

# TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Audit Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Wednesday, 21 September 2016 commencing  
at 2:00 pm**

## **Present:**

Vice Chair, in the chair

Councillor Mrs H C McLain

## **and Councillors:**

K J Cromwell, A J Evans, Mrs P A Godwin, B C J Hesketh, Mrs S E Hillier-Richardson  
and Mrs H C McLain

### **AUD.15 ANNOUNCEMENTS**

- 15.1 The evacuation procedure, as noted on the Agenda, was taken as read.
- 15.2 The Chair welcomed the representatives from Grant Thornton - David Johnson, Audit Manager for Tewkesbury Borough Council, and Julie Masci, Engagement Lead - to the meeting.

### **AUD.16 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

- 16.1 Apologies for absence were received from Councillor R Furolo (Chair). There were no substitutions for the meeting.

### **AUD.17 DECLARATIONS OF INTEREST**

- 17.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 17.2 There were no declarations made on this occasion.

### **AUD.18 MINUTES**

- 18.1 The Minutes of the meeting held on 22 June 2016, copies of which had been circulated, were approved as a correct record and signed by the Chair.

### **AUD.19 AUDIT COMMITTEE WORK PROGRAMME**

- 19.1 Attention was drawn to the Audit Committee Work Programme, circulated at Pages No. 11-17, which Members were asked to consider.
- 19.2 The Corporate Services Group Manager indicated that both the Executive and Overview and Scrutiny Committees had their own work programmes and Officers felt that this was something which may also be of benefit to the Audit Committee. The work programme formalised the items that would be coming to future meetings and would enable Members to monitor deferrals and raise queries about specific items in advance.
- 19.3 A Member noted that the work programme included a June meeting in 2017 and she queried whether this was correct. In response, the Finance and Asset Management Group Manager clarified that the work programme had been drafted

based on the current Committee cycle and the dates were subject to change; the schedule of meetings for 2017/18 would be agreed by Council in the New Year and the work programme would be updated accordingly.

- 19.4 Members welcomed the introduction of a formal work programme for the Committee and it was

**RESOLVED** That the Audit Committee Work Programme be **NOTED**.

## **AUD.20 GRANT THORNTON AUDIT FINDINGS**

- 20.1 Attention was drawn to Grant Thornton's report, circulated at Pages No. 18-54, which set out the audit findings for the Council for 2015/16. Members were asked to consider the report.

- 20.2 The Engagement Lead from Grant Thornton explained that the report highlighted the key findings from its audit of the Council's financial statements for the year ended 31 March 2016. Under the National Audit Office Code of Audit Practice, Grant Thornton was required to report whether, in its opinion, the Council's financial statements represented a true and fair view of the financial position, and its income and expenditure for the year, and whether they had been properly prepared in accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice on Local Authority Accounting. In addition to this work, Grant Thornton was also required to reach a formal conclusion on whether the Council had put into place proper arrangements in terms of the value for money conclusion.

- 20.3 Members were reminded that Grant Thornton had set out its plans for how it would approach the audit in March 2016 and no changes had been made. Work on the financial statements was substantially complete but it would be necessary to carrying out some finalisation procedures before they were signed off. This included consideration of the post-balance sheet which accounted for anything which had happened since the end of the financial year which had significant bearing on the accounts. It was anticipated that an unqualified audit opinion would be issued in respect of the financial statements; there had been a small disclosure amendment but, overall, the reported position remained unchanged and the Engagement Lead praised the quality of the accounts which had been put together by the Finance Team. In terms of wider responsibility, Grant Thornton looked at the Annual Governance Statement which was consistent with the financial statements and contained no exemptions. The action plan attached at Appendix A to the report included two matters which had previously been reported to the Committee in March 2016. In terms of value for money, Grant Thornton was satisfied that the Council had proper arrangements in place to secure economy, efficiency and effectiveness in its use of resources and proposed to give an unqualified conclusion. The audit fees were in line with those proposed in the Audit Plan at the start of the year and there were no issues which impacted on Grant Thornton's independence as auditors.

