

# Governance and Audit Committee

Tuesday, 11 October 2016

**Attendees:** Councillor Nick Barlow (Deputy Chairman), Councillor Karen Chaplin (Member), Councillor Peter Chillingworth (Group Spokesperson), Councillor Fiona Maclean (Member), Councillor Chris Pearson (Chairman), Councillor Dennis Willetts (Member)

**Substitutes:** No substitutes were recorded at the meeting

**Also Present:**

## 22 Minutes

*RESOLVED* that the minutes of the meeting held 13 September 2016 were confirmed as a correct record.

## 23 Work Programme 2016-17

Councillor Pearson introduced the work programme and highlighted to the Committee that an additional meeting had been scheduled for 7 March 2016. At this meeting the agenda will include revenue and capital monitoring reports relating to the third quarter.

Councillor Pearson also provided an update on the review of meetings and ways of working; he stated that a meeting for councillors to have their say on the review so far and provide input into the review had been scheduled for 24 October at 7pm.

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

## 24 Review of contract management arrangements

Andrew Weavers, Monitoring Officer, introduced the Review of contract management arrangements, which requests that the committee note the contents of the report.

Andrew Weavers stated that this report has come to the Committee following a request for further information at its meeting on 28 June 2016.

Alison Shaw, Business Partner (Procurement), provided the Panel with a presentation on contract management within the Council. The presentation outlined the procurement rules and regulations that the Council adheres to. It was outlined to the Committee that the over-riding procurement policy is that all procurement must be based on value for money. Procurement at Colchester Borough Council is governed by three sets of rules

and regulations, this includes an EU directive, UK legislation and the Council's constitution.

Alison Shaw highlighted that public procurement is subject to principles from both the EU Treaty as well as those principles that have emerged from case law. In addition to the principles there are thresholds for the value of the procurement which require slightly different approaches. There are those values set within the Colchester Borough Council constitution, and thresholds set by the EU; if higher than the EU thresholds the procurement is subject to EU tender.

Alison Shaw informed the committee of the procurement process, the framework agreements and the use of electronic tendering software. An update on the impact of the EU referendum result on procurement was also provided to Committee members, Alison Shaw outlined that it was likely that public procurement rules more generally will remain in place as they have been implemented via UK law. Committee members were also provided with information on contract management lifecycle and the responsibilities of the contract management team.

Hayley McGrath, Corporate Governance Manager, provided further information on the management of the Audit and Insurance contracts. Hayley McGrath stated that the two contracts have different styles of service delivery, with the audit contract being an onsite service delivery, whereas the insurance contract is provided by offsite advisors. Due to the cost associated with the insurance contract this was tendered through the Official Journal of the European Union (OJEU), whereas the audit contract used the central government framework. Hayley McGrath also highlighted the management of the contracts and how they differ. With regard to internal audit a good working relationship with the manager is required due to frequent meetings, in addition the contract contains a number of key performance indicators to enable performance to be monitored. In terms of insurance, due to its reactive nature a significant amount of information had to be provided by the Council in advance of the tender, with key performance indicators measuring performance against previous years.

In response to a question regarding the Essex Procurement Hub, Alison Shaw stated that the hub consist of six councils, Colchester Borough Council, Braintree District Council, Epping Forest District Council, Castle Point District Council, Maldon District Council and Rochford District Council. The hub provides a small rebate back to the partners when a contract is awarded through that system, an example of a contract awarded through this is the playground landscaping contract.

In response to a query regarding different views of procurement between senior management teams and frontline staff members, Hayley McGrath stated that getting information from staff members about current contracts forms part of the tender exercise. In addition if there are issues during a contract this should be picked up by the contract manager and fed through to management.

The Committee thanked the officers for the presentation and requested that a copy of

the presentation be made available through the online members' library on CMIS.

*RESOLVED* that Colchester Borough Council's contract management arrangements be noted.

## **25 Health & Safety Policy 2016/17 & Annual Review**

Hayley McGrath, Corporate Governance Manager, introduced the Health and Safety Policy 2016/17. The report requests that the Committee review and endorse the Health and Safety Policy for 2016/17 and consider and comment on the work undertaken during 2015/16.

