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**Minutes of the Audit and Standards Committee  
Monday 17<sup>th</sup> July, 2023 at 6.00pm  
In Committee Room 3, The Council House, Dudley**

**Present:**

Councillor A Lees (Chair)

Councillor D Borley (Vice-Chair)

Councillors S Ali, T Creed, J Cowell, M Evans, J Foster, S Keasey and W Little.

**Officers:**

I Newman (Director of Finance and Legal Services), G Harrison (Head of Audit and Risk Management Services), and K Taylor (Senior Democratic Services Officer).

**Officers in Attendance via Microsoft Teams:**

M Farooq (Monitoring Officer and Lead for Law and Governance), A Taylor (Senior Principal Auditor) and M Landy (Principal Auditor).

**Also in Attendance:**

A Smith and M Stocks – External Auditors (Grant Thornton) and T Tobin – External Auditor (Grant Thornton) (via Microsoft Teams) and R Cooper (Head of Financial Services) for agenda item no. 5 only.

**1. Comments of the Chair**

The Chair welcomed new Members to the Audit and Standards Committee and in doing so provided an overview of the role and responsibility of the Committee.

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**2. Apology for Absence**

There were no apologies submitted for this meeting of the Committee.

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### 3. **Appointment of Substitute Member**

There were no substitute Members appointed for this meeting of the Committee.

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### 4. **Declarations of Interest**

No Member made a declaration of interest in accordance with the Member's Code of Conduct.

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### 5. **Minutes**

Councillor S Ali shared concerns that no further report had been submitted to the Committee following consideration of the findings of an internal audit report in relation to the Council's attendance at the MIPIIM Conference at a previous meeting held in November 2022. Councillor Ali also referred to the role undertaken by the Leader and relevant Cabinet Members. The Committee had previously recommended that findings in relation to any individual or individuals be investigated under appropriate procedures including interviews with members. However no further information had been received.

In responding to comments made, the Chair referred to the extensive discussions undertaken during the previous municipal year with regard to the Council's attendance at MIPIIM, and emphasised that the Committee had resolved that the recommendations set out in the internal audit report presented to the Committee in November, 2022 be endorsed.

The Chair further reported that a report and update on actions and/or any further processes or steps considered to be appropriate, as requested by the Committee, would be submitted to the next meeting of the Audit and Standards Committee in September, 2023.

In referring to the meeting held on 30<sup>th</sup> June, 2022, Councillor S Ali reported that an update had not been received following the Committee's recommendation to the Chief Executive to give further detailed consideration to the External Auditor's recommendation concerning the position of the Monitoring Officer.

In referring to Minute No. 68 – Annual Fraud Report and resolution number 3, the Director of Finance and Legal Services advised that following further investigation and subsequent discussions with the Chair, it had been agreed that a letter to the West Midlands Police and Crime Commissioner

in relation to the prosecution case discussed during the meeting was not necessary.

## **Resolved**

That the minutes of the meeting held on 20<sup>th</sup> April, 2023, be approved as a correct record and signed.

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### **6. External Audit Grant Thornton Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23**

The Committee considered a report of the Director of Finance and Legal Services on the External Auditor's Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23.

Members welcomed A Smith to his first meeting of the Audit and Standards Committee, noting that M Stocks would be handing over responsibility for the audit.

In presenting a summary of the report submitted, A Smith outlined the scope of the audit in accordance with the Code and International Standards on Auditing and forming and expressing an opinion on the Council's financial statements. Risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error had been identified as valuation of property, plant and equipment; valuation of the net pension liability and management override of controls. It had been determined that the planning materiality to the Council would amount to £11.3m.

Members were advised of the two auditing standards that had been significantly updated during 2023, relating to ISA 315 (identifying and assessing the risks of material misstatement) and ISA 240 (the auditor's responsibilities relating to fraud in an audit of financial statements).

It was noted that the findings of the Value for Money risk assessment for both 2021-22 and 22-23 financial years would be presented to the next meeting of the Committee scheduled to be held in September, 2023.

Reference was made to the 2020/21 Annual Auditor's Report to Cabinet on 27<sup>th</sup> June, 2022, highlighting that urgent action was needed to reduce the Council's significant reliance on use of reserves and introduce tight scrutiny of additional spending proposals. It was noted that the Council had assumed the use of reserves in 2021/22 to balance its budget but that the Council had been able to deliver an outturn significantly better than budgeted which therefore avoided the drawdown on reserves. However, following use of reserves during 2022/23, the Council's General Fund reserve as at 31<sup>st</sup> March, 2023 had reduced significantly from £28.5m to £21.8m.

