

Audit and Governance Committee

Minutes

3 March 2021 at 6.00 pm

Present:

Councillor Ahmed (Chair), Councillors, Adrees (Vice-Chair), A. Hussain, J. Hussain and Underwood

01. Apologies for Absence (Ref: 1)

Apologies for absence from the meeting were received from Councillors J. Hussain and Underwood.

02. Minutes (Ref: 2.1)

Resolved: That the minutes of the meeting of the Audit and Governance Committee held on 10 December 2020, be approved as a correct record and signed by the Chair.

03. Applying process improvements principles to reduce waste in Financial Services (Ref: 6)

The Service Director, Finance, Revenues and Benefits reminded the Committee that a Member had previously requested an item on a future meeting in regards to applying process improvements principles to reduce waste in Financial Services. Members were advised that it had been originally planned after discussion with Cllr Malcolm to set up a team constituting council's officers including external consultants. However, this had been superseded by the MHCLG Capitalisation Direction and External Assurance Review as detailed in at Minute 04/21.

Resolved: That the report Ref: 6 be noted.

04. MHCLG Capitalisation Direction and External Assurance Review to be commissioned by MHCLG (Ref: 7)

The Service Director, Finance, Revenues and Benefits informed Member that the Council had the MHCLG had placed a condition on the Council to undergo an external assurance review. He added that the council was preparing for the assurance to be completed by the end of May 2021 with a possible additional meeting of the Audit & Governance Committee in June 2021.

He continued that if required the Council would carry out further scope and that it was anticipated the MHCLG would appoint a consultant.

Resolved: : That the report Ref: 6 be noted.

05. Statement of Accounts/External Audit Plan Update (Ref: 8)

Neil Harris, Ernst & Young's (EY) Partner-in-Charge, provided a verbal update on the position statement with the historic audits of the Council's 2018/19 and 2019/20 accounts. Further to previous Audit and Governance Committee updates, he explained the following:

- The conclusion of the 18/19 audit was subject to the review of the appropriateness of the Council's going concern and post-balance sheet event judgements and disclosures. EY could not conclude the audit until they had obtained the Council's assessment and disclosures, which would need to take account of the modelling and assumptions associated with LLAL stabilisation and recovery plans. EYs understanding was that the Council had engaged specialists to support their view of these plans and expected to provide this information for Audit by April 2021, to time in with decisions taken by the Council's Finance Review Group and Executive during May 21. EY therefore understood why the Chief Financial Officer has indicated that he expected to schedule an Audit and Governance Committee in May 2021 to receive reports on the financial statements and the outcome of the audit.
- Focus would be on the appropriateness of disclosures and judgements on material risks and uncertainties with the plans for stabilising LLAL, and the impact this had on the Council's borrowing requirement, budget and medium term planning. In addition, EY had been questioning whether the Council and LLAL should be continuing to capitalise the costs associated with Airport expansion schemes (DCO and CPAR) on the grounds that the conditions pre and post Covid-19 created more uncertainty on the transfer of economic benefits.
- EY would utilise relevant corporate finance specialists to support the audit team to review the Council's assessment, and the final audit opinion and reports would be subject to EYs quality assurance processes and consultation with its professional practice team.
- In addition to these items, the 2018-19 and 2019-20 VFM conclusion would include an 'except for' qualification associated with the weaknesses identified by

Internal Audit in the Council's procurement and contract management arrangements. Since Internal Audit's limited assurance report, further follow-up work had been performed by Internal Audit to determine whether there were any risks of irregularities, non-compliance with laws and regulations in contract decisions. EY's forensic and integrity services team had supported the audit team to operate in a shadow capacity to review Internal Audit's scope and work performed to date. The External Auditors understood that this work had identified concerns on compliance with regulations on the award of spot placement contracts in children's and adult social care services. Internal Audit were undertaking further work to establish how pervasive these concerns are across the Council's directorates. EY would review the outcome of the Council's work and determine if there were any additional reporting items as the audit was concluded.

