

**CORPORATE AFFAIRS AND AUDIT COMMITTEE**

A meeting of the Corporate Affairs and Audit Committee was held on Thursday 9 December 2021.

**PRESENT:** Councillors B Hubbard (Chair), J Platt (Vice-Chair), T Higgins, J Hobson, T Mawston and D Rooney

**ALSO IN ATTENDANCE:** Councillor D Coupe

**OFFICERS:** S Bonner, L Grabham, A Hoy, S Lightwing, S Reynolds, J Savage, J Weston and I Wright

**APOLOGIES FOR ABSENCE:** were submitted on behalf of Councillor C Wright

21/31 **WELCOME AND EVACUATION PROCEDURE**

The Chair welcomed all present and read out the Building Evacuation Procedure.

21/32 **DECLARATIONS OF INTEREST**

There were no declarations of interest received at this point in the meeting.

21/33 **MINUTES - CORPORATE AFFAIRS AND AUDIT COMMITTEE - 25 NOVEMBER 2021**

The minutes of the Corporate Affairs and Audit Committee meeting held on 25 November 2021 were submitted and approved as a correct record.

21/34 **INTERNAL AUDIT AND COUNTER FRAUD PROGRESS REPORT**

A report of the Head of Internal Audit was presented to provide Members with an update on progress with the delivery of internal audit and counter fraud work and on reports issued and other work completed since the last update report to this Committee.

A copy of the Internal Audit Progress Report was attached at Annex 1 to the submitted report and reported on progress against the internal audit work programme. A summary of current work in progress, internal audit priorities for the year, completed work, and follow-up of previously agreed audit actions was included. Four final reports had been issued since the last Committee meeting and a summary of the key issues was listed at Appendix 3 to the submitted report.

It was suggested that some indicative timescales for completion of current and forthcoming work could be added to future reports.

Agreed Audit Actions that were outstanding for more than six months were listed at Appendix 5 to the submitted report, with an explanation of the reasons for the delay.

A copy of the Counter Fraud Progress report was attached at Annex 2 to the submitted report and reported on progress against the counter fraud work programme. A range of work was detailed including activity to promote awareness of fraud, work with external agencies, and information on the level of fraud reported to date.

Veritau had noted an increase in both regional and national attempts by organised criminals operating from overseas to divert genuine payments made to council suppliers (mandate or payment diversion fraud). The counter fraud team was working with the Council to ensure that controls were in place to meet this emerging threat.

In 2021/22, the counter fraud team had received seventeen referrals of suspected fraud. These covered potential adult social care fraud, internal fraud, and debt recovery. There were currently six cases under investigation. Working with Legal Services the team had assisted in tracing three people who owed the council over £10k. A further four cases were ongoing

trying to trace debtors who owe the Council a combined total of £15k.

It was confirmed that the audit report on Project Management - Boho X would be presented to the next meeting of the Corporate Affairs and Audit Committee.

**AGREED** that the report was received and noted.

21/35

## **COMMUNITY GOVERNANCE REVIEW**

A report of the Head of Democratic Services was presented to seek the Committee's agreement to proposed Terms of Reference and consultation documents to enable a Community Governance Review to commence in Middlesbrough.

At the Council meeting held on 28 July 2021, consideration and agreement of Terms of Reference for the Community Governance Review, and consideration of any consultation responses, was delegated to the Corporate Affairs and Audit Committee. Recommendations would be referred back to Council for approval.

Guidance issued by the Secretary of State and the Boundary Commission. Indicated that it was good practice for Councils to consider conducting a Community Governance Review every 10 to 15 years. Middlesbrough's last Review was undertaken fifteen years ago. A request had been made by Nunthorpe Parish Council to reconsider its current boundaries and it was therefore considered timely to conduct a review of the whole of the Council's area. Any decisions to make changes to parish arrangements would be implemented at the next full parish elections in 2023. It was proposed that Community Councils were included in the Community Governance Review, since they played an equally strong part in representing communities and acted as a mechanism for the Council to consult at a local level.

A Community Governance Review was a review of the whole part or part of the district area to consider one or more of the following:

- a) Creating, merging, altering or abolishing parishes;
- b) The naming of parishes and the style of new parishes;
- c) The electoral arrangements for parishes (the ordinary year of election; council size; the number of councillors to be elected to the council, and parish wards) and
- d) Grouping parishes under a common parish council or de-grouping parishes.

The purpose of a Community Governance Review was to secure an arrangement that would bring about improved community engagement, better local democracy and result in more effective and convenient delivery of local services.

The Council had to consult the local government electors for the area under review and any other person or body (including a local authority) who appeared to have an interest in the review.

