

TEWKESBURY BOROUGH COUNCIL

Minutes of a Meeting of the Audit and Governance Committee held at the Council Offices, Gloucester Road, Tewkesbury on Wednesday, 19 July 2023 commencing at 2:00 pm

Present:

Chair

Councillor M R Stewart

and Councillors:

H J Bowman, D W Gray, E J MacTiernan, P D McLain, P E Smith and R J G Smith

A&G.3 ANNOUNCEMENTS

3.1 The evacuation procedure, as noted on the Agenda, was advised to those present.

A&G.4 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4.1 Apologies for absence were received from Councillor S R Dove (Vice-Chair). There were no substitutes for the meeting.

A&G.5 DECLARATIONS OF INTEREST

3.1 The Committee's attention was drawn to the Tewkesbury Borough Code of Conduct which was adopted by the Council on 24 January 2023 and took effect on 1 February 2023.

3.2 There were no declarations made on this occasion.

A&G.6 MINUTES

6.1 The Minutes of the meetings held on 23 March and 17 May 2023, copies of which had been circulated, were approved as correct records and signed by the Chair.

A&G.7 AUDIT AND GOVERNANCE COMMITTEE WORK PROGRAMME

7.1 Attention was drawn to the Audit and Governance Committee Work Programme, circulated at Pages No. 12-19, which Members were asked to consider.

7.2 The Director: Corporate Resources advised that the Work Programme was a combination of external audit updates, internal audit updates and corporate and finance items; some, such as the corporate risk register, came to each meeting whereas others, including the internal audit plan and counter fraud update, were six monthly and others were annual.

7.3 Accordingly, it was

RESOLVED

That the Audit and Governance Committee Work Programme be **NOTED.**

A&G.8 EXTERNAL AUDITOR'S AUDIT PLAN 2022/23

- 8.1 Attention was drawn Grant Thornton's audit plan 2022/23, circulated at Pages No. 20-29, which provided an overview of the planned scope and timing of the statutory audit of Tewkesbury Borough Council. Members were asked to consider the report.
- 8.2 The representative from Grant Thornton advised that this was the last year of Grant Thornton's contract as external auditor for Tewkesbury Borough Council; as previously reported to the Audit and Governance Committee, Bishop Fleming would take over as the external auditor next year. The report set out the programme for the 2022/23 financial audit with the planning work having been completed in February/March 2023 and the final audit stage taking place now with a view to reporting back to the Committee in September. The significant risks identified were outlined at Pages No. 26-28 of the report and, as set out at Page No. 30 of the report, materiality at the planning stage equated to 2% of the Council's gross expenditure but the assessment would be kept under review throughout the audit process. It was noted that the risk assessment regarding arrangements to secure value for money in 2022/23 was not finished as Grant Thornton was yet to complete the auditor's annual report for 2021/22 and Members were informed it was planned to report on both 2021/22 and 2022/23 years following its publication. It was anticipated this would be brought to the Audit and Governance Committee in December 2023 but, assurance was provided that, if it could be done sooner, it may be possible to bring it to the meeting in September. The audit fees were set out at Pages No. 35-36 of the report and it was noted that the fee for the housing benefit audit was currently being quoted by the central grants team and would be discussed with the Council's Section 151 Officer shortly.
- 8.3 A Member drew attention to ISA240 and the presumed risk that revenue may be misstated due to the improper recognition of revenue and asked for a comment as to what extent that would impact on this years audit in comparison to previous years in terms of the scope of work. In response, the representative from Grant Thornton advised that the scale fee had been set a number of years ago by the Public Sector Audit Appointments and the breakdown at Page No. 36 of the report set out the scale fee and the various changes over the last few years which had resulted in the current fee. Whilst ISA240 had impacted in terms of the requirements and responsibilities of Grant Thornton, there was no specific impact in terms of the 2022/23 fee. The Member noted that £3,000 was allocated to increased audit requirements of revised ISA315/240 and he asked what difference there would be in terms of the work performed in order to understand why it cost more, for instance, was there more testing. The representative from Grant Thornton explained that the most significant impact was ISA315 in relation to IT general controls which required a much more detailed assessment; IT had been more prominent over the last few years but ISA315 was a step change. ISA240 dealt with the auditor's responsibilities relating to fraud in an audit of financial statements and the standard gave more prominence to the risk of fraud in the planning process. It was anticipated that £3,000 would capture all of the work required regarding both ISA315 and ISA240; however, as set out in the note at Page No. 34 of the report, the Council would be notified should any additional work be required in relation to ISA240 which would impact on the fee.
- 8.4 It was

