given on how to reflect this in future in the risk reporting which was presented to the Committee.

RESOLVED that: the work undertaken to implement the current Annual Governance Statement Action Plan be noted.

405. Risk Management Progress Report

The Committee considered a report providing members with an overview of the Council's risk management activity during the period from 01 April to 30 September 2023.

Hayley McGrath, Corporate Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee received a report every 6 months which outlined the up-to-date position in respect of the Council's Strategic Risks, which were contained in a Strategic Risk Register which was owned by the Council's Senior Leadership Team, and which was reviewed on a monthly basis. The Register was presented to the Committee, and this contained a matrix of what were considered to be the key, high level, risks faced by the Council at the current time. Risks which were of particular significance were organisational resilience and the budget strategy, cyber and data security, workforce wellbeing and financial inequality. Although risks could never be negated completely, it was necessary for the Council to have controls in place to reduce the risks as far as possible. Accordingly, the Register contained two scores, the initial risk score, and the risk score following stated mitigations.

A substantive amount of work had been undertaken in relation to the Council's subsidiary companies, and the Committee had received a number of reports on this topic in recent months. Governance recommendations which had been contained in the external reviews of the Council's wholly owned companies were being developed and implemented. Part of this work had included amending the arrangements for the Committee to reflect the fact that it was the designated shareholder committee for the subsidiary companies, and the creation of a cross-party oversight group.

A streamlined process for dealing with housing disrepair claims had been set up, and senior Officers from both Colchester Borough Homes and the Council were triaging the claims which had been received.

The Risk Register reporting programme had been altered, changing from a quarterly meeting with the Council's Senior Leadership Board to discuss, review and update the Register, to monthly meetings which reflected the importance of the Council's governance arrangements in the current financial climate. It was intended to create a central, digital, storage site for all the Councils Risk Registers, guidance and training, and this resource would also be available to Councillors.

The Risk Management Strategy had been approved by Cabinet and Full Council and the Council's Policy Framework had been updated accordingly.

A Committee member noted that it had been common practice to include a line in the Council's budget in previous years associated with transformational, cost cutting, programmes, but that the budget target which had been set had rarely been met. It was suggested that the cost savings which had historically been offered as part of the budget were not realistically achievable given the range of services which the Council offered, could consideration be given to including the testing of any such transformational programme as a risk mitigation? The Council needed to decide whether it wished to provide a wide range of services to a poor standard or a smaller range of services to a high standard.

The Committee noted the budgetary pressures which the Council was under, but considered that the Council also had a wide remit for a very diverse community, and

any reduction in the levels of service provided would have to be carefully considered and balanced.

A Committee member expressed some concern that it was difficult to accurately monitor staff morale, although the Council's use of surveys was a good indication to some of the risks to morale that were faced. Was it possible to include some wording which recognised that some staff were potentially uneasy about talking honestly to their line manager about concerns they may be experiencing, and to encourage honesty wherever possible?

The Committee considered that the risk management document which had been presented to it was of very high quality, and it was encouraged by the fact that this was reviewed regularly. It was suggested that the first 2 risks which had been identified in the document should be taken very seriously, and it seemed that the Council's senior leadership team had concerns that it may not be possible to balance the budget. It was noted that the Council had worked successfully with other local authorities in the past to deliver shared services such as the Museum Service and the North Essex Parking Partnership, and it was important to ensure that savings were being achieved. If sufficient savings could not be realised, then it may be necessary to consider withdrawing some non-statutory services which would be extremely regretful. The Council was not alone in this position, as it was recognised that local authorities throughout the country were now experiencing similar budget constraints. Any savings which were proposed through the use of shared services should be monitored very closely to ensure that the savings were delivered.

The risk management dashboard which had been presented to the Committee was praised, however, a Committee member sought clarity on the methodology which lay behind this. She sought reassurance that a sufficient level of rigour was applied to what appeared to be qualitative judgements. What degree of confidence could be found in the risk rating scores which had been assigned to risks? It seemed that the difference between the initial risk score and the risk score following mitigation was quite high, and there was concern that the effects of mitigation may have been treated too optimistically. There was concern that an overly optimistic reduction to a risk score through mitigation led to a residual score that felt more comfortable to senior leadership, and there could potentially be a significant gap between the outcome which was hoped for, and the outcome which was more likely in practical terms. The Corporate Governance Manager would relay these concerns to the Council's senior leadership team after the meeting.