It was further noted that the approved budget for 2023-24 relied on the use of reserves totalling £4.2m, further reducing the general fund reserve to £17m. A budget setting report was submitted by the Chief Executive and Director of Finance and Legal Services to Full Council in March, 2023 highlighting a number of risks to the budget including pay awards and shortfall in business rates.

Following a further report to the Cabinet in July, 2023, where proposals to reverse savings decisions were approved, the External Auditors were minded, at present, to consider that this represented a significant weakness in the Councils financial sustainability and governance, in particular as the Council had been unable to remain within its budget less than three months after the budget had been agreed.

M Stocks further emphasised the concerns raised with regard to the Council's financial sustainability and suggested that consideration may need to be given to implementing auditor powers, including statutory recommendations and related actions such as Public Interest reports, should the use of reserves continue. However, it was hoped that significant improvements may prevent this course of action.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) The Chair informed Members that an e-mail had been sent to the Leader, Deputy Leader and Cabinet Member for Finance, Legal and Human Resources on behalf of the Chair and Vice-Chair highlighting concerns with the issues raised within the Annual Auditor's Report.

- b) In responding to a request by the Chair, M Stocks agreed to provide further information on the External Auditor's powers used in areas including Nottingham City Council and the London Borough of Croydon. Although M Stocks emphasised that Dudley was not in the position whereby powers would be implemented at this stage, it was the responsibility of the External Auditors to share their concerns and findings in relation to the financial sustainability and encourage the Council to identify solutions.
- c) Councillor J Foster referred to the recommendations of the report as outlined in paragraph 2 and suggested that in view of the serious nature of the information presented and concerns raised by the External Auditors, that the Committee be minded to recommend further action as appropriate.
- d) In responding to a question raised by Councillor J Foster, the Chair confirmed that he had not yet received a response to his e-mail highlighting concerns regarding the financial sustainability of the Council.
- e) Councillor S Ali supported the comments made by Councillor J Foster and considered that an appropriate response should be made by the Committee highlighting concerns raised in relation to the key matters presented by the External Auditor. It was suggested that the Committee had raised issues in relation to the financial sustainability and governance for a number of years, however it was evident that these had not been addressed. Councillor Ali further raised concern that in view of the low reserves and forecasted general fund balance for 2023-24 being £14m, that any additional spending would prevent the Council from setting a balanced budget.
- f) Although the reversal on savings decisions in relation to Libraries were welcomed, Councillor S Ali echoed concerns raised by the External Auditors, in that the 2023/24 budget had only been approved three months prior, and suggested that the relevant Cabinet Member should have considered the impact to the Budget prior to approval in March, 2023. Further concerns were also raised in relation to Governance and press statements having been released in advance of formal decisions.

- g) Councillor S Ali, on behalf of the Opposition Group, emphasised the Groups aspirations for improving the financial sustainability and governance for the Council and prevent the need for further action by External Auditors, however there was some possibility of the situation escalating to that point and suggested that accountability and responsibility was needed by the Leader and Cabinet Member for Finance, Legal and Human Resources.
- h) In responding to a question raised by Councillor M Evans in relation to earmarked reserves and the appropriate level of reserves required, A Smith confirmed that the earmarked reserves had been assessed as relatively limited at £27.3m and being held for a clear purpose, and that the concerns raised related to the low forecasted general fund reserve, which were lower in comparison to other similar sized authorities. The need for the Council to rebuild the reserves was emphasised.

The Director of Finance and Legal Services confirmed that as of 31<sup>st</sup> March, 2022, the combination of the Council's General Fund and unringfenced earmarked reserves as a proportion of net revenue spend was 19%. The average for all Metropolitan Councils at the same date was 55%.

- i) In responding to a question raised by Councillor J Cowell as to whether discussions had been held with the Leader and Cabinet Members in response to the concerns raised, the Director of Finance and Legal Services confirmed that discussions had taken place. He referred to the Cabinet report presented on 6<sup>th</sup> July, 2023, that set out the implications of decisions and recommended the Cabinet to consider, in the light of the Council's financial position, whether to recommend to Council to amend the budget as reported. He confirmed that he had verbally explained to Cabinet members why the recommendations were worded in this way.
- j) Councillor S Ali raised further concern that issues had been reported to Members by officers but that it had not appeared to have elicited an appropriate response and requested clarification by the External Auditors as to what an adequate response would have been considered appropriate.

In responding, A Smith suggested that the refusal of the proposed reversal of savings decisions presented to the Cabinet on 6<sup>th</sup> July, 2023 would have been considered an appropriate response.