- 20.4 The Grant Thornton Audit Manager drew attention to Page No. 26 which set out the level of materiality which was worked to; any errors were reported to the Council with the exception of three items which had a lower materiality level due to their sensitive nature. Significant risks were set out at Page No. 27 and two risks had been identified which were applicable to all audits – fraudulent transactions in the revenue cycle and management override of controls. Two "other" risks of material misstatement had been identified in the Audit Plan in relation to employee remuneration and operating expenses but the audit work had not identified any significant issues in relation to the risks. Regular meetings had been held with management throughout the year to discuss accounting issues and Members noted that two significant matters had been discussed in 2015/16; Ubico and Virgin Media. With regard to Ubico, it was noted that the reduction in the Council's

shareholding, following the appointment of Stroud District Council as a partner in Ubico, no longer constituted Tewkesbury Borough Council as having significant influence over the company and no group accounts were required as a result. Confirmation was provided that the Council had reviewed the bad debt provision for the outstanding housing benefit debt that had been identified the previous year and this was being addressed. Pages No. 34-35 set out matters which had been identified during consideration of internal controls; these had all been reported to previous Audit Committees and no further work was required.

- 20.5 It was accepted that there would be some mistakes, as there would with any accounts, and Page No. 20 included details of two disclosure changes identified during the audit which had been made in the final set of financial statements. Following the outcome of a European Court judgement, a VAT tribunal ruled that local government off-street parking was non-business and therefore not subject to VAT. This decision had been reversed following an appeal by Customs and Excise and the outstanding claim by the Council had been dismissed therefore the contingent asset was no longer relevant to the Council's financial statements. The date of notification, 16 December 2015, was prior to the balance sheet date and it had been removed from the post balance sheet disclosure. Value for money was more contentious as it was a subjective area and Grant Thornton's assessment was based on the information which was available. The ongoing challenge of meeting the savings outlined by the Chancellor as part of the Autumn Statement continued to put pressure on local government finances and this had been highlighted to the Committee in March 2016. Page No. 23 of the report set out the main considerations which included the Medium Term Financial Strategy, savings and sources of funding e.g. New Homes Bonus. Grant Thornton had concluded that the Council had proper arrangements in all significant respects to ensure that it delivered value for money in its use of resources. The Council's savings plans for the next couple of years appeared reasonable and achievable; however, plans for 2018/19 and beyond would need further consideration given the amount of unknowns going forward. With regard to fees, the Grant Thornton Audit Manager drew attention to Page No. 23 of the report and pointed out that work on the grant certification was ongoing and may be subject to change, however, there was no indication that would be necessary from the work done to date. He reiterated that there was a robust process in place to review the accounts and no further issues had been identified; this was a credit to the Finance Team and he thanked Officers for responding quickly to queries and working with Grant Thornton to reach this conclusion.
- 20.6 A Member noted that the representatives from Grant Thornton were happy with the Council's model for use of New Homes Bonus, however, Page No. 42 of the report set out that it was not considered core funding and, as such, could be phased out on any subsequent funding review, therefore, the continued reliance on a single funding stream was still an area of concern. The Grant Thornton Audit Manager indicated that there was always a risk associated with reliance on a single source of income, particularly given the potential for further government reorganisation or a change in leadership. It was a risk which needed to be flagged and the Council should have a contingency in place should the situation change but there was currently no suggestion that would happen. The Finance and Asset Management Group Manager explained that the New Homes Bonus was a six year rolling programme which was currently in its final year. The Council used 65% of its New Homes Bonus money to support core services with the remaining 35% set aside for one-off use which acted as a buffer in the event of changes to the scheme. The government consultation at the start of the year had suggested that it was looking to reduce the scheme by up to two-thirds, however, there was no indication as to whether this would actually come to fruition given that feedback had been expected in June. Whilst the Council was reliant upon New Homes Bonus money, it was in a better position than many authorities which used 100% to support their

base budgets.

