

DRAFT

Note: These Minutes will remain DRAFT until approved at the next meeting of the Committee

GOVERNANCE AND ETHICS COMMITTEE

MINUTES OF THE MEETING HELD ON MONDAY, 17 JANUARY 2022

Councillors Present: Jeff Beck, Adrian Abbs (as a substitute), Rick Jones, Tony Linden, Thomas Marino (Chairman), David Marsh, Andy Moore and Claire Rowles

Also Present: Bill Graham and David Southgate (Parish Council Representative)

Apologies for inability to attend the meeting: Councillor Jeremy Cottam and Councillor Geoff Mayes

PART I

23 Minutes

Cllr Tony Linden commented that section 17 should have noted 'creation of the district council rather than the unitary council'.

Subject to the above comment, the Minutes of the meeting held on 15th November were approved as a true and correct record and signed by the Chairman.

24 Declarations of Interest

There were no declarations of interest.

25 Forward Plan

The Committee considered the Governance and Ethics Committee Forward Plan (Agenda Item 4).

In response to a query the Monitoring Officer promised Members an update on the work of the Constitutional Working Group at the next meeting. It was added that a code of conduct review would form part of the work of the constitution review task group.

RESOLVED: the Committee note the Forward Plan.

26 Internal Audit Update Report

The Audit Manager presented a brief overview of the report (Agenda item 5). Members' attention was drawn to section 4.5 of the report that concluded that there were no significant issues of concern identified over the relevant period.

Members thanked the team for their hard work over the past year.

In response to a query it was clarified that follow up audits were undertaken as a standard action for any previous audits which had identified 'very weak', 'weak', and some 'satisfactory' findings.

It was reported that the follow up audit work all looked reasonably healthy with progress made.

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Agreed action:

It was clarified that gaps in the update position of the Anti-Fraud Work Plan were due to work not having commenced at the end of Quarter 2.

It was suggested and agreed for completeness that comments to this effect would be added to future reports.

RESOLVED: the Committee note the report.

27 External Audit Plan and Fee Financial Year 2020/21

Mr Iain Murray, representative of the Council's external auditor Grant Thornton presented the Audit Fee for the Financial Year 2020/21 (Agenda item 6).

Members' attention was drawn to the 'Significant risks identified' section of the report (pages 33-35), all of which were risks that auditors were required to class as significant in accordance with established underwriting standards.

It was reported that the National Audit Office had recently introduced a new code of practice which had led to a slight change in the 'Value for Money work'. Further, Mr Murray commented there were ongoing conversations with the Public Sector of Audit Appointments (PSAA) and local government in relation to establishing a sustainable level of fees to meet expectations.

On the above basis, it was reported that Grant Thornton were proposing an audit fee increase to £131,523 for 2020/21.

A Member clarified that the Council approved its budget in March 2020 and not February 2020 as detailed on page 31 of the agenda pack.

It was queried how a slight change to the Value for Money work could result in a fee increase from the previous year of £26,000, and a further sum of £17,000 for the Financial Reporting Council's requirement for more robust testing.

Mr Murray commented that the Value for Money changes were quite fundamental and that he had misspoken to suggest that they only incurred a 'slight change'. It was reported that new requirements imposed by the National Audit Office were far more specific and set out a broader baseline requirement to review arrangements in place at an authority. Reporting was more onerous requiring an audited annual report commenting on the council's arrangements and providing an assessment of all of these arrangements, in contrast to the previous approach of reporting by exception.

It was further reported that ISA 540 prompted a move away from 'professional scepticism' to 'professional suspicion', requiring far more challenge to management in terms of justifying estimations.

In response to whether there were any more forthcoming changes likely to affect the following year's fee, Mr Murray commented that to his knowledge there was nothing imminent.

The Executive Director for Resources commented that the council's audit fee for 2011/12 had been £231,000, which had then reduced to £127,000 a couple of years later. It was commented that the Redmond review had resulted in significant pressure on external auditors with an emphasis on improved quality reporting and a move away from such low fees.

It was commented that the PSAA published scale of fees appeared to bear no resemblance to the increased workload implications.

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Mr Murray commented that the PSAA scale had been published prior to the regulatory change, which had put them in a difficult position and that in all likelihood this would lead to a moving scale in the future.

RESOLVED: the Committee note the report.

28 Financial Year 2021/22 Mid-Year Treasury Report

The Executive Director for Resources introduced the report (Agenda item 7).

In response to a query it was clarified that the quoted Bank Rate of 0.1% was correct at the time and period that the report was written (as at 30th September 2021).

In relation to report point 4.5 and 5.11 a member commented that the council was founded on 1st April 1974 and merely changed its name in 1998.

RESOLVED: the Committee note the report.

29 Member request for information

The Monitoring Officer introduced the report (Agenda item 8).

Cllr Rowles responded to the information within the report by stating that as a members there was an entitlement to the information under section 13.3.6 of the constitution. It was suggested that officers were questioning the integrity of Cllr Rowles by denying access to the confidential information. Cllr Rowles further suggested that the Monitoring Officer's decision should be legitimately challenged and that bringing the matter to Governance and Ethics committee was the constitutional mechanism available to do so.

It was accepted that members did not have an unqualified right to information, however Cllr Rowles drew attention to section 13.3.6 of the constitution which stated that '[Where Officers consider that information is of a confidential nature which should not be openly available to the public or press, this information will be supplied by Officers to Members on a private and confidential basis. Any information provided to Members on this basis will be treated as such and will not be circulated outside the Council](#)'.