RESOLVED That the external auditor's Audit Plan 2022/23 be **NOTED**.

A&G.9 INFORMING THE RISK ASSESSMENT

- 9.1 Attention was drawn to the external auditor's report on informing the risk assessment, circulated at Pages No. 40-72, which Members were asked to consider.
- 9.2 Members were advised that this report had been prepared as part of ISA240 and contained a series of questions to gain an understanding of management processes and the Council's oversight of a number of areas including general enquires, fraud, laws and regulations, related parties, going concern and accounting estimates. The responses had been provided by the Associate Director: Finance and were presented to the Committee for oversight and comment.
- 9.3 A Member drew attention to question 5 at Page No. 46 of the report which asked if management were aware of any changes in circumstances that would lead to impairment of non-current assets, and the response which stated that withdrawal from the Homes England Housing Infrastructure Fund (HIF) scheme had resulted in impairment of £1.9m of capitalised costs. He sought clarification as to whether a decision had actually been made to withdraw or if this was a judgement about the future of the underlying scheme. In response, the Associated Director: Finance advised that the Council had officially withdrawn from HIF funding; £1.9m had been spent and confirmation had been received that the Council was able to claim all of that money. In response to a further query regarding impairment, Members were advised that the accounting rules required a capital adjustment; as capital had been received this had to be matched-off to zero so it never reached the bottom line – it was an impairment but there was no impact in terms of the financial standing of the authority. A Member expressed the view that it would be beneficial for Members to receive a formal briefing note in relation to the official withdrawal from the HIF funding and the impact on the corporate risk register in terms of reputational damage and future bidding to the Department for Levelling Up, Housing and Communities (DLUHC).
- 9.4 It was
- RESOLVED** That the external auditor's report on informing the risk assessment be **NOTED**.

A&G.10 CORPORATE RISK REGISTER

- 10.1 The report of the Director: Corporate Resources, circulated at Pages No. 73-91, asked Members to consider the risks contained within the corporate risk register and assurance that the risks were being effectively managed.
- 10.2 The Director: Corporate Resources advised that the corporate risk register was brought to every Audit and Governance Committee meeting and captured the key risk faced by the authority at a high level along with mitigating controls and further action required. Whilst it was not a statutory document, corporate risk registers were commonly used throughout local government to give assurance that risks were being effectively managed. Each risk owner updated the document quarterly with amendments shown in bold and the key updates arising since the register was last presented at the Audit and Governance Committee on 22 March 2023 were summarised at Page No. 75, Paragraph 3.0 of the report. This included a positive update regarding Ref. 4 General Data Protection Regulation due to the creation of an Audit and Governance Team following the recent management restructure which would help to provide additional resilience. An internal appointment had been made to the role of Head of Service: Audit and Governance and there had been recruitment to the Information Governance Officer role with the successful candidate starting in September 2023; this was particularly pleasing as it was a niche role. With regard to Ref. 6 Asset Management and Ref. 9 Climate Change, it was noted

that the Council had been awarded £708,000 funding for a new heating system and a report was being taken to Council on 25 July 2023 regarding additional funding. In terms of Ref. 7 Garden Town, the project was currently paused but this risk would be revisited once a report had been taken to Council later in the month. A new risk had been included, Ref. 14 DEFRA consultation on waste services, due to the government white paper regarding potential changes to waste collection methodology which would have a significant impact on the authority if implemented. There were no mitigating controls as the outcome of the consultation was awaited.