- 20.7 A Member drew attention to the first recommendation included on the Action Plan, attached at Appendix A to the report, and noted that it had an implementation date of April 2016. The Finance Manager confirmed that this had been raised in March and an estimate included so the action had been completed. In response to a query regarding the accounts for Ubico, clarification was provided that Ubico would provide its own limited company accounts. As Tewkesbury Borough Council was one of six partners in the company it did not have control; its stake in Ubico was as an investment only and there was no requirement to produce group accounts.
- 20.8 The Chair offered her congratulations to the Finance Team on a very positive report and thanked Officers for their hard work on behalf of the Audit Committee. Accordingly it was

**RESOLVED** That Grant Thornton's audit findings 2015/16 be **NOTED**.

#### **AUD.21 LETTER OF REPRESENTATION**

- 21.1 Attention was drawn to the Section 151 Officer's Letter of Representation on the financial statements for the year ended 31 March 2016, which had been circulated at Pages No. 55-57. Members were asked to consider the letter.
- 21.2 The Finance and Asset Management Group Manager indicated that, as the Council's Section 151 Officer, he was required to write a Letter of Representation to the external auditors which outlined the principles on which the accounts were based and confirmed compliance with the law and the level of information provided to Grant Thornton to complete the audit, as well as disclosing any fraudulent activity that may have taken place. The content of the letter had been agreed with Grant Thornton and formal approval was now sought from the Committee.
- 21.3 Accordingly, it was

**RESOLVED** That the Letter of Representation be **APPROVED** and signed by the Section 151 Officer.

#### **AUD.22 STATEMENT OF ACCOUNTS 2015/16**

- 22.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 58-163, asked Members to approve the Statement of Accounts for 2015/16 as attached at Appendix A to the report.
- 22.2 The Finance Manager explained that the Statement of Accounts was a statutory document which demonstrated the Council's financial position at the end of the financial year. In line with the revised Accounts and Audit (England) Regulations 2011 guidelines, approval of the accounts was now made by the Section 151 Officer by 30 June, the accounts were then audited and amended, if necessary, before the Section 151 Officer signed the accounts again. Those accounts were then approved by the Audit Committee and signed by the Chair by 30 September.
- 22.3 In terms of income and expenditure, Members were advised that working balances had remained at £450,000 and the Council had underspent against its net budget by £289,000 in the year. With regard to overspends, there had been a series of business rate revaluations on various properties within the Borough, and the write-off of several debts which had proven to be irrecoverable, which had resulted in a deficit; housing benefit overpayments had continued to be over budget thereby reducing the recovery of subsidy; there had been a delay in obtaining a property for investment which was now scheduled for the end of the month; and only £126,000 salary savings had been made against a target of £182,000 leaving a £56,000 shortfall. With regard to underspends, additional income had been generated from garden waste; a provision from 2014/15 had been released back into the base budget; and, significantly, an additional £592,000 had been received

from planning and land charges fees.

22.4 The Finance Manager went on to explain that the total net worth of the Council had increased from £1.869M to £8.9M. The increase in net worth was summarised in the Movement in Reserves Statement, contained within the Statement of Accounts. One of the main factors was an increase of £6M on long term assets largely due to the expenditure on the new leisure centre; however, this did mean that there had been a decrease in investments due to the use of monies to fund its construction. Total provisions had decreased due to successful business rates appeals and other rate reductions in year. Other adjustments included a reduction in the Capital Receipts Reserve and a decrease in the pension deficit, mainly due to an increase in the net discount rate over the period. The balance on the collection fund for Council Tax was a deficit of £1.331M at year end which was very positive. Any balance would be redistributed amongst the precepting bodies of Gloucestershire County Council, Gloucestershire Police and Tewkesbury Borough Council based on a proportion of the total precept demand from each body. The balance on the collection fund for business rates was a deficit of £10.646M at year end as a result of collecting less than estimated before the start of the financial year and due to the need to set aside funds to cover future appeals. Central government was allocated 50% of the deficit; Tewkesbury Borough Council was allocated 40% and Gloucestershire County Council 10%. In terms of capital resources, the total balance was £5.684M, including capital grants; however, after allowing for commitments, the unallocated budget available for new capital grant projects was £500,000. Expenditure on capital projects in 2015/16 had amounted to £7.864M and included £6M on the new leisure centre, £103,000 on photovoltaics for the Public Services Centre, £207,000 on community grants and £98,000 on IT software and other equipment.