Hayley McGrath outlined that this was the first time the Health and Safety Policy had been sent to the Governance and Audit Committee for approval. Health and safety had been previously included as part of the Annual Governance Statement for Colchester Borough Council and the partnership organisations; in previous years health and safety had been identified as an area that required improvement.

Since the review a new officer has been employed and new policies and procedures have been implemented. Colchester Borough Council has a Health and Safety Committee where all teams across the Council are represented by a designated officer who has been given Institution of Occupational Safety and Health training. Currently the Health and Safety Policy is not part of the formal policy framework, but does form part of the risk management process. Hayley McGrath stated that there is a quarterly audit programme for Health and Safety, and a Health and Safety training matrix has been agreed by Senior Management team to ensure that there is training at all levels of the organisation.

Councillor Willetts questioned whether there had been any serious failures of health and safety, as any incidents reported to the Governance and Audit Committee would assist in assessing whether the policy is fit for purpose. In response Hayley McGrath stated that a table of incidents can be brought to a future briefing. The majority of changes to the Health and Safety Policy have only been introduced during this year, and statistics prior to its introduction are skewed as incidents that weren't related to health and safety were recorded as such. Hayley McGrath highlighted one of the most serious accidents over the past year involved a member of staff operating a street sweeper in the Town Centre. The incident was investigated by the Health and Safety Executive and found no failings.

In response to a further question regarding North Essex Parking Partnership (NEPP) staff, Hayley McGrath and Matthew Sterling, Assistant Chief Executive, confirmed that whilst they are directed by the Partnership in terms of role objectives they are Colchester Borough Council staff. Both the North Essex Parking Partnership and the Colchester and Ipswich Museums Service have representatives on the Health and Safety Committee. With regard to the NEPP, the Health and Safety Committee have assisted in the

introduction of the body worn cameras and violence and aggression training for the Civil Enforcement Officers. In addition information on health and safety is reported to both partnerships joint committees through the annual governance statement.

The Chair proposed, with agreement from the Committee, that a recommendation be made to Council that the Health and Safety Annual report be incorporated into the Council's policy framework.

*RESOLVED;*

- a. That the Health and Safety Policy for 2016/17 be endorsed.
- b. That the work undertaken during 2015/16 be noted.
- c. To *RECOMMEND* to Council that the Health and Safety Policy be included in the Council's Policy Framework.

## **26 Local Government Ombudsman – Annual Review 2015/2016**

Andrew Weavers, Monitoring Officer, introduced the report which requests that the Committee note the contents of the Local Government Ombudsman's Annual Review letter for 2015/16.

Andrew Weavers highlighted that anyone is able to make a complaint to the Local Government Ombudsman. However the Local Government Ombudsman will usually insist that the Council has the opportunity to resolve the complaint locally through its own complaints procedure. Mr Weavers stated that there were no findings of maladministration against the Council and no formal reports were issued. During 2015/16 243,775 customer contacts were made, with 25 complaints or enquiries made in relation to how the Council deals with its customers.

*RESOLVED* that the Local Government Ombudsman's Annual Review letter for 2015/16 be noted.

## **27 Review of the Council's Ethical Governance Policies**

Andrew Weavers introduced the report, which comes to the Committee each year, which requests that the following policies be reviewed;

- Anti-Fraud and Corruption
- Whistleblowing
- Anti-Money Laundering
- Covert Surveillance
- Corporate Information Security
- Data Protection

The report also requests that the revised policies are recommended to Council to be included in the Council's Policy Framework.

Andrew Weavers went through the policies and highlighted whether any revisions had taken place during the year. With regard to the Anti-Fraud and Corruption Policy, Andrew Weavers stated that it had been reviewed and was deemed fit for purpose, the only alteration is that any allegations of benefit fraud are to be referred to the Department of Work and Pensions for investigation, rather than previous having been dealt with Colchester Borough Council staff.

With regard to the Whistleblowing Policy, Andrew weavers said that there had been no change in the policy as it remains fit for purpose. Mr Weavers also stated that there had been no instances of whistleblowing during the financial year; the Council has a secure whistleblowing e-mail address that is monitored by the Monitoring Officer, the Corporate Governance Manager and the Section 151 Officer.

