

SCOTTISH BORDERS COUNCIL AUDIT AND SCRUTINY COMMITTEE

MINUTE of Meeting of the AUDIT AND SCRUTINY COMMITTEE held in Council Chamber, Council Headquarters, Newtown St Boswells on Monday, 14 February 2019 at 10.00 am

- Present:- Councillors S Bell, (Chairman), H Anderson, J Fullarton, S Hamilton, N Richards, H Scott, S Scott and E Thornton-Nicol.
- Apologies:- Councillor N Chapman, Mr M Middlemiss and Ms H Barnett.
- In Attendance:- Chief Financial Officer (paras 5 – 7), Chief Officer Audit and Risk (paras 1 - 7, Clerk to the Council (from para 8), Service Director Regulatory Services (para 7), Service Director Human Resources and Communications (para 9), Employee Relations Manager (para 9), Project Manager (para 10), Senior Manager Business Strategy and Resources (para 10), Democratic Services Officer (J Turnbull).

1. ORDER OF BUSINESS

The Chairman varied the order of business as shown on the agenda and the Minute reflects the order in which the items were considered at the meeting.

2. MINUTES

There had been circulated copies of the Minutes of 21 November 2018 and 27 November 2018.

DECISION

APPROVED for signature by the Chairman.

AUDIT BUSINESS

3. ACTION TRACKER

With reference to paragraph 2(b) of the Minute of 27 November 2018, there had been circulated copies of the Action Tracker for the Audit and Scrutiny Committee. It was noted that the Property Assurance report, in connection with issues raised within National Performance Reports by Audit Scotland, had been deferred until the next meeting. The Committee asked that the Chief Officer Audit and Risk, on behalf of the Committee, write to the Service Director Assets & Infrastructure requesting that he, or his nominated member of staff present the report to the March meeting. With regard to the Cove Car Park Petition, the Committee requested a briefing, at the next meeting, by the Service Director Assets & Infrastructure on actions taken. With regard to the Delivery of the IT Strategy, Members were reminded to check the private report of March 2016 and relay any questions to the Chief Financial Officer and Service Director in advance of the April meeting. Ms Stacey advised that following today's meeting, any items marked as completed, would be removed from the Action Tracker.

DECISION

NOTED:-

- (a) the Action Tracker; and

(b) reports be presented to the Audit and Scrutiny Committee on 11 March 2019 on :-

(i) Issues raised within Audit Scotland's National Performance Reports in monitoring the safety of buildings, structures and bridges in the Scottish Borders; and

(ii) actions taken with regard to the Cove Car Park Petition.

4. INTERNAL AUDIT WORK TO DECEMBER 2018

4.1 With reference to paragraph 5 of the Minute of 14 May 2018, there had been circulated copies of a report by the Chief Officer Audit and Risk which provided details of the recent work carried out by Internal Audit and the recommended audit actions agreed by management to improve internal controls and governance arrangements. The work Internal Audit had carried out during the period 27 October to 14 December 2018 was detailed in the report. During the period a total of eight Final Internal Audit reports had been issued with no recommendations. During these reviews Internal Audit had informed operational Managers about minor matters which Management had committed to progress as part of continuous improvement. An Executive Summary of the final Internal Audit reports issued, including audit objective, findings, good practice, recommendations (where appropriate) and the Chief Officer Audit and Risk's independent and objective opinion on the adequacy of the control environment and governance arrangements within each audit area, was shown in Appendix 1 to the report. The SBC Internal Audit function conformed to the professional standards as set out in Public Sector Internal Audit Standards (PSIAS) (2017) including the production of this report to communicate the results of the reviews.

