

GOVERNANCE, AUDIT AND PERFORMANCE COMMITTEE held at COUNCIL CHAMBER - COUNCIL OFFICES, LONDON ROAD, SAFFRON WALDEN, CB11 4ER, on WEDNESDAY, 30 JUNE 2021 at 7.00 pm

Present: Councillor E Oliver (Chair)
Councillors G Driscoll (Vice-Chair), J Emanuel, A Khan, B Light and M Sutton (substitute for Councillor Luck)

Officers in attendance: R Auty (Assistant Director - Corporate Services), E Brooks (Internal Audit Manager), A Chessell (Chief Procurement and Risk Officer), C Edwards (Democratic Services Officer), P Evans (Customer Services and Performance Manager), D French (Chief Executive), C Gibson (Democratic Services Officer), A Knight (Assistant Director - Resources), O Knight (PFI and Performance Officer), J Reynolds (Lawyer) and A Webb (Director - Finance and Corporate Services)

GAP6 APOLOGIES FOR ABSENCE AND DECLARATIONS OF INTEREST

Apologies were given by Councillors Asker, Foley and Luck. Councillor Sutton was the substitute for Councillor Luck.

GAP7 MINUTES OF THE PREVIOUS MEETING

Councillor Khan congratulated the minutes taker for very clear exceptional minutes.

The minutes of the meeting held on 10 June 2021 were approved as correct.

GAP8 INTERNAL AUDIT ANNUAL REPORT 2020/21

The Internal Audit Manager gave a summary of the report, which detailed the work undertaken during the 2020/21 financial year and provided details on the high risk and priority issues which could impact on the effectiveness of the internal control environment, risk management and governance arrangements across the Council. She provided an overview of work done in the year as detailed in Paragraph 1.4 of the report. She referred to Paragraph 2.3 of her report in her opinion that overall, the Council's systems for control, risk and governance were generally adequate with some improvements required. She said her opinion had been supported through the risk management framework.

The Internal Audit Manager said that seven high priority findings had been identified in reports but that she was not unduly concerned at this stage, the key indicator will be whether good progress is made in implementation of the recommendations. She said that 'moderate assurance' had been the overall opinion in respect of the Key Financial systems and that implementation of audit recommendations had been good.

In response to a question from Councillor Khan about the outstanding recommendation from the Equality and Diversity report, the Internal Audit Manager said that this related to ensuring that all service plans included equality objectives from September 2021.

RESOLVED that GAP Committee note the contents of this report.

GAP9 INTERNAL AUDIT STRATEGY 2021-23

The Internal Audit Manager gave a summary of the report that set out the strategy for 2021-23, covering how the service would be delivered and developed, as a key component of compliance with Public Sector Internal Audit Standards. She outlined the mission statement, the goals, the key internal audit outputs and the measurements of success and said that she would report back on progress made against the strategy.

Councillor Emanuel thanked the Internal Audit Manager for the clarity of her reports.

RESOLVED that GAP Committee note the Internal Audit Strategy for 2021-23.

GAP10 CONTRACT PROCEDURE RULES

This item was brought forward on the agenda to accommodate the Chief Procurement and Risk Officer from Chelmsford City Council, who outlined the shared service procurement arrangements between Chelmsford and Uttlesford that have been in place since April 2021.

The Chief Procurement and Risk Officer said that she had been working with the Assistant Director - Resources to review the Contract Procedure Rules. The proposed amended rules included reducing the administrative input required by Chief and Deputy Chief Officers for low value goods and services, simplified procedures and modernising the language. She said that the proposed rules were in line with those at Chelmsford City Council and summarised the proposed changes as detailed in Paragraph 10 of the report.

Councillor Light said that she supported the new approach but was concerned that it might make the process longer.

The Chief Procurement and Risk Officer said that she did not envisage any problems as a detailed contracts register was in place and that there were unlikely to be any major unplanned expenditures.

The Assistant Director – Resources said that she had worked closely with Chief Procurement and Risk Officer; and that the process would be more responsive and efficient.

