

Governance and Audit Committee

Tuesday, 19 September 2017

Attendees: Councillor Peter Chillingworth, Councillor Dave Harris, Councillor Dennis Willetts

Substitutes: Councillor Nick Cope (for Councillor Nick Barlow), Councillor Helen Chuah (for Councillor Dominic Graham), Councillor Jackie Maclean (for Councillor Fiona Maclean)

Also Present: Councillor Cory, Councillor Feltham, Councillor A Fox, Councillor Scordis, Councillor Smith, Cllr Warnes, Councillor J Young, Councillor T Young.

67 Minutes

RESOLVED that the minutes of the meeting held 26 July 2017 were confirmed as a correct record.

68 Complaint in relation to Councillor Lilley

Andrew Weavers, Monitoring Officer, introduced the Complaint in relation to Councillor Lilley. The report requests that the Committee determine what action should be taken in relation to the complaint made.

Andrew Weavers provided the Committee with a summary of the complaint and the options available to the Committee under the powers of self-regulation. Andrew Weavers informed the Committee that both Councillor Lilley, and Councillor Davies, were unable to attend the meeting. Both Councillors provided a statement which has been included in the report, and the Committee has the options outlined in paragraph 5.3.

Have Your Say

Nick Chilvers

Nick Chilvers, a resident in Cllr Lilley's ward, informed the Committee that he felt that whilst the comments were wrong, Councillor Lilley had apologised for his lapse of judgement.

Mr Chilvers highlighted that Councillor Lilley had provided both an explanation about the tweet, and that a genuine apology had been made. Mr Chilvers confirmed that he had dealings with Cllr Lilley in the past and that there was no evidence that that he has a deep seated prejudice, but that he embraced tolerance. In addition, Mr Chilvers stated that the suggestion that he should stand down is unwarranted and that no harm was

done.

Mr Chilvers urged the Committee to conclude that it falls outside the remit of the member's code of conduct and that no further action should be taken.

Cllr J Young

Councillor Young informed the Committee that she has known Councillor Lilley for a number of years and knows how committed he is to his role as Councillor and Portfolio Holder.

Councillor Young highlighted that Cllr Lilley has indicated that he is remorseful, and that the tweet was a lapse of judgement. Councillor Young stated that Cllr Lilley, knows that the tweet was a mistake, and that she has never known Cllr Lilley to be demonstrably racist in any shape or form. It was a lapse of judgement that he has sought to put right.

Councillor Young suggested to the Committee that no further action be taken.

Cllr Smith

Councillor Smith stated that following the tweet, he spoke to Councillor Lilley who expressed his remorse and regret for his actions.

Councillor Smith stated that as with the Councillor Buston case, no further action should be taken against Councillor Lilley.

Cllr A Fox

Councillor Fox stated that Councillor Lilley had received support from a number of local residents and that the whole situation had taken its toll on Councillor Lilley.

Councillor Fox informed the Committee that Councillor Lilley had apologised twice following the event and the statement, provided by Councillor Lilley in the report, presented to the Committee demonstrates his remorse. Councillor Fox stated that Councillor Lilley is not racist, and works across party boundaries to get the best result for Colchester and his ward.

Councillor Fox hoped that this had not done damage to Councillors working across party lines as it is important that Councillors are able to work together. Councillor Fox also stated that he was disappointed that this issue made it to Committee.

Cllr T Young

Councillor T. Young attended to speak in support of his friend and colleague Councillor Lilley. Councillor Young stated that he had received messages of support for Councillor Lilley from across the Borough. Councillor Lilley is aware that he made a mistake and has apologised and deleted the twitter account.

Councillor Young stated that Councillor Lilley was not xenophobic or racist. Councillor

Young stated that the suggestion in the statement that Councillor Lilley was not able to manage his own prejudices was not the case. Anyone approaching Councillor Lilley would be supported and treated equally.

Councillor Young highlighted that Councillor Lilley is an exceptional Cabinet member working very hard and that further punishment would not fit the crime committed. Councillor Young urged the Committee to take no further action.

Committee discussion

Councillor Harris thanked the visiting Councillors for attending to have their say, and confirmed that their views would be taken into account.

Members of the Committee expressed their views relating to the complaint. Comments made by Committee members included the understanding that Councillor Lilley was a good Councillor who worked hard in his role as Portfolio Holder across the Borough. The view expressed by members of the Committee was that no further action should be taken against Councillor Lilley.

Committee members requested that the members code of conduct be reviewed, particularly in the light of the continued role of social media. It was also suggested that further training could be provided to assist in establishing the guidelines between posting in a private capacity and as a Councillor of the Borough. Andrew Weavers confirmed that the Members Code of Conduct would be reviewed by the Committee at the October meeting. In response to a query as to why the complaint came to the Governance and Audit Committee, Andrew Weavers stated that when a complaint is received, the Monitoring Officer is duty bound to consider the complaint. The complaint is then considered by the Governance and Audit Committee as it has the required powers to decide the most appropriate action.

Committee members were keen to acknowledge the importance of ensuring that Councillors are able to submit these complaints without fear of a backlash. Committee members expressed their support to Councillor Davies, who received abusive and threatening comments through social media.

RESOLVED that;

- a. No further action be taken in relation to the complaint against Councillor Lilley
- b. The Governance and Audit Committee review the Members Code of Conduct at the next available opportunity to ensure that it is operating in the best interests of the Council.

69 Local Government & Social care Ombudsman – Annual Review 2016/2017

Andrew Weavers, Monitoring Officer, introduced the Local Governance & Social Care Ombudsman Annual Review 2016/17 report. The report requests that the Committee

note the contents of the report.