4.2 Reference was made to the Internal Audit Final Assurance Reports detailed in the Appendix to the report. Ms Stacey highlighted that there had been no recommendations in respect of the six schools, providing positive assurance around arrangements for financial controls and business administration procedures in schools. The report detailed new procedures to reduce cash risk within schools with the implementation of initiatives such as Parent Pay. In terms of Workforce Planning, Internal Audit had considered that the structure of the People Plan templates allowed for good practice to be applied consistently across services and that satisfactory risk, control and governance systems were in place. The audit on the review of the New Licensing Policy Statement, had found no evidence to suggest any fraudulent activity was taking place in order to obtain a licence or abuse licensing laws. In response to a question regarding recruitment, Ms Stacey advised that as part of the Workforce Planning process, consideration was given to succession planning and interim resourcing within departments. However, Internal Audit could request Service Directors to provide clarity on the risks associated with resourcing arrangements, which would then be reported to the Chief Executive. With regard to the methodology used for the choice of schools, Ms Stacey advised that all secondary schools' administrative and financial procedures were audited over a three year period.

DECISION:

(a) NOTED:

(i) the final assurance reports issued in the period from 27 October to 14 December 2018 associated with the delivery of the approved Internal Audit Annual Plan 2018/19; and

(ii) the Internal Audit consultancy and other work undertaken in this period.

- (b) **AGREED to acknowledge the assurance provided on internal controls and governance arrangements in place for the areas covered by this Internal Audit work.**

5. **TREASURY MANAGEMENT STRATEGY 2019/20**

With reference to paragraph 9 of the Minute of 15 January 2018, there had been circulated copies of a report by the Chief Financial Officer presenting the proposed Treasury Management Strategy for 2019/20, enabling the Committee to undertake their scrutiny role in relation to the Treasury Management activities of the Council, prior to Council approval. The Treasury Management Strategy was the framework which ensured that the Council operated within prudent, affordable limits in compliance with the CIPFA Code. The Strategy for 2019/20 to be submitted to Council on 20 February 2018 was included at Appendix 1 to the report. The Strategy reflected the impact of the Administration's draft Financial Plans for 2019/20 onwards on the prudential and treasury indicators for the Council. During discussion, Members requested clarification on a number of points contained in the Appendix and these were answered by officers. The Committee requested that the chart at paragraph 4.2(f) of the report, detailing the Capital Financing Requirements External Debt, be amended. It was also requested that Treasury Portfolio figures at 4.1 (a) and the chart at 4.2(b) be updated to reflect that operational borrowing on capital expenditure could not exceed the authorised limit. It was agreed that once amended, a revised version of the report be circulated to Members, and any further comments emailed to Mr Robertson. Members also requested a further treasury management training session prior to the September meeting, Ms Stacey and Mr Robertson would liaise regarding outwith the meeting.

DECISION

AGREED that the final report be updated to reflect amendments at 4.1(a) and charts at 4.2(b) and 4.2(f) discussed and circulated to Audit and Scrutiny Members prior to presentation to Council for approval.

6. **LOCAL GOVERNMENT IN SCOTLAND – FINANCIAL OVERVIEW 2017/18**

- 6.1 There had been circulated copies of a report by the Accounts Commission providing an outline of the overall financial health of local government and the significant challenges for local government finance that lay ahead. The report included a local government financial overview together with a review of the Local Government Pension Scheme in Scotland. In response to a question regarding the allocation of core funding to councils, it was noted that the majority of core funding was based on population with a smaller proportion linked to deprivation factors.

DECISION

NOTED the report by the Accounts Commission on the Financial Overview of Local government in Scotland 2017/18, and the Financial Overview of the Scottish Local Government Pension Scheme 2017/18.

7. **RISK MANAGEMENT IN SERVICES.**

- 7.1 The Service Director Regulatory Services, Mr Brian Frater, was in attendance to brief the Committee on the strategic risks facing the various sections within Regulatory Services and to explain the internal controls and governance in place to manage and mitigate those risks. Mr Frater explained the areas of service he managed, namely: Assessors and Electoral Registration; Audit and Risk; Legal and Licensing; Passenger Transport, and Planning, Housing & Related Services. Mr Frater was also the Council's Senior Monitoring Officer, RIPSAs and Data Protection Officer. Risk Registers for each of the services were developed through Financial, People and Business Planning processes and were owned and by Service Managers within that service. Risks were regularly reviewed by the Regulatory Services Management Team and when necessary, were escalated to Corporate Management Team (CMT).