10.3 With regard to Ref. 7 Garden Town, a Member indicated that he was under the impression that the gateway review had been completed and the project was now moving ahead. In response, the Executive Director: Resources advised that, although it had been considered by the Executive Committee the previous week, the report still needed to be taken to Council for approval on 25 July 2023.

10.4 It was

RESOLVED That the risks and mitigating controls within the corporate risk register be **NOTED**.

A&G.11 COUNTER FRAUD AND ENFORCEMENT UNIT REPORT

11.1 The report of the Head of Service: Counter Fraud and Enforcement Unit, circulated at Pages No. 92-102, provided the annual update on the work of the Counter Fraud and Enforcement Unit. Members were asked to consider the report.

11.2 The Head of Service: Counter Fraud and Enforcement Unit advised that the work programme for 2023/24 was attached at Appendix 2 to the report and included several additions, as set out at Page No. 93, Paragraph 1.5 of the report. Page No. 94, Paragraphs 2.1-2.2 provided information on the work of the Multi-Agency Approach to Fraud (MAAF) group which comprised representatives from the Police, Trading Standards, Victim Support, NHS and Gloucester City and County Councils. The group focused on what could be done to prevent fraud, which comprised one third of all crimes; once money had been stolen it was extremely difficult to get back so working collaboratively to raise awareness was essential. The various organisations held a lot of household information which could be used to assist with identifying scams in different postcode areas and visiting Officers could disseminate information to prevent people falling victim to fraud. It was intended to hold a session for Members to discuss how they could help disseminate information to residents; similar sessions had been held for staff the previous week.

11.3 Members were informed that fraud risk strategy work had started with Revenues and Benefits and business grants work was nearing completion as all debt information had to be transferred to central government by the end of the year. Recent casework undertaken in 2022/23 relating to investigation of alleged fraud and abuse within the Council Tax Reduction Scheme was outlined at Page No. 95, Paragraph 2.10 of the report, and reflected the Counter Fraud and Enforcement Unit having greater control as a single point of contact for Department for Work and Pensions housing benefit investigations. The team also worked with Enforcement Officers and details of five successful prosecutions were outlined at Page No. 95, Paragraph 2.11 of the report. Paragraph 3.0 of the report gave the annual report on the Regulation of Investigatory Powers Act 2000 (RIPA) and it was noted that an inspection had been completed and passed with no areas of improvement identified. Feedback had been particularly complimentary about the robust approach that was taken whereby everyone was required to complete an application form, regardless of whether it was overt or covert surveillance, in order to ensure that it was dealt with in the correct way and to mitigate any risks. It was noted that the RIPA policy was scheduled for review again this year.

- 11.4 It was
RESOLVED That the Counter Fraud and Enforcement Unit annual report be **NOTED**.

A&G.12 ANNUAL HEALTH AND SAFETY REPORT

- 12.1 The report of the Environmental Safety Officer, circulated at Pages No. 103-116, summarised the Council's health and safety performance between 1 April 2022 and 31 March 2023 and outlined the work proposed for the next year. Members were asked to consider the adequacy of the Council's health and safety arrangements.
- 12.2 The Director: Communities advised that it was best practice to complete an annual report regarding the Council's health and safety arrangements and the report set out the responsibilities of Officers in the Council. Health and safety was managed largely through the Keep Safe Stay Healthy group and it was noted that particularly good work had been done in relation to the Workplace Wellbeing Programme around supporting staff and that would continue.
- 12.3 With regard to health and safety training, a Member indicated that it would be helpful to know how many staff were attending the various training sessions that were listed at Page No. 113 of the report in order to identify particular areas of focus and the Director: Communities confirmed that information was available through HR so he would look to ensure it was included in the next report.
- 12.4 It was
RESOLVED That the annual health and safety report be **NOTED**.