The Corporate Governance Manager explained to the Committee that risk by its nature was subjective, and all about personal views, the lived experience and the perception of how likely something was to go wrong. What the Council had done was set out some parameters for risk score definitions which were contained in the agenda pack for this meeting, and which offered guidance used for determining scores. The Council's senior leadership were asked to look at probability of something happening, and then the impact of this. When an assessment was carried out by a team in this way, it was very likely that some people would have opposing views, and the score definitions provided parameters for an agreed approach for

assessing the risks. The Corporate Governance Manager did challenge senior management on their assessment of risk, and interviewed every senior manager individually once a year to ask challenging questions on where they perceived the risks to the organisation to be. National indicators were also used to identify risks that may be upcoming. The risks that had been identified were an honest assessment of the risks facing any local authority at this time. The access to the Council's senior management team which was enjoyed by the Corporate Governance Manager, was unusual in local authorities, and the Council's senior management team was very conscientious in demonstrating that it had given full consideration to the risks faced. It was not always possible to be 100% correct, but the Council needed to be in the best position possible to meet the challenges of the future.

Responding to the concerns which had been raised in respect of the monitoring of staff morale, the Committee heard that every effort was made to create an environment in which staff were at ease communicating their concerns to their managers. The Council did have a Whistleblowing Policy, and the Council's Chief Executive regularly made herself available for any member of staff to speak to, and these sessions had proved popular.

Cllr King, Leader of the Council and Portfolio Holder for Strategy, attended the meeting and, at the invitation of the Chair, addressed the committee. He advised the Committee that the Council's Risk Register would inform the conversations which were had at a senior level in the Council, and he offered assurance that the Corporate Governance Manager enjoyed full support from the Council's senior leadership, who took the risk assessment process very seriously. It would be necessary to accept changing and challenging circumstances as a Council, and it was hoped that a balance would be struck which would provide Councillors with the necessary assurance that future changes would be effectively delivered. Addressing staff morale, he knew that the attitude of the Council was as had been described in the meeting. The Committee were reminded of the Council's 'Speak Up Now' scheme for staff, and the fact that the Council's senior leadership team carried out weekly visits to different parts of the organisation.

RESOLVED that:

- the Council's progress and performance in managing risk during the period from April to September 2023 be noted,
- the current Strategic Risk Register be noted.

406. Annual Review of Business Continuity

The Committee considered a report providing Members with an overview of the Council's business continuity activity for the period from 01 January 2023 to 31 December 2023.

Hayley McGrath, Corporate Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. There was no formal requirement for business continuity to be presented to the Committee, but it was considered good practice to report the work which had been undertaken, and to seek the endorsement of the Committee, as business continuity formed part of the Council's risk framework. Business continuity dealt with how the Council would carry on delivering services in the event of any significant disruption. A process was in place of working with key service areas to ensure that the most vulnerable members of the community still received the services they required in the event of adversity. Business continuity sat alongside the Council's statutory responsibilities for emergency planning, as if a serious incident occurred externally, Council services and resources would be directed to this, while key Council services still had to be provided. The report which was before the Committee set out the work which had been undertaken during the year, and which included the revision of business impact assessments and business continuity plans to reflect the changes in Council service groupings, and a programme of testing the revised business continuity plans by way of tabletop exercises.

Following a restructure of the Council's senior management team, it had been decided to restructure the First Call Officer (FCO) group. This group consisted of staff who were expected to be on call 24 hours a day to respond to emergencies outside of working hours. In the past this role had been carried out by the senior management team, however, this approach had been updated and the FCO group had been changed so that there were now 6 officers who were available out of hours on a rota basis. Tactical command training had been received to support a response to any emergencies which occurred, and the Council worked closely with other local authorities as part of the Essex resilience forum. In terms of the actual issues which had been responded to over the past year, these included internal IT related issues, the royal visit in March, a request for mutual aid which had related to the arrival of refugees from Sudan, and the emergency evacuation of flats along the Hythe. Adverse weather conditions had had a huge impact over the year, however the Council worked together with other public service providers to co-ordinate a response to things such as adverse weather across Essex. An internal audit of business continuity which had taken place in September 2023 had achieved a reasonable assurance rating, with 2 recommendations being made. The recommendations were the completion of the remaining business continuity plans and for the Resilience Officer to follow up on 4 areas of testing, and both these recommendations had now been completed. The Business Continuity Plan (BCP) was reviewed annually to ensure it was still appropriate for the Council's needs, and no particular changes to the processes were recommended this year, however, some of the titles in the Plan had been updated to reflect changes in management structure within the Council.