7.2 Mr Frater referred to the key overarching issues facing Regulatory Services namely ongoing financial pressures, recruitment and retention, new legislation, customer demand and expectations, IT reliance and changes to service delivery models. Mr Frater then went on to give a brief overview of the risks within each service. With regard to Assessors & Electoral Registration, a red risk had been identified with the new election software, relating to the lower voting age in Scotland for Scottish Elections. Other risks included the implementation of the Barclay review and recruitment challenges within the service. With regard to Audit & Risk, there was potential risk around losing specialist skills and lack of succession opportunities. Within Legal & Licensing, there were risks associated with new and changing legislation. With regard to Protective Services/Health & Safety there was difficulties retaining and recruiting staff to deliver services effectively, proactively monitor and apply health and safety requirements. Recent budget savings had impacted the Passenger Transport service, particularly with regard to service delivery decisions taken without their involvement. Risks associated with Planning, Housing & Related Services related to uncertainty around the new Planning Act, potential capacity issues in processing applications quickly and reduction in SHIP funding. Mr Frater went on to discuss his roles as the Council's Senior Information Risk Officer and Data Protection Officer, explaining that mismanagement or loss of data could have a potential fine of 4% of total Council turnover. In his Monitoring Officer role he also gave guidance to Members to ensure they did not breach the Code of Conduct which could result in reputational damage. As the RIPSAs Responsible Officer he authorised covert surveillance activities. The Council had not, as yet, used these powers but if necessary, he had to ensure they were used appropriately. In terms of managing risks, Mr Frater explained that this was achieved by having regular risk workshops, supported by the Audit and Risk Team; regularly monitoring of both corporate and operational risks within Services; recruiting to posts through 'grow our own', which involved supporting staff to achieve the necessary qualifications; and embracing new opportunities to deal with customer demands. Mr Frater responded to Members questions advising that GDPR had introduced a more structured approach to holding and processing information. Data should be encrypted and any information no longer required deleted. Members requested a further briefing on managing information and he would arrange with the Information Team. Regarding surveillance operations, these were audited every three years by an independent auditor. The last two audits had achieved positive criticism. With regard to changes in legislation, Mr Frater highlighted the importance of legal advice. Ms Stacey added that in terms of community empowerment and engagement, an assurance review by Audit Scotland would consider community engagement. The Chairman thanked Mr Frater for his presentation.

DECISION

NOTED

- (a) **The presentation on risk management in Regulatory Services directorate.**
- (b) **To request a further briefing session on managing information.**

SCRUTINY BUSINESS

8. SCRUTINY WORK PROGRAMME

With reference to paragraph 3 of the Minute of 24 September 2018, there had been circulated copies of the Scrutiny Work Programme for 2019. Ms Wilkinson referred to the need for Members to consider developing a programme for 2019/20 and asked that she be advised of any items the Committee wished to be considered for review.

DECISION

- (a) **AGREED The Scrutiny Work Programme 2019 as detailed in the report.**

- (b) **NOTED that additional items for 2019/20 would be advised and included in the Scrutiny Work Programme as appropriate.**