RESOLVED that GAP Committee recommends to Council the approval of the updated Contract Procedure Rules as set out in this report.

GAP11 **NEW ARRANGEMENTS FOR STATUTORY SENIOR OFFICER DISCIPLINARY PROCEDURES**

The Monitoring Officer gave a summary of the report that provided procedural clarity in the processes to be followed in the event that a formal written complaint was made against one of the Council's three statutory officers- the Head of Paid Service, Monitoring Officer and Chief Finance Officer. She said that legislation had changed in 2015 but that many local authorities had been slow to address these changes, partly because of emerging guidance from the Joint Negotiating Committee (JNC) and partly because it appeared to be very complicated; she confirmed that there were existing procedures in place.

She outlined the roles of the three standalone committees that would need to be set up: An Investigating and Disciplinary Committee (IDC), an Appeals Committee (AC) and an Independent Panel (IP). She said that all members would be given detailed training prior to committees being convened. She also sought guidance as to whether new standalone committee should be set up or whether some responsibility could be taken by the Appointments Committee.

Councillor Driscoll referred to Paragraph 11 of the report in respect of the responsibility for any decision whether to refer the matter to the IDC resting with a small number of officers.

The Monitoring Officer Lawyer said that inclusion of a Head of Human Resources in the process allowed further scope.

Councillor Light also referred to Paragraph 11 of the report and expressed concern that there were very limited numbers of officers involved in the process and that it could conceivably be difficult for officers to take action against "one of their own". She said that consideration should be given to involving both an independent person and Human Resources in the decision-making process.

The Chief Executive said that any officers involved in this stage of the process, whilst they worked together closely, were all Independent Senior Officers and were bound by Statutory responsibilities, Officers Code of Conduct and their own Professional Codes of Conduct. She assured members that the statutory officers had at to act at all times in the Council's best interests or they could be subject to action themselves.

The Monitoring Officer said that she could re-visit the recommendation made in Paragraph 11 to consider the involvement of an independent person in the process.

In response to a question from Councillor Emanuel, The Monitoring Officer explained the role of independent persons on the Standards Committee.

In response to questions from Councillor Khan, the Monitoring Officer confirmed that disciplinary processes were in place for all other Council officers. She also said that the new recommended disciplinary procedures would form part of the employment contracts of the three statutory officers and that she considered that it provided a more solid level of protection.

Members supported the principle of the new committees being standalone and not connected to the Appointments Committee. Members also supported the recommendations with the proviso that the Monitoring Officer revisit the recommendation detailed in Paragraph 11 below to consider the decision-making process of referral of matters to the IDC.

RESOLVED that GAP Committee recommend to Full Council:

8. That the JNC model procedure be adopted for all three relevant statutory officers and that the Council's disciplinary procedures and the Constitution be amended to reflect this.

9. The establishment of the following standalone Committees to manage the procedure:

An Investigating and Disciplinary Committee (IDC) to deal with disciplinary matters relating to the relevant officers. This committee is to be a politically balanced committee of at least five members, at least one of whom is to be a member of the Cabinet. There should be two reserve members in case of any conflict of interest.

An Appeals Committee (AC) to deal with disciplinary matters short of dismissal relating to the relevant officers. This committee is to be a politically balanced committee of at least five members, at least one of whom is to be a member of the Cabinet. There should be two reserve members in case of any conflict of interest.

An Independent Panel (IP) comprising of three people appointed under section 28 Localism Act 2011 to advise Council in the event of a recommendation from the IDC to dismiss a relevant officer.

10. The delegation of power to an elected Member most usually the Chair of the IDC to suspend a relevant officer immediately in an emergency.

11. That in the case of a complaint against a relevant officer, the decision whether to refer the matter to the IDC will be delegated to the Monitoring Officer or Chief Finance Officer in conjunction with the HR Manager in the case of a complaint against the Head of Paid Service and delegated to the Head of Paid Service in conjunction with the HR Manager in the case of a complaint against the Monitoring Officer or the Chief Finance Officer.