22.5 A Member questioned what the Council's capital commitments would be for the next five years and was informed that the majority related to the leisure centre which had opened in April; other commitments included vehicles to support the waste and recycling fleet and an estimated amount to support Disabled Facilities Grants. In response to a query regarding the performance of the photovoltaics installed on the Public Services Centre, the Asset Manager advised that, whilst no payments had been received as yet due to Ofgem being flooded with applications in January prior to the drop in the feed-in tariff, it was estimated that £4,800 had been saved in energy costs to date. The photovoltaics were divided into four areas on the roof and could produce as much as 80kw of energy; 40kw in winter. Members were informed that the feed-in tariff was £7,000per year and it was expected that the Council would save £15,000 per year through a combination of the tariff and energy saving. In response to a further query, the Asset Manager explained that the panels worked best on very bright days, however, it did not necessarily need to be warm; less energy was generated in winter due to the reduced hours of daylight, not due to temperature. Clarification was provided that the Council did not give any energy back to the National Grid. Whilst energy could be exported, it was currently all being used internally and Officers were looking at potential options for the future.

22.6 Having considered the information provided, it was

**RESOLVED** That the Statement of Accounts 2015/16 be **APPROVED**.

## **AUD.23 INTERNAL AUDIT PLAN MONITORING REPORT**

23.1 The report of the Corporate Services Group Manager, circulated at Pages No. 164-185, was the first monitoring report of the financial year and summarised the work undertaken by the Internal Audit team during the period April to August 2016. Members were asked to consider the adequacy of the internal controls operating in

the systems audited.

- 23.2 Members were advised that full details of the work undertaken were attached at Appendix 1 to the report. A satisfactory level of assurance had been found in the audit of the Public Services Network (PSN); whilst the Council's code of compliance had been appropriately signed off, there were a number of ICT policies and procedures supporting the PSN which required reviewing and updating and it had been recommended that testing of the Security Incident Management Plan be carried out. A previous audit of tree inspections had highlighted an unsatisfactory level of control which had acted as a catalyst for an overhaul of the whole process. The Asset Manager had taken on responsibility for tree maintenance and new technology had been purchased which allowed Officers to enter information into a handheld device and upload it directly to the system. However, it was noted that a limited opinion had been issued in relation to the audit of the previous regime as 191 of the 672 trees inspected were not formally owned by Tewkesbury Borough Council. The Asset Manager reiterated that he had taken on responsibility for tree maintenance in winter 2015 and Ubico carried out the inspections between October and March. As Ubico carried out grass cutting on behalf of the Council and had knowledge of the Borough, it had been wrongly assumed that the operatives also knew which trees were owned by the Council. Unfortunately there had been a lot of changes historically and there were areas which the Council did not currently own but were intended for adoption by the local authority following development, for example, the housing estate in Mitton which, although maintained by the Council, had never been formally adopted. It was necessary to undertake some additional work to review the unadopted areas and the outcomes to resolve the issues would be presented to Members in a further report. In terms of the new procedure for inspections, trees were allocated zones from one to five, with zone one being trees in high traffic areas – and therefore high risk - and zone five being trees in densely wooded areas. Officers had visited and categorised the sites in June and Ubico had been instructed where to carry out work on behalf of the Council. In response to a query, the Asset Manager explained that tree inspections were not carried out in the summer months, although there could be ad-hoc reports from the public which were logged by Customer Services and reported to Ubico through the software system. All dialogue was via the software system and all plotting was carried out on the hardware system which was able to plot trees to within 10cm. A Member queried whether the people who were responsible for the trees which had been identified as not being owned by the Council had been notified that they would no longer be maintained. The Asset Manager advised that this was a bit of a grey area, for instance, in Mitton there was no registered owner for the sites where the trees were located and a reluctance to take ownership. A Member went on to question whether the trees being allocated to new zones would mean that Ubico would have less work to do as trees which would have been inspected every year would now be inspected every five years. Members were advised that, when the original Tree Policy had been agreed, the idea was that high risk trees would be inspected first; in practice all trees had been inspected annually, however, there were not enough resources to continue to do this. It was estimated that there were around 5,000 trees within the Council's ownership, and only one person carrying out inspections between October and March, so the policy had been adapted to ensure that the Council was able to meet its requirements. The Member questioned whether there were less issues with the trees being inspected now that a proper regime was in place and the Asset Manager explained that, unfortunately, that was not the case. Four trees had needed to be felled completely during winter 2015/16 and any trees which had been found to be diseased had been inputted into an additional regime so that they would be re-inspected.
- 23.3 Members were informed that the Property team had completely revitalised the inspection of playgrounds as a result of an adverse audit opinion a few years