9. **COUNCILLORS' ROLE IN STAFFING MATTERS**

- 9.1 With reference to paragraph 3 of the Minute of 24 September 2018, the Chairman welcomed Ms Clair Hepburn, Service Director Human Resources and Communications, and Mr Iain Davidson, Employee Relations Manager, to the meeting to provide Members with a greater understanding of Disciplinary, Appeals and Employment Tribunals. Mr Davidson began by explaining that Members could potentially be involved in hearing Appeals as a member of a Staffing Appeals Committee. These Committees, membership of which was selected from an Appeals Panel, heard all appeals against dismissal, or against the decision of a Director. Currently there were only 14 Members on the Appeals Panel (13 males and one female) who had undertaken the necessary employment law training, and had received relevant policies and guidelines on conducting investigations. Guidance to Members was given by either Ms Hepburn or Mr Davidson who attended the Committee. There was also a pre-meeting where Members could discuss any areas of concern and any employment law issues. Mr Davidson highlighted that the role of the Committee was to review the previous decision to ensure that proper processes had been adhered to and that Managers had applied Council policies in a legally compliant manner. It was not the role of a Staffing Appeals Committee to re-hear the original hearing. Mr Davidson then referred to the role of Council officers as either Investigating Officer or Commissioning Manager, both of whom had undertaken (face to face) Disciplinary & Grievance training, with guidance in relevant policies and support at Hearings provided by HR. Following an investigation, a report was prepared for the Commissioning Manager, the findings of which were reported to any subsequent Disciplinary Hearing.
- 9.2 Mr Davidson then referred to Employment Tribunals explaining that a dismissed employee could bring a claim for unfair dismissal to the Employment Tribunal. There were no fees payable and no requirement for legal representation. The Tribunal was chaired by an Employment Judge whose role was to decide if the Council had reached a reasonable decision and had followed a fair procedure. A Tribunal was an onerous process for any witnesses, and HR offered support and guidance, explaining the process, set up, relevant documentation and gave an opportunity to clarify any questions in advance. During the period 2012 – 2018 there had been 21 Employment Tribunals, 14 of which had been dismissed (Council was successful), five withdrawn, one settled, and one upheld (Council was unsuccessful). In response to questions, Ms Hepburn advised that following a Tribunal there was a debrief and every judgement was scrutinised and discussed within HR, the Corporate Management Team and the relevant Department, which could potentially lead to a change in policy or guidance. As this process was an operational matter, there was no requirement to feedback to Council. However, as a result of a recent unsuccessful Tribunal, an HR Advisor was now present during any investigation. Ms Hepburn agreed to feedback any other changes made to process which had been implemented. With regard to the lack of female Councillors on the Appeals Panel, the Chairman of the Panel, Councillor Mountford had undertaken to promote the role and Councillor Thornton-Nicol also offered to speak with her fellow Councillors on this matter. The Chairman thanked Ms Hepburn and Mr Davidson for their presentation, congratulated them on their successes and for providing reassurance that lessons had been learnt from the unsuccessful Tribunal.

DECISION

NOTED the presentation.

MEMBER

Councillor Anderson left the meeting during the above presentation.

10. **EUROPCAR**

- 10.1 With reference to a paragraph 3 of the Minute of 24 September 2018, the Chairman welcomed Mr Jon Laws, Project Manager and Mr Jason McDonald, Senior Manager

Business Strategy and Resources, who were in attendance to give a presentation on Scottish Borders Council Pool Car Contract. Mr Laws began by advising that business miles for 2017/18 had been 1,884,219 at a cost of £840,122. With the introduction of the Co-Wheels pilot and changes to working practices, e.g. tele conferencing, there had been a 24% reduction in business mileage compared to the previous year. Following the success of the pilot, the Council changed provider to Europcar and an expanded 55 car fleet had been rolled out to 10 sites across the Borders. The anticipated savings based on the expanded fleet was a further £250k per annum. Mr Laws went on to explain that it was hoped the fleet could be made available for community use from the spring 2019, initially at Hawick and Galashiels, which could generate further income for the Council. In response to a question regarding the amount of savings due to car sharing, Mr Laws advised that while historic data to provide an accurate assessment was not available, car sharing was encouraged. Regarding the choice of vehicles, Mr McDonald advised that they had not been prescriptive about the model, the Contract was for a two year period and there would be a continual review to ensure the fleet was the most economical. The Chairman thanked Mr Laws and Mr McDonald for their interesting and informative presentation and for the success of the project.

DECISION

NOTED the presentation.

MEMBER

Councillor H. Scott left the meeting during consideration of the above Presentation.

The meeting concluded at 12.55 am