

Nottingham City Council

Audit Committee

Minutes of the meeting held at Ground Floor Committee Room - Loxley House, Station Street, Nottingham, NG2 3NG on 25 November 2022 from 10.30 am - 12.10 pm

Membership

Present

Councillor Sajid Mohammed (Chair)
Councillor Graham Chapman
Councillor Michael Edwards
Councillor Jane Lakey
Councillor AJ Matsiko (Vice Chair)
Councillor Nayab Patel
Councillor Ethan Radford
Councillor Andrew Rule

Absent

Colleagues, partners and others in attendance:

Steve Oakley	- Head of Contracting and Procurement
Simon Parsons	- Audit Manager
Shail Shah	- Head of Internal Audit
Andrew Smith	- Grant Thornton External Auditor
Jean Stevenson	- Interim Finance Team Leader – Technical Team
Jane Garrard	- Senior Governance Office

44 Chair

As neither the Chair or Vice Chair were present for the start of the meeting, the Committee appointed Councillor Jane Lakey as Chair for the meeting.

45 Apologies for absence

None

46 Declarations of interests

None

47 Minutes confirmation

a 29 April 2022

The minutes of the meeting held on 29 April 2022 were confirmed as an accurate record and signed by the Chair.

The Committee commented on the importance of actions agreed at meetings being actioned and requested that a rolling log of actions is created, kept up to date and reported to every meeting of the Committee.

b 30 September 2022

The minutes of the meeting held on 30 September 2022 were confirmed as an accurate record and signed by the Chair.

48 Chair

Having arrived at the meeting, Councillor Sajid Mohammed resumed chairing the Committee for the remainder of the meeting.

49 Exemption from Contract Procedure Rules: Q2 2022-23

Steve Oakley, Head of Contracting and Procurement, presented the report detailing the exemptions from Contract Procedure Rules that had been approved during Quarter 2 of 2022/23 and the actions being taken to ensure that exemptions only occur when there is a sound rationale for doing so. He highlighted the following information:

- a) There has now been reporting on a full year since changes to Contract Procedure Rules were made, and during that time the number of exemptions has fallen.
- b) During Quarter 2 there were 8 requests for exemption and, of these, 5 were compliant with Public Contract Regulations. The other 3 were below the Public Contract Regulations threshold. 2 of these would have been exempt from Contract Procedure Rules regardless of process and in the remaining case officers had followed Central Government guidance but there was a technical issue and advice from the Procurement Team hadn't been sought at an early enough stage to resolve it.
- c) That 5 of the 8 exemptions were compliant with Public Contract Regulations demonstrates the need for Contract Procedure Rules to be reviewed and amended in this regard.
- d) A new Director of Procurement and Contracting has recently started in post.
- e) Positive feedback has been received from the e-learning available to colleagues and a new e-learning module on contract management is being developed.

Resolved to note:

- (1) the number of exemptions from Contract Procedure Rules during Quarter 2 of 2022/23 and the exemptions since October 2021; and**
- (2) the actions that continue to be taken to ensure that contracts are awarded in line with Contract Procedure Rules and that exemptions only occur where there is a sound rationale for approving the exemption.**

50 External Audit - update

Andrew Smith, Grant Thornton, gave a verbal update to the Committee highlighting the following information:

- a) It is positive that recruitment has been successful and there is now greater capacity within finance teams, however there are still areas that the External Auditor is waiting for information on, for example in relation to valuations and adjustments to the Housing Revenue Account (HRA).
- b) The key area that the External Auditor is waiting for information from the Council about is the extent of override of management controls. A review is about to commence, but the External Auditor has raised concerns about the scope of the review with the Chief Executive and Section 151 Officer and will be putting those concerns into writing.
- c) The Value for Money report will be presented to the Committee at its meeting in February 2023. It is anticipated that the report will be adverse for 2019/20 with significant weaknesses in 2020/21. The weaknesses will not be a surprise for the Council and relate to the issues identified by the Ofsted inspection of children's services, procurement arrangements, financial management reporting arrangements, HRA unlawful payments and general financial capacity within the Council and the impact of this on driving forward improvement.
- d) It is also anticipated that the findings and recommendations from the review of selective licensing, which came about as a result of a matter being raised by a member of the public, will be available in February.

During subsequent discussion the following points were made:

- e) Progress has been made in relation to the last few months of the operation of Robin Hood Energy but issues have not yet been resolved to the External Auditor's satisfaction. However, there is a fair degree of confidence that the issue won't result in accounts being qualified. Over 50% of the necessary information is now available and that will be sufficient for the group accounts.
- f) The third party review of the management override of controls will make use of work that has already been carried out in relation to this issue to avoid duplication. The review will focus on new areas that haven't been looked at yet such as ring-fenced grants that the Council receives. The External Auditor anticipates that other examples where controls did not work will be identified through this process. EY was appointed to carry out the review ten days prior and is now mobilised and collecting data. It is anticipated that the review will take approximately ten weeks and conclude in mid-February 2023.
- g) The External Auditor was happy with the scope for the review of management override of controls that went out to tender, but has significant concerns about the approach proposed by EY. The approach seems to be focused on controls assurance rather than investigatory and therefore doesn't fully fulfil

the scope. There have been lots of conversations about this but agreement has not yet been reached, and therefore the External Auditor will be putting his concern in writing to the Chief Executive within the next week. A swift response will be expected.