12. That the relevant officers will be given the same right to be accompanied at any disciplinary hearing as all Uttlesford District Council employees. Additionally, this will include the right to be accompanied by a legal representative at their own cost.

13. That the Assistant Director Governance and Legal and Monitoring Officer be authorised to make all necessary and consequential amendments to the constitution to give effect to these recommendations.

14. That the HR Manager in conjunction with the Assistant Director Governance and Legal and Monitoring Officer be authorised to appoint three new persons to comprise the IP.

15. That the HR Manager be authorised to arrange appropriate mandatory training for members serving on the IDC and AC and the Independent Persons serving on the IP.

16. That the HR Manager be authorised to amend the Councils disciplinary procedures and contracts of employment for relevant officers accordingly.

17. That the IDC and AC be appointed, and seats thereon allocated to political groups in accordance with the rules of proportionality and that appointments be made to Committees in accordance with the nominations received from political groups.

GAP12 COVID-19 PERFORMANCE INDICATOR UPDATE

The PFI and Performance Officer gave a summary of the report, which presented the outturn data for all COVID-19 performance indicators for the period 3 May 2021 to 6 June 2021. He said that despite challenging circumstances, data outturns confirmed that services had sustained performance levels. He asked for a view from members as to whether reporting in future should revert to the standard corpus of corporate KPIs and PIs from Q1 2021/22 onwards.

In response to questions from Councillor Driscoll in respect of CV15 – Rents lost on voids available to let (excluding development opportunities), the Customer Services and Performance Manager said that this was not an area of concern. The PFI and Performance Officer said there had been a considerable improvement in this area and that the existing KPI 08 (a) had a target of 42 days for the void process.

Councillor Emanuel supported a return to the quarterly reporting method of KPIs.

Councillor Light said that she recognised that the Council had done extraordinary work in the past 16 months. She said she would be happy to see a return to quarterly monitoring but asked whether the impact of the pandemic could be reflected within the data.

The PFI and Performance Officer said this would be possible through the inclusion of performance notes from service managers.

Councillor Khan said the report was comprehensive. He said that coming out of the pandemic there were three key issues to be faced; employment, housing and

debt. He referred to how CV28 – Rent Collected as a Percentage of Rent Owed (excluding arrears b/f) had been calculated. He was looking to identify the levels of debt caused by furlough and the pandemic.

The PFI and Performance Officer said that the KPI related to rent collection as a percentage of the annual debit and was calculated by the amount of money taken during the time as a percentage of the amount of money that would have been owed by tenants during that time and that it would include aged existing debt on rent accounts. He said he would consider if a new PI could be included which reported the quantum of rent owed.

RESOLVED that GAP Committee note the performances of services during the COVID- 19 pandemic and that reporting should revert to the standard corpus of corporate KPIs and PIs from Q1 onwards to include additional narrative relating to the pandemic.

GAP13 2021/22 CORPORATE RISK REGISTER

The PFI and Performance Officer gave a summary of the report that provided members with an update of the 2021/22 Corporate Risk Register (CRR), which included corporate-level risks that had been identified and managed during the 2021/22 year. He said that the 2020/21 CRR had last been reviewed in Autumn 2020. He highlighted the inclusion of a new risk of focusing upon the climate emergency following the Council's declaration of the Climate Emergency. Councillor Khan said that it was a good clear report and asked in terms of financial control why there was no ethical investment policy yet in place. The Director – Finance and Corporate Services said that the ethical investment policy should be presented to the next Investment Board meeting towards the end of July 2021.

Councillor Khan referred to 20-CR-07 Governance that was shown as amber and said that as the 2019/2020 Annual Governance Statement had yet to be signed off was this still a valid control. He also asked whether the number of standards complaints resolved and unresolved should be reflected.

The Chief Executive said that the Annual Governance Statement was a relevant valid control and a requirement that mitigated risks within a framework; she said that the External Auditor was currently unable to sign off the 19/20 Annual Governance Statement. She also confirmed that data relating to standards complaints had been included in the Annual Governance Statement that showed the numbers of complaints that had been received and resolved.