earlier. The latest audit had confirmed that there was a satisfactory level of assurance. Only playgrounds owned by the Council were inspected and this was overseen by Environmental Health where staff had been fully trained. Importantly, any defects identified were being resolved promptly. A satisfactory level of control had also been found in relation to the audit of the Tell Us Once system which people could use to report deaths to several government organisations at once. Notifications were processed accurately and promptly by the correct people and there were adequate controls over access to the system.

- 23.4 Members were informed that two limited level opinions had been issued during the audit of the bulky waste collection service. The first related to the regular review of fees; there had been no formal review of fees since 2011 and the current structure did not support the Council's new commercial approach. The second control objective related to the customer booking process. Whilst the functionality of the database was adequate for the purpose of recording collection details, it did not provide for refund history on the customer account or show availability of next collection slot times prior to ordering the collection. The anticipated service delivery was 10 working days, however, in some geographical areas customers were waiting seven weeks before collections. Remedial action had been taken to make the system more effective from 1 October 2016 through maximising efficiency of timeslots and this needed to be monitored going forward. A Member questioned whether Ubico helped with collections and was advised that the Council booked the collections but it was a Ubico vehicle which physically made the collection; it was noted that Ubico had provided a 'man with a van' to help with collections but this was an interim solution pending procurement of the Council's new waste vehicle fleet. A Member raised concern that there seemed to be a lot of issues arising from Ubico taking over services which the Council had previously carried out, for example, street cleansing, grass cutting etc. and that could be damaging to the Council's high customer satisfaction rate in such areas. The Corporate Services Group Manager confirmed that a further report would be brought to Members in respect of bulky waste collection given that a limited opinion had been issued. In terms of the other services, an audit of trade waste had also resulted in a limited opinion which had previously been reported to the Committee and his team was currently carrying out some work on the monitoring of the Ubico contract so it would be interesting to see what opinion was issued in that respect. A Member questioned whether there had been an increase in fly-tipping, given the seven week waiting list for collections, and was advised that enviro-crimes, particularly fly-tipping, had been discussed at length by the Overview and Scrutiny Committee. Although it was not clear whether there was a correlation between the waiting list and fly-tipping incidents, the number of reported enviro-crimes was increasing and consideration was currently being given as to how to address this. It was noted that a report would shortly be taken to the Executive Committee recommending the appointment of an Environmental Warden.
- 23.5 With regard to the audit of ICT environmental controls, Members were informed that there had been a satisfactory level of assurance in relation to all of the control objectives. It was noted that a lot of work had been carried out in respect of business continuity and the controls around fire and water risk. One issue which had been identified related to access to the building; all staff working within the Public Services Centre currently had access to all areas of the building between the hours of 9:00am and 5:00pm, with the exception of the ICT server room and the Police offices. Although only a small number of staff regularly accessed the areas occupied by partner organisations through integrated working, there was a need for wider awareness of this arrangement in order to manage the security and data protection risks associated with open access to the building. An audit of the new Community Support Grants Scheme had been carried out and had confirmed that it had been appropriately approved by the Executive Committee. Applications were appropriately authorised or rejected by the Grants Working Group according

to the criteria of the scheme and successful applications had been paid accurately. In terms of the monitoring of the scheme, this had been identified as having a satisfactory level of assurance as a reconciliation of the monitoring spreadsheet and general ledger was not currently documented and it was recommended that the process be amended accordingly. With regard to corporate improvement work, the Internal Audit Team had been asked to carry out benchmarking as part of the Planning Services review and this had included service cost, processing times, team structures and staffing numbers.