- The conclusion of these matters would enable the 2019-20 audit of accounts to be progressed and concluded. At the moment, EY were performing routine planning and substantive audit procedures on the Council's single entity accounts, and would update the group procedures to reflect the outcome of the 2018-19 audit. The External Auditors would provide an update on their planning strategy and progress to date at the next Audit and Governance Committee. EY expected that the 2019-20 accounts would also need to reflect the latest assumptions post Covid-19 on the valuation of the Airport (LLAL) and its testing of this using its valuation specialists.

Resolved: That the verbal report (Ref: 8) be noted.

06. Proposed Anti-Fraud Plan 2021/22 & brief update on delivery of the 2020/21 Anti-Fraud Plan (Ref: 9)

Nick Jennings, the Head of Counter Fraud, Shared Anti-Fraud Service presented the report (Ref: 6), which detailed the Council's Anti-Fraud Plan for 2021/22 and the work undertaken by officers and the Shared Anti-Fraud Service (SAFS) to protect the Council against the threat of fraud in the current year.

Members were reminded that Luton Council joined the Shared Anti-Fraud Service (SAFS) in January 2017. Members of the Audit and Governance Committee and the Senior Leadership Team had received reports about how this service worked closely with the Council's Internal Audit Service dealing with all aspects of fraud from prevention, and deterrence to investigation and prosecution working with services and staff at all levels.

In regards to the plan and fighting fraud and corruption on a local level, the Anti-Fraud Plan for 2021/22 had been designed to meet the recommendations of the Fighting Fraud and Corruption Locally Strategy (FFCL) by adopting the five 'pillars' of Protect, Govern, Acknowledge, Prevent and Pursue. He added that for the first time there was a plan to protect the Council that identified officers and members who were charged with delivering the plan.

He continued that the FFCL checklist had been adopted as a 'To-do' list for 2021/22. The checklist would be used to track responsibility for each action/objective and then

identify how the Council was doing in that area, rating each and providing evidence to support this. He went on to say that in future years the framework would be used to review the Councils performance adding additional actions/objectives as they arose or became relevant.

Nick Jennings, the Head of Counter Fraud, Shared Anti-Fraud Service reported that the plan identified officers/members who would have a role in delivering the Anti-Fraud Plan and that SAFS would work with all concerned to ensure that they fully understood their role in delivering the Plan and supporting the FFCL strategy.

He drew Members attention to the roles and responsibilities of senior stakeholders in the Plan, including the role of CLMT and Audit and Governance Committee, in ensuring that the Council meets its objectives.

Members were informed that between April and December 2020 SAFS had received 261 allegations (referrals) of fraud affecting Council services. It was noted that these were only allegations and not all would need to be investigated but, each one would be reviewed and appropriate action taken.

He went on to say that there had been a number of allegations of fraud received by the Council and which related to; 149 Council Tax and Housing Benefit matters of which 79 referrals related to fraud affecting the Councils housing stock, 10 cases of alleged fraud about business rates or Covid business grants, 23 cases, including those recorded as 'other', related to other grant/ insurance/ payroll/ mandate/ care service frauds or where the allegation did not relate to Luton Council directly.

A Member enquired if it was too early to identify any Covid 19 related fraud and congratulated the service for identifying a fraudulent case by an ex council employee.

Nick Jennings, the Head of Counter Fraud, Shared Anti-Fraud Service replied that the case involving the former member of staff had been picked up by another member of staff during an NFI exercise, which amounted to approximately £180k. The police had helped in the financial recovery of missing funds and that the ex-employee had paid some of the money back. In regards to Covid, a small number of attempted fraud cases had been identified.

A Member enquired why the fee for the Shared Anti-Fraud Service had been increased by 1% for 2021/22.