- k) In responding to a suggestion made by M Stocks that the Council should aim to have reserves of approximately £60m, Councillor D Borley considered this to be unachievable given that the reserves had generally been between £20m and £25m previously. The Director of Finance and Legal clarified that he assumed that the External Auditors were referring to the combination of General Fund and unringfenced earmarked reserves that stood at around £49m at 31<sup>st</sup> March 2023.
- l) Councillor S Keasey sought clarification as to the measures needed to improve the current situation and whether front line services would be affected.

In responding, the Director of Finance and Legal Services referred to the Council's position as a low taxing authority and that as a consequence the spending powers were lower than an authority with an average council tax. It was acknowledged that difficult decisions including those affecting front line services would need to be undertaken. He advised that it was important to return to the practice of considering the budget annually.

Following further discussion, the Chair agreed to formulate recommendations arising from concerns raised and comments made to the Leader, Deputy Leader and Cabinet Member for Finance, Legal and Human Resources, in consultation with the Vice-Chair and officers, on behalf of the Committee. Members were requested to submit any recommendations or comments via e-mail to the Chair.

### **Resolved**

- (1) That the report on the External Auditor's Annual Audit Plan 2022-23 and Annual Risk Assessment 2022-23, be noted.
- (2) That the Chair be requested to formulate recommendations, arising from concerns raised and comments made, to the Leader, Deputy Leader and Cabinet Member for Finance and Legal, in consultation with the Vice-Chair and officers, on behalf of the Committee.

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## **7. Re-appointment of the Standards Sub-Committee**

A report of the Monitoring Officer was submitted on the re-appointment of the Standards Sub-Committee.

The Monitoring Officer provided an overview of the role of the Sub-Committee, as set out in the report, and that for a number of years, the Sub-Committee had comprised of three members, the Chair, the Vice-Chair and one other Member from the opposing party.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) Councillor J Foster queried whether three members were sufficient and challenged that the Sub-Committee and the Audit and Standards Committee were not diversely represented and suggested that equality implications had not been adequately considered.

In responding, the Monitoring Officer acknowledged comments made however confirmed that the existing arrangements for the Sub-Committee were approved by Full Council on 18<sup>th</sup> May, 2023. It was suggested, however, that the composition of the Standards Sub-Committee was a matter for the Committee to consider. It was confirmed that the members nominated to the Sub-Committee should be a serving member of the Audit and Standards Committee.

- b) In responding to comments raised by Councillor J Foster in relation to the three Independent Persons appointed by Full Council for a four-year term, the Monitoring Officer confirmed that an advertisement had been published in the Express and Star Newspaper seeking expressions of interest for the voluntary position, with three successful applications received and subsequently appointed. The Monitoring Officer undertook to consider comments made for future arrangements.

In responding, Councillor J Foster suggested that a financial incentive be considered to attract a larger demographic audience.

- c) Some Members agreed with Councillor J Foster's suggestion in increasing the number of Members appointed to the Standards Sub-Committee to five, whilst some Members considered that the existing arrangements had been satisfactory and working well with no issues or complaints raised.
- d) Councillor J Cowell acknowledged all comments made, however considered that there may be an opportunity to develop experience and knowledge of the process to other Members.



- e) It was confirmed that the quorum for a Standards Sub-Committee comprising five members would be three members.

## **Resolved**

That the Standards Sub-Committee be re-appointed for 2023/2024 with its existing Terms of Reference and that the membership be extended to five members comprising of the Chair (Councillor A Lees), the Vice-Chair (Councillor D Borley), Councillor J Cowell, Councillor J Foster and Councillor W Little.

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### **8. Committee Work Plan 2023-24**

A report of the Director of Finance and Legal Services was submitted on a schedule of proposed items to represent a work plan for the Committee for the 2023/2024 Municipal Year, which was attached as Appendix A to the report submitted.

## **Resolved**

That the information contained in the report and the schedule of agenda items to form the Work Programme of the Committee in the 2023/2024 Municipal Year, as detailed in Appendix A to the report, be noted and approved.

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### **9. Audit and Risk Management Services Annual Performance Report 2022-23**

A report of the Director of Finance and Legal Services was submitted on the performance of Audit and Risk Management Services for the financial year ending 31<sup>st</sup> March, 2023.

The Head of Audit and Risk Management Services presented the report, and in doing so confirmed that by the end of March, 2023, 93% of the Audit Plan had been completed, and outstanding work was being finalised. Forty-two areas of activity had been reviewed, and in addition, it was reported that three honorary audits, forty-two School Financial Value Standard assessment reviews and one multi-academy trust audit had also been completed. The audit work carried out had resulted in 466 actions and the priority classification of the actions as Critical, High, Medium, or Advisory were noted, together with the number of actions unimplemented from the previous year.