- h) The External Auditor does not have concerns about the capability of management in post but there are issues with capacity. All local authorities are facing recruitment problems but it feels particularly acute in Nottingham and, given the challenges that the Council is facing, capacity is a major risk. The External Auditor is fine with the direction of travel for organisational development but less confident about the Council's ability to fill posts given challenging market conditions.
- i) In relation to the Value for Money report, the External Auditor doesn't believe that the Council has been able to demonstrate that it has achieved best value through procurement. The level of exemptions from Contract Procedure Rules indicate poor practice. There have been cases when exemption from Contract Procedure Rules was not justified and also permitted retrospectively. Lots of work has gone into developing a new operating model but it now needs to be put into place. There are also concerns about the very low thresholds for decision making by officers which adds an additional layer of bureaucracy, slowing decision making down and impacting on best value.
- j) The issues highlighted in this verbal update are all reflected on the Council's risk register and there are no concerns that the Council is not aware of issues that need to be addressed.

Noting the concerns raised about organisational capacity and challenges with recruitment, the Committee discussed the need for urgent assurance on this. In April the Committee had requested that the Director of HR submit a report on the challenges in respect of staff resourcing but this has not been forthcoming. The Committee requested that an item come to the next meeting setting out how the Council is responding to recruitment challenges and managing associated risks. Noting particular concern about finance and IT capacity, the Committee requested that this report include details of permanent vacancies in finance and IT teams and whether these vacancies have been filled by interim appointments or whether they remain unfilled.

At the request of the Committee, Andrew Smith agreed to circulate a copy of the Value for Money report to Committee members in advance of the February meeting.

At the request of the Committee, Andrew Smith agreed to provide the Chair of the Audit Committee with a copy of his letter to the Chief Executive about concerns over the approach to the review of management override of controls.

Resolved to:

- (1) request that the External Auditor circulate a copy of the Value for Money report to Committee members in advance of the February meeting;**

- (2) request that the External Auditor share a copy of the letter sent to the Chief Executive detailing concerns about the approach to the review of management override of controls with the Chair of the Audit Committee; and**
- (3) request that a report on how the Council is responding to recruitment challenges and managing risks associated with this, with detail of how many posts in Finance and IT teams are a) filled with interim staff and b) unfilled is brought to the next meeting of the Committee.**

51 Treasury Management 2022/23 half-yearly report

Jean Stevenson, Interim Finance Team Leader – Technical Team, presented the report detailing treasury management actions and performance from 1 April to 30 September 2022. She highlighted the following information:

- a) The actions taken have been in line with the Treasury Management Strategy.
- b) The decrease in estimated capital expenditure for the year is due to slippage on capital projects. As a result, the Capital Financing Requirement is forecast to decrease by £11.7m by 31 March 2023.
- c) The Council does not expect to increase borrowing in the second half of 2022/23 and the level of external loans is expected to continue to reduce as existing loans mature and no further loans are taken out.
- d) No debt rescheduling has taken place in the current financial year but opportunities will continue to be sought.
- e) As a result of rising interest rates and the longer term nature of many of the Council's investments, investment income has risen and is expected to continue to increase.
- f) Levels of income in the bank are higher because more money is coming in through Government grants and capital spending is slower than profiled. Considerably larger sums have been made through interest on investments than forecast.
- g) There have been no breaches of policy.

During subsequent discussion the following points were made:

- h) Money received through Government grants but not yet spent isn't invested for long periods of time in order to ensure liquidity.
- i) In March 2022 the treasury management risk register's overall risk rating was good with unlikely likelihood and minor impact. This risk rating was not reviewed prior to this report and therefore may not reflect the current position, for example the treasury management functions are currently being led by a team of interim staff.

Committee members commented that it would be helpful to have information on debt servicing costs and the debt redemption profile in future treasury management reports.

Resolved to:

- (1) note the treasury management actions taken in 2022/23 to 30 September 2022; and**
- (2) request that future treasury management reports include information on debt servicing costs and the debt redemption profile.**

52 Companies Governance Executive Committee - update on 'Together for Nottingham: Theme 3'

The Committee considered the report updating on progress with the Companies theme of the Together for Nottingham Plan, which included a copy of the Commercial Strategy, approved by Executive Board at its meeting on 20 November 2022, and the Companies Governance Handbook, approved by the Companies Governance Executive Committee at its meeting on 20 October 2022. No officers were in attendance to present the report or answer questions about it.

During discussion the following points were made:

- a) The Commercial Strategy appears to rely on the goodwill of those involved and does not articulate systems that would prevent people who do not operate with goodwill. It is important that there are sufficient checks and balances within the system, for example in relation to the Commercial Director, and it was suggested that the Strategy needs to be made more robust in this regard.
- b) There is a need for the Council to be very specific in what it expects from business cases and ensure that business cases are properly vetted.
- c) The Committee was surprised by some of the commercial ventures listed in Appendix A of the Commercial Strategy to which the strategy applies, and questioned whether the list is accurate and up-to-date.
- d) There is a risk that monitoring of investments is overlooked and the resource available to undertake monitoring is a key factor in its success.

53 Additional meeting

The Committee agreed to hold an additional meeting on 31 March 2023 at 10:30am.

54 Work plan

The Committee discussed its work plan for the remainder of municipal year 2022/23, noting suggestions that had been made earlier in the meeting.

Resolved to amend the work plan to add an item to the agenda for the February meeting to look at how the Council is responding to recruitment challenges and managing risks associated with this, with detail of how many posts in Finance and IT teams are a) filled with interim staff and b) unfilled.

55 Exclusion of the Public

The Committee decided to exclude the public from the meeting during consideration of the remaining agenda items in accordance with Section 100A(4) of the Local Government Act 1972 on the basis that, having regard to all the circumstances, the public interest in maintaining the exemption outweighed the public interest in disclosing the information, as defined in paragraph 3 of Part 1 of Schedule 12A of the Act.

56 Exempt Minutes

The exempt minutes of the meeting held on 30 September 2022 were approved as an accurate record.