There were a number of requirements relating to the conduct of the review that had to be observed as follows:

- Terms of Reference identifying the focus for the review and the area under review had to be drawn up.
- Consultation had to take place with local people, representative groups active in the area, and any people/groups that could be reasonably expected to have an interest in the review.
- The Council had to take account of the representations received;
- The review had to be completed within twelve months of the Council publishing the Terms of Reference.

In order to ensure that interested persons or groups had the opportunity to input and respond to the review, the following actions would be undertaken:

- Display notices at a number of council buildings.
- Information on the Council website.
- Article in Middlesbrough News.

- Members' Briefings.
- Letter to parish and community councils including information that they could use in order to publicise the review within their parishes. (This information could then be publicised through their magazines/newsletters/intranet, notice boards or website).
- Letter to other known community groups within Middlesbrough (using information from the Council's stakeholder database).
- Letter to MPs representing constituencies within Middlesbrough and local constituency offices of registered political parties.
- Information on social network sites.
- Online Community Consultation meetings.

The Head of Democratic Services proposed an amendment to paragraph 3 of the Terms of Reference appended to the submitted report as follows:

"In response to a request from residents concerned about the mis-alignment of Nunthorpe's parish and ward boundaries, Nunthorpe Parish Council asked for a reconsideration of a very small part of the Parish boundary (two streets) it is therefore considered timely to conduct a review of the whole of the Middlesbrough Council area and that any decisions to make changes to parish arrangements would be implemented at the next full parish elections in 2023."

In addition, where "Council" was referenced in the Terms of Reference this would be amended to read "Middlesbrough Council" for clarity.

A copy of the proposed timetable for the review was tabled and circulated at the meeting.

As part of governance review and the consultation plan there would be an opportunity for Council Officers to visit Community and Parish Councils to explain the purpose of the review. In response to a query, it was confirmed that Parish and Community Councils could of course provide further information to residents in their area.

It was also confirmed that further work would be undertaken on the consultation documents and the questionnaire, in discussion with concerned parties, prior to them being made public.

**AGREED** as follows that:

1. Corporate Affairs and Audit Committee approved the Terms of Reference, as amended, and noted the proposed consultation and questionnaire documents, subject to minor amendments to ensure clarity and balance.
2. That the Head of Democratic Services be delegated authority to approve any minor amendments, to enable Middlesbrough Council to meet the proposed publishing timetable.

21/36

## **CORPORATE DEBT WRITE OFF POLICY**

A joint report of the Executive Member for Finance and Governance and the Director of Finance was presented asking the Committee to consider a Corporate Debt Write Off Policy.

The purpose of this new policy was to provide a corporate approach to the writing off of bad and irrecoverable debts in a fair and timely manner, whilst seeking to maximise the opportunity for collection, thereby minimising the need for write off.

All service areas would have to follow this policy to allow the Council to operate a consistent approach to debt write off, whilst having due regard to the customer's ability to pay. Whilst some parts of debt write off were governed by particular legislative requirements such as Council Tax, Business Rates, Adult Social Care Debt; wherever possible the overall principle of debt write off should be efficient and effective, and always give consideration to the financial impact on the Council when debt was written off.

This policy would underpin any specific recovery strategies and be applied across all directorates. The policy would also support cross directorate communication where a shared customer base existed. It was envisaged that the approach would work within Data Protection legislation, and should be considered at a corporate level to reduce multiple officer engagements across directorates with the same resident and or business base.

The introduction of a Corporate Debt Write Off policy was part of the Council's strategic direction, and as such required executive consideration followed by Council approval. The Council had a statutory duty to collect outstanding debt and did so in accordance with the Local Government Finance Act 1992 and the Council's Financial Procedure rules. The introduction of this policy would support this duty and also ensure that the Council's debt write off approach/methods were consistent, fair and efficient across all of its services.

This was the third of four policies being developed that brought together a significant number of supporting arrangements that would not only complement, but enhance the Council's social regeneration plans:

- Vulnerability Policy - (Executive Approval on 16.6.2020).
- Corporate Debt Management Policy – (Single Executive Approval on 10.08.21).
- Corporate Welfare Policy – (currently in design).

The policy set out a framework for a consistent approach to write off by delegating debt levels to various Managers/Heads of Service where the aim was to enable cases that fitted specific criteria (contained within the policy) to be written off, which would in turn enable the more efficient collection of outstanding debt. The policy also sought to address other matters such as credit balance write offs and the reinstatement of previously written off debt.

The policy applied to all debts owed/due to the Council and the general principles adopted in the policy were as follows:

- To ensure a professional, consistent and timely approach to debt write off across all of the Council's functions.
- Where Data Protection legislation permitted, to promote a coordinated approach towards sharing debtor information internally and managing multiple debts owed to the Council.
- To ensure that debts were managed in accordance with legislative provisions and best practice.
- To ensure that any steps taken to recover debt/income were in line with the Council's corporate policies on surveillance and data protection, and to ensure compliance with RIPA and GDPR legislation.