The table set out in paragraph 8 of the report, detailed a summary of the assurance ratings, and it was noted that 63% of audits had received a 'minimal' or 'limited' rating during 2022/2023.

A summary of the audits completed, and the assurance ratings given were outlined in Appendix A, with Appendix B detailing the audits that had been cancelled during the year and additional audits that had been added to the plan. Appendix C provided a summary of actions required by Directorates.

Reference was made of the nine-week target in producing and issuing the draft audit report from the start date of the audit, and it was noted that during 2022/2023, Audit and Risk Management Services achieved 89%, being above last year's performance but below the target set of 90%. It was acknowledged that some delays had occurred as a result of some large and complex audits that had been undertaken during the year.

Members were advised that the Audit and Risk Management Services had completed two additional significant investigations, requested by the Director of Finance and Legal Services and the Director of Housing and Communities respectively, which required significant resources from senior members of the team, which further impacted upon targets and other responsibilities.

It was noted that 86% of Managers had provided their initial response within the four-week target of the date of the draft report, compared to 94% the previous year. Audit and Risk Management Services currently have a target of issuing the final audit report within six weeks of the date of the draft report, which required the support and co-operation of Directors. It was noted however that during 2022-23, 50% of final reports had been issued within the six-week target, compared to 67% the previous year. It was acknowledged that the performance figures had been disappointing, despite the regular reminders to the managers of the target and support was available if needed.

Paragraph 19 of the report submitted detailed the 'minimal' assurance reports issued and the follow up reviews that had been undertaken.

The Head of Audit and Risk Management Services referred to the difficulties in achieving the income target, in particular that this had been missed by approximately £46,000, which had been covered by the current Principal Auditor vacancy.

The Head of Audit and Risk Management Services advised that the Chartered Institute of Public Finance and Accountancy (CIPFA) suggested that Members should evaluate their skills and knowledge on a regular basis and a questionnaire had been attached at Appendix D for this purpose. Members were advised that there may be a benefit to all Members updating the assessment which would then be used to identify any training needs.

In concluding, the Head of Audit and Risk Management Services then presented his annual opinion, in that based on the work undertaken, reasonable assurance could be provided on the Council's framework of governance, risk management and internal control. The main concerns to be reported to the Committee related to the self-referral to the Regulator of Social Housing, outcomes of the Ofsted inspection on the quality of services for children in Dudley and issues identified with the Council's approach to managing programmes, projects and contracts.

Arising from the presentation of the report, Members asked questions, made comments and responses were provided where necessary as follows:-

- a) In responding to a question raised by Councillor J Cowell, the Head of Audit and Risk Management Services confirmed that the assurance ratings outlined in paragraph 8 of the report submitted did include school audits, however school audits were not included in the graph shown in paragraph 9.
- b) Councillor J Cowell raised concerns of the low level of substantial assurance ratings for 2022-23, and sought assurances that there were sufficient staff and resources available within the Audit and Risk Management Services to undertake the significant amount of work planned.

In responding, the Head of Audit and Risk Management Services assured Members that although additional resources would be welcomed there was sufficient capacity for him to deliver his annual opinion.

- c) In responding to a question raised by Councillor J Foster in relation to the Principal Auditor vacancy and whether a market supplement could be considered, the Head of Audit and Risk Management Services referred to the challenges faced in the recruitment of the position.

- d) Reference was made to the income target of approximately £70,000, given to Audit and Risk Management Services which had resulted in the Team undertaking some consultancy work in order to meet the target set. Councillor J Foster raised concerns that the focus on achieving this target detracted from undertaking work in priority areas and the potential financial risk by not carrying out planned audits.

The Director of Finance and Legal Services referred to the complex nature of this situation and difficulties in identifying additional resources for Team, and acknowledged that the historical Income target should be removed with more focus given to core audit work. It was reported that a budget bid would be developed for consideration during the budget consultation in November, 2023.

Following concerns raised in relation to the reduced performance of 50% in issuing final reports within six weeks of the date of the draft report, the Committee recommended that the Chief Executive be requested to remind Directors of their required support and co-operation needed in this area to help improve performance going forward.

### **Resolved**

- (1) That the information contained in the report and Appendices to the report submitted, and comments made by Members as stated above, be noted.
- (2) That Members be requested to complete the questionnaire attached as Appendix D to the report submitted, and forward to the Head of Audit and Risk Management Services.
- (3) That the Chief Executive be requested to write to Directors emphasising their required support and co-operation needed in relation to issuing final audit report within six weeks of the date of the draft report.

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### **10. Questions Under Council Procedure Rule 11.8**

There were no questions to the Chair pursuant to Council Procedure Rule 11.8.

The meeting ended at 7.28pm

CHAIR