A&G.13 DATA PROTECTION OFFICER ANNUAL REPORT

- 13.1 Attention was drawn to the report of the Director: Corporate Resources, circulated at Pages No. 117-127, which provided an assessment of the Council's general activity during 2022/23 to ensure broad compliance with the Data Protection Act 2018 and the UK General Data Protection Regulation (GDPR). Members were asked to consider the actions undertaken during the year and the action plan, attached at Appendix 1 to the report, to further improve the Council's arrangements.
- 13.2 The Head of Service: Audit and Governance explained that significant work had been carried out since the introduction of GDPR and there was a continual process to ensure the Council remained broadly compliant. A key part of that was the Single Point of Contact (SPoC) which was fulfilled by the Information Governance Officer – as had been reported earlier in the meeting, this post had recently been recruited to and the successful candidate would be starting in September. In the interim, the role had been carried out by the Head of Service: Audit and Governance. It was vital to have assurance regarding data protection and a key aspect of that was the delivery of the GDPR action plan, attached at Appendix 1 to the report. In terms of the work undertaken during the year, a new Data Protection Policy had been considered by the Audit and Governance Committee in March, and had subsequently been approved by the Executive Committee, and would now be subject to annual review; a new system, built by the Business Transformation Team on the Liberty Create platform, had been developed to manage data requests which had resulted in efficiencies due to the high number of requests received; redaction software had been rolled out to appropriate Officers; an information governance structure chart had been produced as roles and responsibilities had changed significantly; and data protection training had been delivered to Members as part of the Induction Programme – it was noted there would be an ongoing requirement for online data protection training and Members would receive notification of this via a Member Update.

13.3 In terms of priorities moving forward, a data protection retention project plan was being developed to ensure that the Council was only retaining data which it needed and that it was secure – this would be a key task for the new Information Governance Officer. In addition, a watching brief would need to be kept on the Data Protection and Digital Bill which could have impacts in terms of the requirements the Council would need to meet going forward. Work was also planned around privacy notices to ensure ongoing compliance. It was noted that an internal Information Governance and Security Board met on a regular basis to oversee data protection and GDPR related activity which included monitoring delivery of the GDPR action plan and receiving updates on any data breaches. The Head of Service: Audit and Governance advised that Tewkesbury Borough Council had a no blame culture and there was a very good level of reporting data breaches as a result. All reported breaches had been low risk so nothing had been reported to the Information Commissioner; notwithstanding this, she reiterated the importance of ensuring the Council's arrangements were continually reviewed.

13.4 It was

RESOLVED That the annual report on the Council's arrangements for data protection and GDPR be **NOTED**.

A&G.14 INTERNAL AUDIT QUALITY ASSURANCE AND IMPROVEMENT PROGRAMME

14.1 Attention was drawn to the report of the Chief Audit Executive (Director: Corporate Resources), circulated at Pages No. 128-135, which attached, at Appendix 1, the Quality Assurance and Improvement Programme. Members were asked to consider the report.

14.2 The Director: Corporate Resources explained that, in accordance with the Public Sector Internal Audit Standards (PSIAS), the Chief Audit Executive was required to develop and maintain a Quality Assurance and Improvement Programme. The Programme was attached at Appendix 1 to the report and was in two parts: the first gave a high level overview of internal audit processes and how work was quality assured and the second was an action plan setting out the work that would be carried out. The action plan included six actions and, of those, the three key actions related to an independent external assessment which was proposed for the last quarter of the financial year; implementation of a robust risk-based internal audit plan; and building a relationship with the Council's new external auditors. The Quality Assurance and Improvement Programme was reported to the Audit and Governance Committee on an annual basis.

14.3 A Member found it encouraging to see such good progress had been made in what were still quite challenging times in terms of the capacity of the team and he asked that the Committee's thanks be passed on to the relevant Officers. It was

RESOLVED That the Quality Assurance and Improvement Programme 2023/24 be **NOTED**.

A&G.15 INTERNAL AUDIT PLAN MONITORING REPORT

15.1 The report of the Chief Audit Executive (Director: Corporate Resources), circulated at Pages No. 136-175, provided an overview of the internal audit work completed during the period. Members were asked to consider the work undertaken and the assurance given on the adequacy of the internal controls operating in the systems audited.