23.6 Members were advised that a list of audits within the 2016/17 Audit Plan, and their progress to date, could be found at Appendix 2 to the report. Appendix 3 to the report contained a summary of all audit recommendations and their status; a small number had been followed-up and implemented and they were flagged within the report. Of the remaining audits, none had passed their target dates for follow-up. It was intended to arrange a small informal workshop for Audit Committee Members around the work carried out by the Internal Audit team to ensure that they were being provided with the information which they required.

23.7 Having considered the information provided, it was

**RESOLVED** That the Internal Audit Plan Monitoring Report be **NOTED**.

#### **AUD.24 ANTI-FRAUD AND CORRUPTION POLICY**

24.1 Attention was drawn to the report of the Finance and Asset Management Group Manager, circulated at Pages No. 186-219, which asked Members to consider the updated Anti-Fraud and Corruption Policy and to recommend it to the Executive Committee for approval.

24.2 The Legal Adviser explained that, following a change in legislation, the Gloucestershire local authorities and West Oxfordshire District Council had successfully bid for £403,000 from the Department of Communities and Local Government to develop a Counter Fraud Unit for the investigation of housing benefit fraud. The draft Anti-Fraud and Corruption Policy, attached at Appendix A, had been developed to reflect the changes and to set out a procedure for investigating and detecting fraud, money laundering, bribery and corruption. A list of roles and responsibilities was detailed at Pages No. 196-200 of the report and included the Section 151 Officer, Monitoring Officer, Audit Committee, Councillors, External Audit and the Head of Internal Audit. Once adopted by the Executive Committee, the policy would be updated and brought to the Audit Committee for consideration every three years.

24.3 In response to a query, Members were informed that one of the next stages would be to look at business rates and fly-tipping to see if any prosecutions could be made in those areas. A Member questioned whether a cost-benefit analysis was available in terms of the number of cases being taken to court and whether negotiations took place in respect of decisions. The Finance Manager indicated that this information had not been made available to Officers but it could be provided to Members following the meeting. The Finance and Asset Management Group Manager advised that the Council had been working with the Counter Fraud Unit for six months on a number of initiatives, for example, the team had carried out a review of single person council tax discount which had resulted in £17,000 of additional income on an annual basis. Whilst the focus had been on benefit fraud in recent years, there was potential for fraud in a number of areas and it was only right for the Council to take action and prosecute if possible. A Member queried whether there was a policy of making prosecutions public to act as a deterrent to others and he was advised that, whilst there was no formal policy, raising awareness was something which the Council looked to do both internally and externally. In response to a query regarding negotiations, the Borough Solicitor explained that there were a range of responses which could be taken in respect of



any particular case; court action was only taken if there was enough evidence. A Member queried whether the policy included embezzlement and the Legal Adviser explained that this was dealt with by the Code of Conduct which was very clear about what employees and Members should and should not do.

24.4 It was

**RESOLVED** That it be **RECOMMENDED TO COUNCIL** that the Anti-Fraud and Corruption Policy be **APPROVED**.

#### **AUD.25 WHISTLEBLOWING POLICY**

25.1 The report of the Corporate Services Group Manager, circulated at Pages No. 206-219, attached the updated Whistleblowing Policy. Members were asked to recommend to the Executive Committee that the policy be approved, subject to any minor amendments as a result of consultation with the GO shared service partnership.

25.2 The Committee was advised that the Council had been working with the Counter Fraud Unit to review the Whistleblowing Policy which had been developed in consultation with the four authorities in the GO Shared Service partnership; Cheltenham Borough Council, Cotswold District Council, West Oxfordshire District Council and the Forest of Dean District Council. The policy, set out at Appendix 1 to the report, had been updated to reflect legislative requirements and employer responsibilities to ensure the Council protected staff who reported any areas of concern within the authority and to safeguard those against whom allegations were made. The policy restricted the people who knew about potential disclosures to the Monitoring Officer, Chief Executive and Head of Human Resources as the majority of people wished to remain anonymous.

