

SWT Audit and Governance Committee - 13 December 2021

Present: Councillor Lee Baker (Chair)

Councillors Ed Firmin, Simon Coles, Hugh Davies, Tom Deakin (In place of Dawn Johnson), Janet Lloyd, Steven Pugsley, Terry Venner and Sarah Wakefield

Officers: Jackson Murray, Alastair Woodland, James Barra, John Dyson, Paul Fitzgerald, Chris Hall, Alison North, Sean Papworth, Steve Plenty, Marcus Prouse, Malcolm Riches, Dan Webb, Kevin Williams and Jessica Kemmish

Also Present: Councillors Ross Henley, Libby Lisgo and Brenda Weston

(The meeting commenced at 6.15 pm)

41. Apologies

Apologies were received from councillor Dawn Johnson who was substituted by councillor Tom Deakin.

Councillor Ross Henley, who was due to present reports to the Committee, also gave apologies as a road closure had prevented him from attending the meeting in person and he instead joined the meeting via Zoom.

42. Minutes of the previous meetings of the Audit and Governance Committee

The Audit and Governance Committee resolved to approve the minutes of the meeting held on 13th September 2021 as an accurate record.

The Audit and Governance Committee resolved to approve the minutes of the meeting held on 27th September 2021 as an accurate record subject to the wording being changed on page 15 of the minutes to read 'would have' instead of 'should have'.

43. Declarations of Interest

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr L Baker	All Items	Cheddon Fitzpaine & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton	Personal	Spoke and Voted

		Charter Trustee		
Cllr H Davies	All Items	SCC	Personal	Spoke and Voted
Cllr T Deakin	All Items	Taunton Charter Trustee	Personal	Spoke and Voted
Cllr L Lisgo	All Items	Taunton Charter Trustee	Personal	Spoke
Cllr J Lloyd	All Items	Wellington & Sampford Arundel	Personal	Spoke and Voted
Cllr T Venner	All Items	Minehead	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke

44. **Public Participation**

No members of the public had requested to speak on any item on the agenda.

45. **Audit and Governance Committee Forward Plan**

The Audit and Governance Committee resolved to note the Forward Plan.

46. **External Auditor's Annual Report 2020/21**

The Portfolio Holder for Corporate Resources introduced the report:

- The Council successfully published audited accounts on time this year and was one of only 9% of councils to do so this year.
- The next stage of the external auditor's work would be to review value for money. This has taken on a higher profile in the audit regulations and impacts all councils.
- The Auditor's report did not include any statutory recommendations but it did include one key recommendation and five improvement recommendations for the committee to consider.

The Corporate Finance Manager provided a further introduction to the report:

- The report sets out the findings of the External Auditors report on financial sustainability, governance and improving economy, efficiency and effectiveness. These were all reviewed at a high level across the Council.
- The recommendations for the committee to consider were to note the report, note and endorse the management responses that are set out by the recommendations as management comments and to note the signing off and publication of the Statement of accounts for the year ended 31st March 2021.

Jackson Murray, Director - Grant Thornton introduced the report and raised the below points:

- This was the first time this committee will have seen an audit in this format as the Audit Code of Practice had changed meaning an opinion of value for money was no longer received but rather a commentary on value for money instead which was more detailed.
- The Executive Summary set out the risk assessment and the findings against the financial sustainability, governance and improving economy, efficiency and effectiveness.
- The impact of Covid 19 is reflected throughout the report.
- There were some improvement recommendations identified regarding the financial sustainability criteria and the improving economy, efficiency and effectiveness criteria.
- There was a key recommendation made in respect of the governance criteria and that centred on the commercial investment strategy of the Council.
- For financial sustainability criteria satisfied that there are appropriate arrangements to achieve financial resilience. The Council was still fairly young but the medium-term financial planning had been considered and deemed reasonable. The improvement recommendations made relate to the production of budget books to provide further information and around the information supplied to members when approving capital carry forwards.
- Regarding governance the key recommendation is around the governance for the commercial investment strategy. Grant Thornton had not concluded that the Council was undertaking any unlawful activity but had concluded that the strategy represented a departure from prudent activity considering government guidance through the CIPFA prudential code.
- The commercial investment activity did raise financial risks to the council. This report did not say that any unlawful activity has occurred, nor did it say that those risks had materialised as to date they had not. However, decisions taken have led to the Council being exposed to risk.
- There have been a number of changes and improvements to governance arrangements over the last year and an ambitious Annual Governance Statement and Action Plan had been produced. It was important the changes outlined in the action plan were implemented.
- Regarding improving economy, efficiency and effectiveness criteria no areas of significant weakness had been identified. A recommendation had been made regarding the partnership register which was on the Annual Governance Action Plan but had gone past its implementation date.
- Grant Thornton issued a qualified opinion on the Council's finances on 31st September 2021. The final version of the report with qualified audit opinion would be published prior to Christmas.
- There were five areas which were considered as being particular risk regarding the key recommendation on the Commercial Investment. These were securing long term non-PWLB financing, managing the impact on the general fund if commercial investment income was below target, ensuring prudent debt repayment was provided for in the budget, local government reorganisation and the need for the shadow council to understand the risk of the commercial investment portfolio and the need to comply with the new CIPFA prudential code when implemented.
- Local Government Reorganisation in Somerset means that the shadow organisation will also need to be aware of the risks of the Commercial