The policy linked into the Council's Vulnerability Policy and the Stop the Knock approach and looked to ensure that supporting arrangements were in place for debtors where their vulnerability affected their ability to pay a debt owed to the Council. Those considered to be vulnerable with an 'unrecoverable' debt would be linked into the Social Inclusion arrangements contained in the recently adopted Debt Management Policy.

The policy applied to debts and income due to the Council including:

- Council Tax.
- Business Rates.
- Overpaid Housing Benefit.
- Rents, service charges and insurance.
- Sundry Debts (incl. licensing, fees, statutory notices, subscriptions, etc.).
- Recovery of enforcement costs.
- Adult Social Care.
- Charging for discretionary services or any money due to the Council under terms of an agreement to pay for goods, services or property.
- Fines (includes car parking, public space protection order, environmental).

It was noted that this list was not exhaustive.

The policy provided a comprehensive approach that allowed for the automatic write off of debt by Heads of Service through a "pre-request for write off" process, where the debt met pre-determined criteria which made it unrecoverable. This criteria (whilst not exhaustive) covered debt which was uneconomical to recover, unenforceable, and those debtors that had been untraceable for a period of over 6 months, amongst others.

Specific delegations of authority were contained within the policy, within the pre-request

process and the amounts that could be written off following submission for suitability, which varied depending on the type of debt.

The policy also ensured that where specific legislation required that a debt should be written off, these debts could be processed without delay by the manager responsible for the service. The policy also extended to the reinstatement of previously written off debt and credit balances at a corporate level.

Consideration to the use of third party collection services (which should not be confused with bailiff/enforcement services), where debts were considered uneconomical to recover would be given, to maximise cash opportunities to the Council.

Over a period of time debts would be cleared and a more accurate picture of the Council's overarching debt could be provided.

It was confirmed that all Local Authorities shared a database and reported information in relation to absconders to try and trace them

**AGREED** as follows that:

- The Corporate Debt Write Off Policy was noted and endorsed by the Committee.
- The Corporate Debt Write Off Policy was referred to full Council to amend the Budget Policy Framework and the Officer Scheme of Delegation.
- Delegated authority was provided to the Section 151 Officer to approve any future modifications to the Corporate Debt Write Off Policy.

21/37      **CAPITAL STRATEGY FOR 2022/23**

The Chair proposed that consideration of this report was deferred to the next meeting until Members had received further training on capital strategy.

**AGREED** that Agenda Item 8 was **DEFERRED**.

21/38      **APPOINTMENT OF EXTERNAL AUDITORS**

A report of the Director of Finance was presented to consult with Members of the Corporate Affairs and Audit Committee on the Council's future external audit arrangements. The submitted report considered the options available and asked Members to endorse a preferred way forward for recommendation to Executive and Council, if required.

The current auditor appointment arrangements covered the period up to and including the audit of the 2022/23 accounts. The Council opted into the 'appointing person' national auditor appointment arrangements established by Public Sector Audit Appointments (PSAA) for the period covering the accounts for 2018/19 to 2022/23.

PSAA was now undertaking a procurement for the next appointing period, covering audits of the accounts for the financial years, 2023/24 to 2027/28. During autumn 2021, all local government bodies need to make important decisions about their external audit arrangements from 2023/24. They had options to arrange their own procurement and make the appointment themselves or in conjunction with other bodies, or they could join and take advantage of the national collective scheme administered by PSAA.

Details of the options available were set out in the submitted report. If the Council did not opt in to the national scheme, there would be a need to establish an independent auditor panel to make a stand-alone appointment. The auditor panel would need to be set up by the Council itself, and the members of the panel had to be wholly or a majority of independent members as defined by the Local Government Audit and Accountability Act 2014 (the Act). Independent members for this purpose were independent appointees, excluding current and former Elected Members (or officers) and their close families and friends. Elected Members would not therefore have a majority input to assessing bids and choosing which audit firm to award a contract for the Council external audit.

Alternatively, the Act enabled the Council to join with other authorities to establish a joint auditor panel. Again, this would need to be constituted of wholly or a majority of independent appointees. Further legal advice would be required on the exact constitution of such a panel

having regard to the obligations of each Council under the Act and the Council would need to liaise with other local authorities to assess the appetite for such an arrangement.

These would be more resource-intensive processes to implement for the Council, and without the bulk buying power of the sector-led procurement would be likely to result in a more costly service. It would also be more difficult to manage quality and independence requirements through a local appointment process. The Council would be unable to influence the scope of the audit and the regulatory regime would inhibit the Council's ability to affect quality. The Council and its auditor panel would need to maintain ongoing oversight of the contract. Local contract management could not, however, influence the scope or delivery of an audit.