The Committee heard that the change to the FCO group which had been implemented had been seamless, and staff were appointed to the group from the Council's middle management structure who had experience from across the organisation, including 4 members of the Council's Governance Team.

The changes which had been made to the FCO were endorsed by the Committee, which considered that they were eminently sensible. The Corporate Governance Manager responded to questions from Committee members and confirmed that if an FCO had responded to an emergency in the middle of the night then they would not be expected to report for work the next day, and any essential tasks for which they were responsible would be dealt with by their line manager. It was not necessary for FCOs to be present at the site of any emergency, and they were able to effectively co-ordinate the Council's response remotely. If an incident remained ongoing, then the FCO group rota system would be engaged to ensure that effective staff cover was retained throughout.

The Committee requested that there be some level of communication to the leaders of the Council's political groups to remind them of what their responsibilities were in the event of a large scale emergency, and the Monitoring Officer confirmed to the Committee that an appropriate arrangement would be made to facilitate this.

RESOLVED that: the Business continuity Strategy for 2024 be endorsed.

407. Mid-Year Internal Audit Assurance Report 2023/2024

The Committee considered a report summarising the performance of Internal Audit, and detailing the audits undertaken, between 1 April and 30 November 2023.

Hayley McGrath, Corporate Governance Manager, attended the meeting to present the report and assist the Committee with its enquiries. The Committee received 2 reports a year on internal audit, an annual report and a mid-y year update. A comprehensive programme of internal audit was provided to the Council by TIAA and consisted of a 5 year rolling programme of audits which was reviewed each year. The Committee heard that the Council operated an effective internal audit service, and in the first half of 2023/2024 indicators for this had been met, with 16 audits completed. Of these audits, 7 had achieved a substantial assurance rating, which was the highest rating possible, and 7 had achieved a reasonable assurance. The last 2 audits had received a limited assurance rating, and both of those audits related to procurement. A report would be presented to the Committee in the near future which would contain more detail on the Council's procurement policies.

Since the report had been written, of the 5 audit recommendations which had been awaiting agreement by management, only one now remained which was the fleet management use of fuel audit, which had only been carried out at the end of November 2023. This report before the Committee had provided substantial information on the audits undertaken and detailing the audits which had been finalised. The Corporate Governance Manager agreed to circulate details of audits which had been finalised since the preparation of the report to the Committee after the meeting.

A Committee member considered the budgetary control assessment which was contained in the report, and considered that the forecast end of year figure was more

appropriate to consider than the variance at the end of period 9. The Corporate Governance Manager would refer this suggestion back to the Council's auditors.

In response to questioning from a Committee member, the Corporate Governance Manager provided some further detail around the procurement audits. The central issues related to the ability to demonstrate control, as the Council had a very detailed procurement process to ensure that there was evidence that the Council understood all its contracts. A new procurement team was in place and the Council's new Procurement Strategy would be presented to the Committee in the near future. The audit recommendation in respect of procurement had been accepted by management with an agreed completion date for the recommendations of 31 March 2025.

RESOLVED that: the internal audit activity for the period 1 April 2023 – 30 November 2023 be noted.

408. Work Programme

The Committee considered a report setting out its work programme for the current municipal year.

Matthew Evans, Democratic Services Officer, attended the meeting to present the report and assist the Committee with its enquiries. The attention of the Committee was directed to the current work programme, which contained reports on the Council's procurement process, and an update on the Housing Revenue Account and Colchester Borough Homes, which had been the subject of debate at the meeting.

It was suggested that at some point in the future, the Committee could consider receiving a report on the issues which were experienced by Councillors when trying to access their Council email.

RESOLVED that: the contents of the work programme be noted.