Nick Jennings, the Head of Counter Fraud, Shared Anti-Fraud Service replied that the fee for 2021/22 had in fact been reduced from 2% to 1% due to the public sector pay freeze. It had originally been budgeted for a 2% increase.

Resolved: (i) That the Anti-Fraud Plan for 2021/22 be noted.

(ii) That the activity to protect the Council against fraud and corruption in 2020/21 be noted.

07. Corporate Risks Update (Ref: 10)

The Audit Manager submitted a report that updated the Committee on the authority's corporate risks, in order to assist the committee in fulfilling their obligations to periodically review the authority's corporate risk register and to consider the effectiveness of the council's risk management arrangements.

Members were advised that there were currently 36 risks on the Corporate Risk Register. She added that since the last update; the scores for 1 risk have been amended by the Risk Owner, and related to LLAL's financial performance and position deteriorating, causing reduction of income to the council (LBC0077). The risk scores had been reviewed and increased due to the significant impact of Covid-19 on the aviation industry, and uncertainties surrounding the medium-term future income from LLAL. A Framework for Stabilisation had been approved by the Executive at its meeting on 9th February 2021.

The Audit Manager continued that of these 36 risks, 31 risks had an inherent risk score of 7 or above (Red status). She added that after considering the controls and mitigation the council already had in place the residual risk score of 7 or above (Red status) remained for 17 corporate risks. Although the authority was holding a number of high priority risks, Members noted that this was a reflection of current unprecedented circumstances, and further mitigating action was being developed to address these risks.

Members were also advised that in regard to the implication of Brexit, Luton Council's EU-Exit Strategy referred to the Trade and Cooperation Agreement (TCA) as the second phase of the council's EU-Exit programme, indicating an account of ongoing actions and activities. This included regular briefings to inform senior management and council members about latest information regarding changes due to Brexit, about impact on Luton, and about what actions and activities are undertaken to mitigate risks.

She went on to say that the programme management further involved regular EU-Exit Steering Group meetings with corporate specialists and relevant Service Managers and Directors attending, and that the main item on the agenda is the EU-Exit Risk Management action plan which was evolving especially regarding mitigation of risks and evidence of action undertaken.

The Audit Manager reminded Members that at the December 2020 committee meeting, Members asked for clarification on the frequency of the meetings held and the work undertaken by the Climate Change Executive Working Group and the Officer Group to reduce the risk score for "failure to achieve the emission reduction target of 2040 of net zero carbon" (LBC0084). The Risk Owner had confirmed that the Climate Change Executive Working Group meets on a quarterly basis and last met in February 2021. The Officer Group would also meet on a quarterly basis, with its first quarterly meeting held in January 2021. The inherent risk score had been reduced from 9 (high) to 5 (medium), as at the time of the review the data showed positive signs, where there had been a significant reduction in car journeys due to the impact of the previous lockdowns.

She concluded that more recently, in preparation for the 26th UN Climate Change Conference (COP26) and the council's commitment towards achieving net zero

emissions by 2040, the council had released its first climate change guide, which aimed to:

- Raise awareness of climate change;
- Help people to identify and reduce their carbon footprint; and
- Contains key facts and figures on energy conservation and carbon reduction measures.

Resolved: That the Corporate Risk Register be noted.

08. Internal Audit Plan Update (Ref: 11)

The Audit Manager updated the committee on the work of the Internal Audit Service for the 9 month period 1 April 2020 to 31 December 2020.

Members were advised that throughout the year, regular updates had been provided on the ongoing recruitment issues within the team and the impact this will have on the completion of the annual audit plan. At the start of the financial year there were 2 FTE vacant posts within the team. Internal Audit had successfully appointed to the senior auditor position in December 2020. However, due to the impact of Covid-19, recruitment to the trainee auditor position had been deferred to the next financial year.