25.3 A Member questioned whether employees and Members knew who they should report any concerns to and the Legal Adviser indicated that training would be delivered to staff in December and she was happy for this to be extended to Members. Once approved, the policy would be published internally, via the intranet, and externally on the Tewkesbury Borough Council website although it was acknowledged that not everyone had access to IT. A Member queried whether the policy could be rolled out to Parish Councils. In response, the Legal Adviser explained that the counter fraud service provision was a partnership agreement which involved several different authorities. Whilst anyone was entitled to look at the Council's policies, Parish Councils were covered by the Advisory, Conciliation and Arbitration Service (ACAS), a publically funded independent organisation that aimed to promote better employment relations, and would have resources to support any Parish Councils that wished to adopt their own policy.

25.4 It was

**RESOLVED** That it be **RECOMMENDED TO THE EXECUTIVE COMMITTEE** that the updated Whistleblowing Policy be **APPROVED**, subject to any minor amendments as a result of consultation with the GO Shared Service partnership.

#### **AUD.26 REGULATION OF INVESTIGATORY POWERS ACT 2000**

26.1 Attention was drawn to the Solicitor's report, circulated at Pages No. 220-248, which attached the Regulation of Investigatory Powers Act (RIPA) Procedural Guide and the Social Media Policy. It was noted that there was an error in the recommendation and that Members were asked to consider the documents and recommend them to the Executive Committee for approval.

26.2 In accordance with the guidance issued by the Home Office, it was recommended

that Councillors were involved in the annual review of RIPA policies and the report before Members was the annual report for 2016. Use of the Act had changed significantly since it had been introduced and it was now quite unusual for the RIPA procedure to be initiated; the Council had not had any RIPA authorisations for the past five or six years but it needed to have a Policy in place in the event that it was required. One of the main points was that, in order to carry out covert, or 'intrusive', surveillance, it was necessary to go to a Magistrates Court to obtain authorisation, it could not be done via an Officer. This was much stricter than it had been previously to ensure there was no abuse of the process. Officers had been looking at using RIPA for fly-tipping but they would have to be prepared to go to court for authority to carry out any covert surveillance. The current RIPA procedure had last been revised in December 2014 and no changes were proposed, however, the Office of Surveillance Commissioners (OSC) had strongly recommended that a Social Media Policy be introduced due to the increasing internet traffic and the use of social networking sites by traders, companies and individuals that may result in criminal activity. A policy had been drafted and was attached at Appendix 2 to the report. The Legal Adviser explained that, whilst the Council had a corporate Facebook account which was open and transparent, it may be possible to carry out covert surveillance by setting up another account and posing as someone else in order to obtain information from people who may be acting criminally, for instance, someone posting information about fly-tipping. This was a complex process and it was important that there was a policy in place to cover such investigations.

- 26.3 A Member indicated that people increasingly shared information online and he felt that social media was a good way to catch out criminals. He questioned whether the Council would be able to work with the Police as they were often able to act more quickly than the local authority. The Borough Solicitor explained that this would depend on the circumstances; the Police may not want to be involved if the Council had powers to act. She reiterated that the policy only applied to activities which the Council could potentially prosecute for, not general criminal activity; if anything of that nature was spotted on social media then it would be referred to the Police. A Member raised concern that information posted on social media was not always accurate and he questioned how a decision would be made as to whether an investigation was warranted. The Legal Adviser indicated that accusations would be followed-up by setting up an account, once authorisation had been obtained, in order to connect with an individual and gather evidence. Covert Human Intelligence Sources (CHIS) had to be very carefully managed and someone would be appointed to do that. Members were advised that it would need to be a very serious matter for the Council to take these steps and such action would not be taken lightly.

26.4 It was

**RESOLVED**

That it be **RECOMMENDED TO THE EXECUTIVE COMMITTEE** that:

- i) the Regulation of Investigatory Powers Act (RIPA) Procedural Guide be **ENDORSED** as set out at Appendix 1 to the report; and
- ii) the Social Media Policy be **APPROVED** as set out at

Appendix 2 to the report.

The meeting closed at 3:30 pm