Investment Strategy and the implications of the prudential code once that is implemented.

During the debate the following points were raised:

- Concerns were raised about the opinion in the report regarding the Council's risk management reporting not giving sufficient information to members about mitigation and over what period actions were to be implemented.
- Concerns were raised about how the new unitary council may view the Council's investments and whether the Council was in danger from its commercial investments. It was responded by the Grant Thornton Director that there was strong governance around decisions but participation in commercial investment activity created risk regardless of what governance was in place. Officers responded that there was regular reporting to members on the commercial investment strategy and that information was also available on the website. Officers had worked to manage risk whilst implementing this strategy including working closely with treasury advisors on how best to manage borrowing. Somerset West and Taunton Council were not the only district in Somerset to have undertaken this activity. The Council awaited the publication of the new prudential code and would then assess its impact upon the Council's financial planning for next year.
- It was questioned why the commercial investment was flagged as red rather than amber in the report. It was responded by the Grant Thornton Director that this was because of the significance of the potential risk and based on guidance set out by the national audit office.
- Concerns were raised about the Council having used £1.6m of reserves and £1.7m from underspends to finance the costs of Covid. Officers responded that the £1.6m was the shortfall in Covid funding in 2021 financial year. Reserves still remained above the minimum.
- Concerned about the minimum revenue position (MRP) for the commercial investment and being able to fund the budget and provide services going forward. It was responded by the Grant Thornton Director that the MRP charge grew fairly significantly this financial year and was projected to grow again in the following financial year. This was because MRP became chargeable the year after investment. For the 2021 MRP charge Grant Thornton were satisfied that it was appropriate and gave it a green rating. Officers responded that the medium financial plan assumed a reasonable amount of income from the commercial investment portfolio and the intent was that the income covered the debt associated with the investments including minimum revenue provision. There was risk however, the portfolio had outperformed expectations at present so one of the options which may be considered was to use the surplus income from the portfolio to reduce the debt further.
- Reassurance was sought that borrowing money other than PWLB would still be possible for the Council long-term at a reasonable rate. Officers responded that the majority of the borrowing the Council was undertaking as at a low interest rate. The Council was focusing on short-term borrowing for the commercial investment whereas for the HRA the focus was on long-term borrowing. There were options to borrow from other local authorities or banks.

- It was raised that it would be useful for the mitigations in place for the commercial investments to be outlined alongside the risks. It was questioned whether every council that had commercial investments would now have a similar red flag in their audits and whether it should still be in red given the mitigation in place. It was raised that there was awareness of the risks of having a commercial investment portfolio when the decision was made to implement the strategy. The Grant Thornton Director responded that whether a council may have a red flag would depend on the scale of investment, level of borrowing and when funds were invested. The Council's reporting on the purpose of the portfolio had been clear.
- It was suggested that the income from the commercial investment portfolio would be useful to the new authority.
- It was raised that undertaking benchmarking this year rather than next year may be beneficial for the council to undertake. It was responded by officers that some benchmarking was already undertaken internally.
- It was asked about the recommendation to publish the budget books and what the time and cost to the Council of doing so would be. Officers responded that the main cost would be through officer time.
- It was asked that the HRA income slippage be outlined in greater detail. Officers responded that they would provide a written answer after the meeting.
- A discrepancy in figures was raised. It was responded by officers that this was due to an error in the working papers.
- It was raised that it was positive that the Governance arrangements were found to be sound. The rates for non-PWLB borrowing were also reassuring.
- The report states that the commercial investment strategy represents a deviance from prudent practice and that this would be reflected in CIPFA's guidance. It was asked if the commercial investment was a material risk, if the Council should be looking to suspend or not continue with the strategy. The Director for Grant Thornton responded that it was for the committee to consider the assurances and recommendations made by external audit and by managers within the wider context. Borrowing purely for yield, in the strictest reading of the prudential code, had never been prudent, but the revised code would be a tightening of those rules.