With regard to the Anti-Money Laundering policy this had been reviewed and deemed fit for purpose with no instances of the policy being used. The Covert Surveillance policy, which involves Regulations of Investigatory Powers Act (RIPA), has been received and updated with Home Office advice. Andrew Weavers stated that the Council must report annually to the Office of Surveillance Commissioner to inform if any powers are used; during 2015/16 no covert surveillance was undertaken.

The Corporate Information Security Policy has also been reviewed, following its introduction into the Ethical Governance Policies last year and was deemed fit for purpose. The Data Protection Policy was also brought to the Committee for the first time last year and has also been reviewed. Andrew Weavers highlighted that a data protection incident had occurred during the year involving a third party contractor losing an encrypted memory stick, which underlined the importance of having this policy in place. All the policies will need to be recommended to the next Council meeting.

The Committee welcomed the reports, and requested that when the reports come back to the Committee additional information is included about the times when the policies have been invoked.

Councillor Chillingworth questioned whether the surveillance policy included information on drones. Andrew Weavers responded to the question stated that it depends on what is being done with the drones. For example overt CCTV is not surveillance, however if it is directed or it zooms in it becomes direct surveillance, footage of the street scene from a drone would be classed as overt. The Government will be issuing guidance in the near future about usage of drones.

RESOLVED;

- a. that the following policies be approved;
  - Anti-Fraud and Corruption
  - Whistleblowing
  - Anti-Money Laundering
  - Covert Surveillance
  - Corporate Information Security

- Data Protection
- b. RECOMMEND to Council that the policies be included in the Council's Policy Framework.

## **28 Review of Local Code of Corporate Governance**

Hayley McGrath, Corporate Governance Manager, introduced the report which requests that the updated Local Code of Corporate Governance for 2016/17 be reviewed and recommended to Council for inclusion in the Council's policy framework.

Hayley McGrath stated that the aim of the Local Code of Corporate Governance is deliver good governance at Colchester Borough Council. The code has six core principles, which contain a number of aims and steps to achieve those aims. Hayley McGrath stated that this is reviewed on an annual basis and forms the basis of the Annual Governance Review.

Councillor Chillingworth suggested that under 4.1.1 of the Local Code of Corporate Governance there should be a reference to the Call-in procedures as part of the Scrutiny function.

*RESOLVED;*

- a. That Scrutiny of Portfolio Holder decisions be included under the processes of principle 4.1.1
- b. To *RECOMMEND* to Council that the Local Code of Corporate Governance be included in the Council's Policy Framework.

## **29 Gifts and Hospitality – Review of Guidance for Councillors and Policy for Officers**

Hayley McGrath, Corporate Governance Manager, introduced the report which requests that the Guidance for Members regarding Gifts and Hospitality be approved and included in the Constitution and that the Gifts and Hospitality Policy for Officers be approved.

Hayley McGrath stated that the Committee last considered the policy for members on 19 January 2016, but it was appropriate to bring it back to the Committee for annual review. Hayley McGrath stated that the policy remained fit for purpose.

*RESOLVED;*

- a. That the Guidance for Members regarding Gifts and Hospitality be approved for inclusion in the Constitution
- b. That the Gifts and Hospitality Policy for Officers be approved.

## **30 Review of the Members' Code of Conduct and the Council's Localsim Act Arrangements**

Andrew Weavers, Monitoring Officer, introduced the report which requested the Committee note the contents of the report and agree to keep the Members' Code of Conduct and the Council's "Arrangements" under annual review and to recommend to Council any subsequent amendments in the light of experience.

Andrew Weavers stated that the Localism Act changed the way in which member complains were dealt with. The last review at Colchester Borough Council took place in October 2015, and the report includes information on the number of allegations against Councillors.

Since the new process was implemented there have been no investigations of formal complaints; the Council always seeks to deal with any issues informally to begin with. There have been no Parish Council official complaints.

Councillor Chillingworth raised a query with regard to the declaration of interests and in particular the understanding of non-pecuniary interests at Parish Council level. Councillor Chillingworth questioned whether the Monitoring Officer would be able to provide training to Parish Councils on this issue. In response Andrew Weavers stated that he would be able to provide training to those Parish Councils.

*RESOLVED;*

- a. That the contents of the report be noted
- b. That The Members' Code of Conduct and the Council's Localism Act Arrangements be reviewed on an annual basis and to make recommendations to Council regarding any subsequent amendments.