The national offer provided the appointment of an independent auditor with limited administrative cost to the Council. By joining the scheme, the Council would be acting with other Councils to optimise the opportunity to influence the market that a national procurement provided.

Regulation 19 of the Local Audit (Appointing Person) Regulations 2015 required that a decision to opt in to the national appointment scheme must be made by Council. The Council had to respond formally to PSAA's invitation in the form specified by PSAA by the close of the opt-in period (11 March 2022). PSAA would commence their formal procurement process in early February 2022 and expect to award contracts in August 2022. PSAA would then consult with Local Authorities on the appointment of auditors so that they can be made by the statutory deadline of 31 December 2022.

If the Council wanted to opt-in, a decision will need to be made by full Council before 11 March 2022. However, if the opt-in to the national scheme was not the preferred choice of Members, further research would be needed on the arrangements for a local or joint audit panel and how this would be constituted.

It was noted that in the previous appointing round, 98% of Local Authorities used the national scheme. Locally, only North Tyneside and Newcastle formed their own audit panels. PSAA was a nationally approved and regulated scheme and all nine national auditors were included in it.

**RECOMMENDED** that Middlesbrough Council opt into the national scheme for the appointment of external auditors.

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## **LESSONS LEARNED - GOVERNANCE ON LEASING OUR COMMERCIAL ASSETS**

A report of the Head of Strategic Commissioning and Procurement was presented to provide assurance to Corporate Affairs and Audit Committee that relevant governance processes and management were in place with regard to the leasing of commercial assets.

Following a complaint, a joint investigation was undertaken regarding historical leasing matters. The investigation was initially conducted by Internal Audit, with a follow up, more in-depth review conducted by the Head of Service. The subject matter of the review concerned the leasing of commercial space in Broadcasting House. The lease in question commenced in 2013, it was extended in 2016 and due to the Covid-19 pandemic was continued twelve months post its termination date.

The subject of the review was value for money linked to the commercial terms of the lease. The investigation concluded the following key points:

- The advice of the Valuation and Estates Officer was not followed.
- Lease terms were agreed at less than favourable rates due to the community benefit it offered.
- Appropriate due diligence was not progressed or evidenced.
- Decision makers did not make robust challenge when required.

Whilst community benefit was a legitimate reason for reduced rent levels, both in 2016 and currently, clear documented reasoning on the community benefit needed to be evidenced and recorded. In this instance the review could not find any detailed explanations for the community benefit which was proportionate to the reductions provided.

It was documented that the Valuation and Estates Officer was clear in their recommendation regarding the levels of rent. However this was not followed and senior management overruled the recommendations.

At the expiry of the lease, the favourable terms were not extended and commercial terms were offered. This reflected management changes and the approach in practices towards commercial leasing. The occupant was not in agreement with the significant increase in rent and subsequently sought alternative premises.

Assurance was provided that significant changes have been implemented which would preclude this issue from arising in current leasing practice.

The Valuation and Estates Team were now managed within the Corporate Finance function. The team was based within Strategic Commissioning and Procurement, and Had strong leadership through the Head of Strategic Commissioning and Procurement, reporting directly to the Director of Finance.

All leases for commercial assets were negotiated by valuation and estates staff for the majority of the asset portfolio. The management of the Boho estates, Centre Square 1 and 2, and Tees Amp was undertaken by a team based within Regeneration, and Captain Cook Square management was currently externally commissioned. In all cases, leases must be requested through Delegated Approval forms. Legal Services would not progress instructions without the receipt of an appropriate signed Delegated Approval. Currently there were three principal signatories for the delegated approval: Head of Valuation and Estates, Head of Strategic Commissioning and Procurement, and Director of Finance.

Predominantly all delegated approvals were processed by the Head of Valuation and Estates to ensure consistency of approach. During periods of annual leave or sickness, the Head of Strategic Commissioning and Procurement would be the key signatory.

Work on the Forward Plan included the development of the Valuation and Estates Unit, to become a centralised unit for all commercial letting within the Council. Over the next six to eight months, staff involved in leasing and managing other assets including Boho and Centre Square, would transfer into the centralised unit. In the longer term, this team would expand and develop to include the management of Captain Cook Square. The Letting Policy would be refreshed and approved by May 2022 as part of this development plan.

The Head of Finance drew attention to paragraph 21 of the submitted report, where it was stated that:

“In its report on the statement of accounts, the external auditors confirmed Middlesbrough Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ended 31 March 2020.

The Head of Finance clarified that this statement was specifically in relation to asset disposals and not the overall opinion on the Statement of Accounts.

**AGREED** that the report was received and noted.

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**ANY OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED**

None.