The Committee resolved to note the recommendations in the report:

- 2.1 The Committee is recommended to note the Auditor's Annual Report in respect of 2020/21 and the recommendations recorded therein.
- 2.2 The Committee is recommended to note and endorse management's proposed responses and actions in adopting the recommendations made by the Auditor.
- 2.3 The Committee is recommended to note the Auditor's confirmation of his Unqualified Opinion on the Statement of Accounts for the year ended 31 March 2021.

Chris Hall left the meeting at this point.

47. **SWAP Internal Audit – Progress Report 2021-22**

Alastair Woodland, Assistant Director – SWAP provided an introduction to the report:

- The report provided an update on the Audit Plan progress and updated on any significant findings from work completed so far as well as any changes to the Audit Plan.
- One limited assurance audit on data centres. A couple framework reviews were carried out around risk management and performance. These are crucial governance areas; a good level of assurance was given for both. The fraud risk assessment would be shared with the Committee in due course.
- Regarding the data centres audit, the data centres had recently been refurbished and some aspects to support their safe operation were still being embedded. These recommendations and actions would be added to the tracker. There would be a follow up on this audit to ensure the recommendations were implemented.
- For the procurement audit, which previously had limited assurance, a number of the recommendations were materially complete, but some final aspects needed to be implemented before they were complete.
- The Committee were updated that one of the actions recorded as Priority 2 in the report was actually a Priority 3 action.
- There had been follow up work on the grounds and maintenance audit. All actions and recommendations had now been completed.
- There had been some changes to the audit forward plan which was a rolling plan. The data centre audit was brought forward. The ICT infrastructure review had been replaced by a management review may not be undertaken ahead of unitary.
- Overall, the governance risk control was working relatively effectively, though, there were some areas for improvement.

During the debate the following points were raised:

- It was questioned about the location of the data centres. The SWAP Assistant Director responded that the major data centre was at Deane House, with a more minor one at West Somerset House.
- It was asked about financial training not having been given to DLO staff when this was recommended previously. It was responded by the SWAP Assistant Director that the way of working and processes had changed meaning that there was less of a need for the training.
- Concerns were raised about the delay to the GDPR audit and about health and safety only having limited compliance. The SWAP Assistant Director responded that the GDPR audit had been delayed but it was hoped the review would be completed in the next four weeks. The health and safety audit would be followed up in the new year. Senior management were looking to implement improvements as soon as possible.

- Concerns were raised about GDPR and ensuring that measures are in place. It was responded by officers that specialist advice was being taken to ensure that GDPR was addressed well.
- It was asked how internal audit would rate the Council's ability to defend against cyber-attacks given the data centre having limited assurance. It was responded by the SWAP Assistant Director that a separate review on cyber security had been undertaken. The data centre was more about physical security.
- It was questioned how realistic some of the target dates for achieving completion of actions were. It was responded by the SWAP Assistant Director that completion of actions in a timely manner was encouraged but changing priorities sometimes meant target dates had to be revised.

The Committee resolved to note the recommendation in the report:

- 2.1 Members are asked to note progress made in delivery of the 2021-22 internal audit plan and significant findings since the previous update in September 2021.

48. **Summary of Level 1 and 2 Audit Actions Progress**

The Business Intelligence and Performance Manager introduced the report;

- Purpose of the report was to update on the level 1 and 2 audit actions at the end of October.
- There was one audit report where all the priority 1 and 2 actions had been completed since the last update to the Committee.
- Three audit actions had been completed since the last update in September. There were four audit actions overdue as at the end of October.
- Actions had a RAG status of Red, Amber or Green to show progress on each of them.