Cllr Rowles suggested that denying her access to such information questioned her integrity as a councillor.

Cllr Rowles referred to section 5.19 of the report which referred to her assertion of a 'need to know'. Cllr Rowles commented that access to the details of the report would allow her to see how the case had concluded, and to consequently understand the position of the resident that she represented in relation to the council. It was suggested that the case in Kintbury had almost identical facts to the Lambourn matter in that; both individuals requested CIL exemption; both cases related to missing paperwork; the Council had failed to provide help or guidance to either; agents were involved in both cases and in neither case had a review felt to be appropriate. As such, Cllr Rowles argued that the approach to enforcement in the Lambourn case would have a direct relevance to that in Kintbury.

Cllr Rowles commented that the sheer volume of 53 emails included in the Monitoring Officer's supporting evidence as a 'sample' was astounding.

It was argued that the risk of the issue setting a precedent and then opening up information in relation to social care issues was a nonsense as there was no comparison between planning and social care cases.

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Cllr Rowles quoted section 2.3.4 of the constitution which stated that councillors should 'represent their communities and bring their views into the Council's decision-making processes, thereby acting as the advocate of and for their communities'. It was suggested that Cllr Rowles was trying to fulfil her role as a councillor by challenging and holding the council to account on behalf of her ward resident.

Cllr Rowles finished by commenting that to close down her request was to close down the very fundamentals of democracy and the role that she had been elected to undertake.

Visiting member Cllr J Cole commented that as a co-ward member he had a direct interest in the case and was pleased that his colleague was pursuing the matter. He commented that as a previous Chair of Governance and Ethics he was sad that the matter had needed to escalate to the stage of committee.

Cllr Cole suggested that councillors had three main roles; to represent the interests of their residents; to put forward and agree policies to protect those interests and to act as the equivalent of a multi-level supervisory board to ensure that all is done correctly and to provide challenge to officers when necessary.

It was acknowledged that whilst councillors needed to work within the law, section 13.3.6 of the constitution made specific provision for circumstances when information should be provided on a confidential basis and that it was incumbent on councillors to request such information to ensure that all processes had been followed correctly.

It was suggested that the multiple references to adult social care and family service cases were not relevant to the report. It was argued that the specific cases involved financial implications and so were appropriate to investigate fully.

Cllr Cole commented that it appeared clear that Cllr Rowles was acting as a councillor on behalf of her resident and not in any professional capacity. He further suggested that section 5.11 of the report appeared to be imputing that Cllr Rowles could not be trusted with information, which was unacceptable.

Cllr Cole suggested that the inclusion of 53 emails as evidence indicated just how obstructive officers of the council were being to a councillor trying to do her job.

Cllr Abbs commented that he was shocked at how much member communication had been included within the report and suggested that members should start requesting that all future correspondence should remain confidential until such time that they agreed otherwise.

Under section 13.3.6 of the constitution it was argued that if a member requested information, explained the reason for the request, then by default they should expect to receive it, either in confidence or not. It was felt that the refusal to share the confidential information insinuated that the member would fail to respect that confidence.

Cllr Linden voiced concern at the implications arising from the case. He commented that he would be troubled if the information concerned had not been seen by a senior councillor.

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Cllr Rowles further added that she had received advice that morning from the Head of Legal to abstain from voting on the matter due to a conflict of interest. Cllr Rowles commented that this was wholly unacceptable and a complete nonsense.

The Monitoring Officer stated that it was clear under the statutory regime that there were limitations to what information could be disclosed and that officers had not been obstructive or tried to close down members. It was argued that there was a clear distinction between briefing members and disclosing details of a report on which there was no basis to do so.

The Monitoring Officer stated that whilst there were similarities between the cases, there were also significant differences.

It was argued that inclusion of the 53 emails had been as a sample of the correspondence, that there had been further communications and that they demonstrated the assistance that officers had provided, and not any level of obstruction.

The Chair commented that whilst he could see both sides of the argument he failed to accept that officers had been deliberately obstructive and failed to see that any aspersions had been cast over Cllr Rowles' level of trust. The Chair accepted that there were levels of information to which members should not be privy and was firmly in favour of the recommendation within the report.

Cllr Abbs proposed a motion to reject the recommendation set out in the report and to refer the matter to Council for consideration. Cllr Rowles seconded the motion. The Committee voted by a majority to support the proposed motion.

RESOLVED:the Committee reject the officer recommendation and approve referral of the case to full Council.

30 Exclusion of Press and Public

RESOLVED that members of the press and public be excluded from the meeting for the under-mentioned item of business on the grounds that it involves the likely disclosure of exempt information as contained in Paragraphs(s) * of Part 1 of Schedule 12A of the Local Government Act 1972, as amended by the [Local Government \(Access to Information\)\(Variation\) Order 2006](#). [Rule 8.10.4 of the Constitution also refers](#).

31 Member request for information

RESOLVED:the Committee reject the officer recommendation and approve referral of the case to full Council.

32 Strategic Risk Register Update Q2 2021/22

The Performance Research Consultation Manager introduced the exempt report (Agenda item 11).

RESOLVED: the Committee note the exempt report.

CHAIRMAN

Date of Signature