15.2 Members were advised that audits had been carried out in relation to the Community Infrastructure Levy (CIL), Homelessness Prevention Grant Scheme; Gifts and Hospitality; Payroll; and the Biodiversity Net Gain Grant. Overall, from the individual opinions given, the conclusion was positive and, for the most part, there

were no significant areas of concern with the exception of one limited opinion in relation to the CIL governance arrangements. This was a longstanding issue reflected in the Annual Governance Statement as a significant governance issue but progress was being made at the time of the audit with a Memorandum of Understanding due to be taken back to the Executive Committee. Appendix 2 to the report detailed the 30 audit recommendations that had been followed-up during the period and it was noted that the majority had been implemented or partially implemented. Members were informed that all audit recommendations were followed-up by internal audit and feasible timescales were agreed with management for implementation; if these were not met, they were reviewed and brought back to the Committee and the relevant manager could be called in if Members were unsatisfied with progress.

- 15.3 A Member sought clarification as to whether the work done in relation to CIL was about the effectiveness of CIL arrangements or compliance and the Director: Corporate Resources explained that the audit had found that what was in the system in terms of the CIL collected was accurate, the issue was around establishing a governance programme for how money was allocated and spent. A Member noted that almost £3m CIL had been collected in the reported period but expenditure for the same period was £157,959 with the majority spent on administration so he raised concern regarding the amount which had actually been distributed. In response, the CIL Manager explained that CIL receipts were split into three pots: administration, which could be up to 5%; neighbourhood CIL which was essentially the money collected for the Parish Councils – if the area had an adopted Neighbourhood Development Plan (NDP) it would receive 25% dropping to 15% where no NDP was in place; and the third pot was the remainder which was the pot the audit was raising concerns about. He clarified that, up to 10 July 2023, Tewkesbury Borough Council had distributed £1,347,000 to two neighbouring Parish Councils and expenditure for that had been £157,959. There was an expectation that the Parish Council would report what had been spent at the end of the monitoring year (1 April-31 March). In terms of the third pot, which could be 70-80% depending on the Parish Council element, the aspiration had been for the three Joint Core Strategy authorities to pool the infrastructure fund with more narrow rules for how it could be spent. Tewkesbury Borough Council's CIL income was far greater than either of the other authorities - on 10 July 2023, Cheltenham Borough Council had almost £2.5m, Gloucester City Council had almost £1m whereas Tewkesbury Borough Council had £7.5m. The process for agreeing how much each authority should contribute was critical and the latest update he could give was that the Director of Cheltenham Borough Council, who was leading the work, was being assisted by One Legal to establish Terms of Reference for a Working Group. The Member expressed the view that there seemed to be a lot of reputational risk around CIL and he asked whether that was being managed in an appropriate way. There were complexities as it was not the Council's money and he questioned who was checking the Parish Councils were spending the money. He raised concern that there was a lack of efficiency in the process as it appeared nobody knew what to spend the money on. The CIL Manager advised that training had been carried out with Parish Councils on at least two occasions, with support from the Council's Communities team and Gloucestershire Rural Community Council (GRCC), where Officers had assisted with how to identify schemes, particularly for Parish Councils without an NDP – those with NDPs tended to have a plan and places like Gotherington knew exactly what they wanted to spend CIL on next. The CIL regulations provided the Council a monitoring and enforcement role and there was a requirement to distribute the money in the way he had explained with legislation setting out that must be done twice a year in April and October, the Parish Councils then had five years within which to spend each payment received. The Council had the job of policing that which was why, in addition to asking for reports and helping Parish Councils to prepare their own reports - Parish Funding Statements which had to be published once a year on the website – the Council identified exactly when

funding would be received and how long it would take. Unlike Section 106 contributions which were for a specific purpose, there was no time period for CIL following which the money would be returned to the developer – if any money came back from the Parish Council it went back into the pot. The detail the district authorities and Parish Councils were required to provide were more detailed than many other financial reports and the legislation was prescriptive about what CIL could be spent on. The Council provided advice in relation to that, and was able to obtain legal advice on behalf of Parish Councils as well.