During the debate the following points were raised:

- It was asked what progress had been made with the health and safety action on members being involved in a new Health and Safety Committee. Officers responded that the Health and Safety Committee was made up of a combination of staff and UNISON members and that councillors were not expected to sit on the Health and Safety Committee.

The Committee resolved to note the recommendation in the report:

- 2.1 The Committee reviews the overdue actions contained in the report and notes progress to date.

49. **Treasury Management 2021/22 Mid-Year Report**

The Corporate Finance Manager provided an introduction to the report:

- The CIPFA Code and Treasury Management Code were important for local authorities to follow. They required the Council to have a regular reporting structure on Treasury Management. There were forthcoming changes to these codes which were being initiated by the Department for Levelling Up, Housing and Communities. The government was becoming increasingly concerned about local authorities borrowing and investing in properties to generate yield.
- The report set out details on the Council's borrowing, investments and current performance against treasury and prudential indicators. Figures were all in line with indicators.
- The Council's bank account had exceeded the limit placed on it several times within the financial year. The limit was currently £600,000 and was put in place during the financial crisis. One of the recommendations of the report was that the Committee recommend to Full Council to increase this limit to £1.2m to prevent the limit being exceeded. This recommendation was supported by the Council's financial advisors.

During the debate the following points were raised:

- It was asked if the bank had agreed to increase the threshold to £1.2m and whether this would cost more to do. Officers responded that was an internal set limit and control mechanism so was not to do with the bank and so would not cost any more.
- It was asked if the new £1.2m limit was only to stop the limit being exceeded when money was paid in late rather than it being an aim to hold more money in the bank account. Officers confirmed this was correct.
- It was asked about paying off loans early. Officers responded that paying off loans early would result in penalty charges.
- It was asked if borrowing for less than 12 months was defined as short-term and borrowing for longer than 12 months was defined as long-term borrowing. Officers confirmed that was correct.

The Committee resolved to note the recommendations in the report:

- 2.1 To note the Treasury Management position as at 30th September 2021 and compliance with the Prudential Indicators.
- 2.2 To recommend to Full Council that an amendment (effective forthwith) be made to paragraph 5.16 of the Treasury Management Strategy, which was approved on 30 March 2021 as part of the report covering the Council's Capital, Investment and Treasury Strategies 2021/22 to 2025/26 (details of the amendment are set out in paragraph 6.56 of this report).

50. **External Auditor Appointment Procurement Process**

The Section 151 Officer introduced the report:

- The decision to opt in for external auditor appointment had to be made within a certain time period which was ahead of the new unitary authority being formed. Opting in must be done by resolution of Full Council by March 2022. It had been discussed with each of the other district councils and Somerset County Council's Section 151 officers and had been agreed that all existing authorities should submit to the PSSA and opt in for external auditor appointment. Officers had agreed that this was the most effective way to provide for the opportunity for the appointment of the external auditors for the new authority.

The Committee resolved to note the recommendations in the report:

- 2.1 The Council accepts Public Sector Audit Appointments' invitation to opt into the sector led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023.
- 2.2 Delegate authority to the S151 Officer to sign the Notice of Acceptance of the invitation to opt in.
- 2.3 The Council notes that newly established local government bodies have the right to opt into PSAA's scheme under Regulation 10 of the Appointing Person Regulations 2015, which will enable the new unitary council (or its Shadow Council) to consider opting in to PSAA scheme or making alternative arrangements when legally constituted.

51. **Health and Safety Management System – Performance Framework and Improvement Programme**

The Assistant Director for Corporate introduced the report:

- It was raised that a number of improvements needed to health and safety had been identified by internal and external audits. Limited assurance was given by the recent internal audit report. Health and safety posed a significant corporate risk. Officers had worked to implement a clear governance strategy for health and safety.
- The first tier of governance was the Council's senior management team and councillors through the reports brought to the Audit and Governance Committee. The second tier was the corporate tier internally which was a tactical tier designed to capture and deliver actions. The third tier was an operational tier at the directorate level where each directorate sought to implement actions.
- There was a new health and safety scorecard with indicators to illustrate progress. Risk management and risk assessments were also being improved.
- It was raised that activity on Health and Safety had been separated into seven workstreams. Governance and Control was one of the workstreams. There were also workstreams on people, policy, contractor management, design management, business as usual health and safety and health and safety support systems.