The Internal Audit target to complete 90% of the annual audit plan, by the end of the financial year, was always dependent on having a full complement of staff. However, due to the in-year vacancies it was expected that at least 80% of the plan would be completed. Therefore, in order to provide management and the committee with an annual audit opinion on the adequacy and effectiveness of the council's control environment; which would also inform the Annual Governance Statement for 2020/21, the teams focus was to ensure there was sufficient coverage of the plan and that all key audit reviews were completed.

The Audit Manager reported that in regards to School Audit Reviews, the objective of the review was to ensure that school finances were being administered effectively and in accordance with policies and procedures. During 2019/20, the following 3 schools had been issued with a 'Limited' assurance opinion, due to the extent of internal control weaknesses identified across the majority of the areas reviewed:

- 1) Farley Junior School Follow Up Review (September 2019);
- 2) St Joseph's Primary School (January 2020); and
- 3) Pirton Hill Primary School (February 2020).

She went on to say that Internal Audit had completed its physical follow up review for each school and were pleased to report that the majority of the recommendations made in the 2019/20 Internal Audit Reports had now been fully implemented. On this basis an audit opinion for 2 schools had been raised to "Substantial" assurance; and the report for the third school was in the process of being finalised.

In respect of Procurement and Contract Management, the objective of the review was to undertake a strategic review of the council's procurement processes, award of

contracts and contract monitoring arrangements to ensure compliance with the council's procurement policies and procedures, and procurement legislation.

In June 2020, Internal Audit had completed its initial audit review of Procurement and Contract Management, which identified some significant internal control weaknesses and instances where services had not complied with procurement procedures. This included identifying a breach in procurement regulations. Services had been procured from a provider on a spot-purchase basis without a formalised contract in place, and where total spend was in excess of the EU threshold. Since the audit review, management have confirmed that contractual arrangements had now been formalised with this provider and the provider had been accepted into the council's Dynamic Purchasing System framework.

Due to the issues identified in the June 2020 audit review the team carried out an extended review, which was completed in December 2020. The December 2020 extended review identified similar issues and concerns to those raised in the original audit. One further instance was identified where total spend with a provider, since the introduction of the procurement regulations in January 2015, was in excess of the EU threshold for the Light Touch Regime. Services were procured from this provider on a spot purchase basis, and although Individual Placement Agreements were in place between the council, provider and service user, no structured approach had been taken to procure care placements, i.e. through a framework agreement, and no overarching agreements had been established between the council and the provider. This was also considered to be a breach in procurement regulations.

Since the extended review completed in December 2020, Full Council had approved a change to the council's Standing Orders (Part 4 of the Constitution) to reflect the council's procurement approach under the Light Touch Regime, with particular reference to the transparency, oversight and governance of spot care placements for Adults and Children. Quarterly update reports on spot care placements would also be provided to the relevant Portfolio Lead. Currently the Corporate Procurement Team and the Commissioning Team for Adults were working with providers to accept ADASS (Association of Directors of Adult Social Services) terms and conditions. They were also working with the Commissioning Board to ensure there was a consistent approach on placement and consideration of VFM whilst meeting the requirements of the care plan / assessment. Further engagement work, to identify and review existing arrangements in place with providers for spot care placements for Children, is to be undertaken.

The Audit Manager reported that the physical follow up review to confirm if the recommendations made in both the initial audit review in June 2020 and the extended review in December 2020 was currently in progress. In addition to this, further work was also being undertaken to identify the extent of spot purchasing arrangements within the council and to identify if there were any further instances of non-compliance. She concluded that an update would be provided at the next committee meeting.

Resolved: That the Internal Audit Plan update report which covers the period 1 April 2020 to 31 December 2020 be received.

09. Internal Audit Strategy, Charter & Annual Audit Plan 2021/22 (Ref: 10)

Members had before them a report which set out the context for provision of an Internal Audit Service and detailed the risk based approach used to develop the Annual Audit Plan for 2021/22.

Resolved: That the Internal Audit Strategy, Charter and Annual Audit Plan for 2021/22 be approved.

(Note: The meeting ended at 7.10 pm)