In response to a question from Councillor Khan about having a specific reputational risk, the Chief Executive said that reputational risk was one of a range of factors integral to all those risks that had been identified in the CRR.

RESOLVED that GAP Committee note the 2021/22 Corporate Risk Register.

GAP14 ANNUAL REPORT

The Assistant Director – Corporate Services presented his report as a factual summary of work undertaken by the Committee.

Councillor Driscoll referred to the changes made in respect of the time permitted for questions to the executive and committee chairs at meetings of the Full Council and asked that these changes be communicated ahead of Full Council.

The Assistant Director – Corporate Services confirmed that Democratic Services would take this forward.

Councillor Khan congratulated the officer on his report and said that the main issues had been picked up, including grants governance.

RESOLVED that the Annual Report be taken forward to Full Council.

The Chair thanked all members of the Committee for their work during the year.

The meeting closed at 8.40 pm.

Debden Residents Community Group (DRCG) response to presentation from Cllr Luck

UDC GAP Meeting 10th June 2021

Cllr Luck : *We all know the Covenant agreement is for the MOD & Civilian organisations to work together for the better good of the community.*

DRCG : So why was a more affordable scheme, with full planning permission not pursued years ago ? (This would have helped fulfil the *duty* on the Village Hall Trust to '*act in the best interests of their charity*').

Cllr Luck : *The grant application followed a Due Process and continued following agreed process until September 2020 when it was decided by the AFCT with concurrence by UDC that the Grant should be withdrawn. They came to this decision because in their view there was no Substantial and irretrievable progress on the project. The VHT dispute that claim.*

DRCG : The application did not have the permission of the PC & no mention of the various 'good will' extensions given to avoid withdrawal of the Grant. It stated the grand opening would be in spring 2017. There is no mention of an alternative scheme with full planning permission. No building work has commenced, how do

they evidence 'substantial AND irretrievable'? The Grant was to pay for building work NOT expenses.

Cllr Luck : *Therefore, since September 2020 Debden has only been able to make a little progress towards completion of the project its mainly because of the shadow of the withdrawal of the grant hanging over them.*

DRCCG : This is not true. Even with the PWLB loan there are insufficient funds to meet the huge cost of this project. This is compounded by the unnecessary cost of demolishing & rebuilding the pavilion - currently not funded.

- The MoD Grant application was submitted by Stephanie Watson in 2015. At the time she was Chairman of the Village Hall Trust and a member of Debden Parish Council. She has been a member of the Council since then and was Vice Chairman and now Chairman of Debden Parish Council.
- On May 6th2021, an election was called, and Stewart Luck was elected to the Parish Council. In 2015 Stewart Luck was a Parish Councillor and Chairman of the Village Hall Group (an unconstituted organisation representing fund raising activities).
- Neither Stephanie Watson nor Stewart Luck informed the Parish Council in 2015 about the application. The Parish Council's name was included on the application without their knowledge.
- The Grant, which was erroneously handed over in its entirety to the Village Hall Trust has sat in the Village Hall Trust current account for 6 years. There has also been little additional fund raising throughout the six-year period.
- Even with the grant, the shortfall for building a new village hall and sports pavilion is huge. Cllr Luck mentions in his statement to the GAP meeting on 10th June, "the Responsible Financial Officer will not sign the application for a large Public Works Loan Board grant". It is not a grant but a loan with repayments over 40 years, with interest, payable (in the form of a Precept) by the residents. It was initiated by Debden Parish Council's flawed Public Consultation exercise conducted 19th February to 20th March 2020. **Their actions have consistently lacked transparency, accountability, and competence.**
- **There is a significant number of residents who do not believe this scheme is affordable & that their voices are not being heard. This includes the 82% who supported an alternative, more affordable scheme. (Result of a recent Parish Poll organised by UDC)**
- **The refusal of the Village Hall Trust to return the grant, even though there is no clear way ahead to complete the build, is a total embarrassment to the village and to our Army neighbours.**