Andrew Weavers informed the Committee that the report had been noted by Cabinet on 5 September 2017. Andrew Weavers stated that there had been no findings of maladministration by the Council and the number of direct customer contacts had increased from 243,775 to 250,356. Out of the 250,356, 16 direct customer contacts were received by the Local Government and Social Care Ombudsman, this is a reduction on the previous year's total of 25. Out of those cases that were received, three details investigations were undertaken, with only one being upheld.

Members of the Committee were impressed by the number of formal interactions with the Council and praised the hard work of officers who interact with members of the public each day in a considered and proper manner.

RESOLVED that the Local Governance and Social Care Ombudsman annual review 2016/17 be noted.

70 Annual Statement of Accounts 2016/17

Steve Heath, Finance Manager, introduced the Annual Statement of Accounts 2016/17 report. The report requests that the Committee note the publication of the audited Statement of Accounts for 2016/17.

Steve Heath stated that the purpose of the report is to inform the Committee that the audited statement of accounts has been published on the Council website formally closing the audit process for 2016/17. This follows the Statement of Accounts being approved at the Committee meeting held on 25 July, with an unqualified opinion.

RESOLVED that the publication of the audited Statement of Accounts 2016/17 be noted.

71 Financial Monitoring Report

Darren Brown, Finance Manager, introduced the Financial Monitoring Report April to June 2017. The Committee is asked to consider the financial performance of General Fund Services and the Housing Revenue Account (HRA) for the first three months of 2017/18.

Darren Brown stated that the net position of the budget has an adverse variance against profiled service budgets of £63,000. This is due to a number of factors including total expenditure being lower than expected and total income also being lower than expected in some areas. The forecast outturn position for 17/18, stands at £488,000, of which the majority is due to a shortfall in income from economic growth, sports and leisure and commercial services.

Darren Brown provided the Committee with a verbal update on the forecast outturn position at the end of period 5, which looks like the overspend has now reduced below

£400,000. The completed second quarter reports will be sent to the Scrutiny Panel in November. Darren Brown informed the Committee that Appendix C now includes percentage figures to indicate the variance in each area of the budget.

Regarding the Housing Revenue Account, there is a £384,000 underspend to date, which primarily is a result of the profiling of budgets. Any underspend in the Housing Revenue Account at the year-end is used to fund a larger proportion of the Housing Investment Programme from revenue, preserving the HRA borrowing headroom and minimising borrowing.

The Committee welcomed the reports and the inclusion of the percentages Appendix C. In response to a number of questions relating to the position of the General Fund, Darren Brown provided the following responses. In relation to the overspend in finance, this is due to a temporary increase in staffing to support systems work. With regard to the Head of Commercial services saving, this is a vacancy factor as whilst budgets are set at the beginning of the year assuming that all positions are filled, this recognises that there are likely to be savings from vacancies during the year due to staff turnover. The underspend in the Recycling and Fleet services are a result of the waste review, which is currently being looked at. Darren Brown also confirmed that further information on the Sport and Leisure Services and Economic Growth can be provided after the meeting.

In response to a query regarding the reduction in income from glass sales, Ann Hedges stated that the value of recyclables varies. Colchester Borough Council sale values have held up well in comparison to other authorities, part of this is due to the fact that Colchester Borough Council do not co-mingle recyclables which retains the quality. Ann Hedges stated that there will be further work through the year to establish how this can be offset.

RESOLVED that the Committee considered the performance of General Fund Services and the Housing Revenue Account (HRA) for the first three months of 2017/18.

72 Capital Expenditure Monitor 2017/18

Councillor Chuah (in respect of being a Director of the Oak Tree Centre) declared a non-pecuniary interest in the following item pursuant to the provisions of Meetings General Procedure Rule 7 (5).

Steve Heath, Finance Manager, introduced the Capital Expenditure Monitor 2017 report. The report requests that the Committee review the level of capital spending during the first three months of 2017/18, and forecasts for future years.

Steve Heath provided the Committee with a brief summary of the report. Steve Heath informed the Committee that the capital programme has been adjusted by £18.5m to fund the 2017/18 Housing Investment Programme, the Northern Gateway Heat Network and a number of other projects. Over £5m of capital expenditure will not be profiled until

later in the financial year.

Steve Heath highlighted that this report includes any issues that have been identified so far in the quarter. Steve Heath stated that there is a projected underspend on the capital programme of £82,000. This is a result of an underspend of £252,000 of those items in the capital programme, and an overspend of £170,000 for the Creative Business Centre. The capital underspend will be considered at Cabinet in the near future.

The Chairman commented that whilst there was an overspend on the Creative Business Centre, he felt that it was an excellent addition for businesses in Colchester.

Following a further query about flooding on the Hythe, Steve Heath stated that feedback in the report was provided by the officer managing the project. Further reports and information will be available on a quarterly basis to members.

RESOLVED that the level of capital spending during the first three months of 2017/18 and forecast for future years be reviewed.

73 Work Programme 2017-18

Jonathan Baker, Democratic Services Officer, introduced the Work Programme for 2017-2018. The report requests that the Committee note the contents of the Committee's Work Programme for 2017-18.

Jonathan Baker informed the Committee that a Review of Meetings and Ways of Working, which would include feedback from the later start times of meetings, would be scheduled into the work programme shortly. The last meeting of the later start time trial will be in November.

RESOLVED that the Work Programme 2017-18 be noted.