15.4 A Member noted that the CIL training for Members had been postponed from July and the CIL Manager provided assurance that Members would be kept informed of what was happening and could find out whether CIL had contributed to any development in their Wards. He pointed out that the CIL did not have to be spent in the area it was raised, nor did it have to be spent within Tewkesbury Borough as cross-boundary projects were provided for in the regulations. Another Member indicated that she had recently read that developers did not want to pay CIL anymore as it was seen as a tax they had to pay upfront which they did not get back if it was not spent so she asked whether CIL was likely to continue. The CIL Manager indicated that the future of CIL was almost assured - the government had consulted on a new national infrastructure levy earlier this year which was essentially CIL, albeit with the intention that it would be set at a national level based on the value of the sales of a development as opposed to being calculated on gross internal floor area of a development as it was currently. The issue with getting rid of CIL would be that money for building infrastructure to accommodate and facilitate development would need to be found upfront.

15.5 It was

RESOLVED That the internal audit monitoring report be **NOTED**.

A&G.16 INTERNAL AUDIT ANNUAL REPORT 2022/23

16.1 Attention was drawn to the report of the Chief Audit Executive (Head of Corporate Services), circulated at Pages No. 176-181, in relation to internal audit 2022/23. Members were asked to consider the internal audit annual opinion and assurance from the work undertaken during the year that, overall, the Council's governance, risk management and control environment for 2021/22 for the areas audited was generally effective.

16.2 The Director: Corporate Resources explained that the Chief Audit Executive must deliver an annual internal audit opinion and report on the Council's risk environment that could be used to inform the Annual Governance Statement which would be brought to the Committee in September. It was positive that the Internal Audit team was up and running having been redeployed for the last two years as set out at Page No. 178, Paragraph 1.6 of the report. Work undertaken during the year was summarised at Paragraph 2.0 of the report and it was noted that the team had also undertaken a variety of corporate improvement work initiatives, follow-up audits and been represented on key corporate groups such as the Corporate Governance Group and Keep Safe Stay Healthy Group. Page No. 179, Paragraph 3.0 of the report outlined the team structure and that it had remained organisationally independent. The internal audit plan was delivered by two full-time equivalents which was deemed to be an appropriate level of resource. As Chief Audit Executive, he reported directly to the Chief Executive so had free and unfettered access when required and, during the year he also had access to the Chair of the Audit and Governance Committee and the relevant Lead Member. In terms of his independence, it was not uncommon within a small district authority for the internal audit strategic lead to also have operational responsibility for service areas and, during 2022/23, he held a wide managerial remit including ICT, Customer Services, Human Resources and Communications. It was noted that

PSIAS required the purpose, authority and responsibility for the internal audit activity to be formally defined in an Internal Audit Charter which was reviewed every three years with the last review in November 2022.

- 16.3 Looking forward, a new post of Head of Service: Audit and Governance had been created as part of the recent management restructure which provided additional resource to ensure the internal audit plan was delivered and, as set out in the report, the Head of Service had overseen the Quality Assurance and Improvement Programme which included a service programme for 2023/24. In terms of the opinion on the overall adequacy of the control environment, as set out at Page No. 180, Paragraph 6.1 of the report, 59 separate audit opinions were issued during the year and the bulk were either 'substantial' or 'reasonable' with only four limited reports and zero 'no assurance' opinions. On that basis, it was considered that the work of internal audit complied with the PSIAS and assurance could be given to all relevant parties that the work of internal audit could be relied upon. Due to the complexities of the Council's control environment there would always be areas identified by internal audit that needed improvement but the opinions issued during the year demonstrated that, overall, the Council's governance, risk management and control environment was generally sound. Where areas of concern had been identified, there had been a positive management response and all recommendations were subject to follow-up by internal audit. This opinion would be reflected in the Annual Governance Statement.

- 16.5 It was

RESOLVED That the internal audit annual report 2022/23 be **NOTED**.

The meeting closed at 3:05 pm