- The new programme on health and safety had been running for a month and around eighty actions had been identified.
- The programme brief outlined the aims for strategic delivery and benefits. These included minimising and avoiding further accidents and incidents.

During the debate the following points were raised:

- Information was going to be extracted from systems and it was asked if as part of this the organisation would be divided into different risk categories and whether areas of work would be graded in terms of health and safety. Officers responded that areas would be given a RAG (Red, Amber, Green) status to prioritise the key areas of highest potential risk which would be addressed first.
- Continued reporting on Health and Safety was encouraged.

The committee resolved to note the recommendations:

- 2.1 The committee is asked to note and endorse:
- A) the H & S Performance Framework
 - B) the HSMS Improvement Programme - as the approach to improving the Health & Safety Management System and culture

52. **Changes to the Constitution**

The Governance Specialist introduced the report:

- It was raised that the purpose of this report was to update some of the wording and job titles in the Constitution to ensure the Council can work effectively and carry out its functions. The report had been drafted with the two deputy monitoring officers and with the involvement of officers from other areas within the Council such as planning.
- The changes included the threshold for key decisions being reduced to £500,000.
- The updates to the terms of reference of the Planning Committee included the insertion of the planning phosphates sub-committee into the constitution.
- The Council Procedure Rules had been updated with changes around procedures for substitutions and motions.
- Regulations and procedures for petitions, including e-petitions, had also been added. The report sought to amend the threshold for the number of signatures on a petition to be 1600 signatures, an increase from the current 200 signatures required, to align more closely with the surrounding districts.
- The reason for decreasing the key decision threshold was likewise to align with surrounding local authorities.
- It was proposed that there be some changes to the Contract and Financial Procedure Rules which reflected the legislation changes as a result of leaving the European Union.
- The Chairs of Scrutiny were briefed on the report this morning.
- The report would proceed to Full Council in February.

During the debate the following points were raised:

- Regarding the planning committee terms of reference and the criteria for a planning application being controversial, it was suggested that changing the need to have four individuals and also a member of one of the subsequent local authorities support the objection be changed so that the member was needed but more individuals, perhaps twelve, be needed to support the objection.
- It was suggested that for planning applications having a ward member or parish councillor and four individuals where it was contrary to the officer's recommendation worked well and that increasing the number needed to support above four would likely result in very few objections being brought to the Planning Committee by that method. Officers noted that in the next four months there would be a need to look at adding a section on planning to the new authority's constitution. The existing authorities would need to create this. Any further changes could therefore be looked at as part of that drafting process.
- A query was raised in relation to motions to Council and a motion previously made at Full Council. It was responded by officers that there would be a further discussion in the new year regarding how the proposed amendments to motions would have impacted previous events. This would be through a meeting with the group leaders and alternative amendment options would also be discussed.
- It was raised that inevitably as local government reorganisation moved towards the new unitary authority being formed, a county wide local plan would be needed and there would need to be a common set of standards created.
- It was questioned whether it was worthwhile changing the constitution now given the ongoing local government reorganisation.
- It was raised that these amendments to the Council's constitution were pragmatic amendments to get the Council safely to 2023.
- It was raised that the petition threshold being raised to be 1% of the population would not enable so many local issues to be raised and brought to the Council for consideration.

A motion was proposed by councillor Steve Pugsley and seconded by councillor Simon Coles that the committee accept all the proposed changes to the constitution contained within the report except for the proposed change to increase the number of signatures for a petition to be brought before the Council, with the number of required signatures to instead remain at 200. The report was to be edited at points 16.2 and 16.6 to reflect the signatures required remaining at 200.

The Committee resolved to carry the motion.

The Committee resolved to note the recommendation in the report with the amendment that the number of signatures required for a petition to be brought before the Council remained at 200:

- 2.1 Full Council resolves to accept the proposals from the Deputy Monitoring Officers (DMOs) and delegates to the DMOs the amendments to give effect to the proposals.

(The Meeting ended at 8.42 pm)