

AUDIT COMMITTEE

A meeting of the Audit Committee was held on Friday 6 October 2023.

PRESENT: Councillors J Ewan (Chair), J Kabuye (Vice-Chair), I Blades, D Coupe, B Hubbard, S Platt and M Storey

ALSO IN ATTENDANCE: M Rutter (External Auditor) (Ernst Young), P Jeffrey (Internal Auditor) (Veritau) and M Thomas (Internal Auditor) (Veritau)

OFFICERS: C Benjamin, A Johnstone, S Lightwing and J Weston

APOLOGIES FOR ABSENCE: All Committee Members were present.

23/1 **DECLARATIONS OF INTEREST**

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

23/2 **MINUTES- CORPORATE AFFAIRS AND AUDIT COMMITTEE - 15 AUGUST 2023**

The minutes of the Corporate Affairs and Audit meeting held on 15 August 2023 were submitted and approved as a correct record.

23/3 **SECTION 24 REPORT - DELIVERY AND OVERSIGHT ARRANGEMENTS**

A joint report of the Chief Executive, Director of Finance and Director of Legal and Governance Services was presented to provide the Committee with information in relation to the planned reporting arrangements for delivery of the action plan that was agreed by Council on 18 September 2023, in response to 11 statutory recommendations made by the Council's External Auditors Ernst & Young LLP (EY), exercising their powers under Section 24, Schedule 7(2) of the Local Audit and Accountability Act 2014.

The agreed recommendations and supporting action plan that was agreed by Council on 18 September 2023 was attached at Appendix 1 to the submitted report.

Progress against the action plan would be reported to the Audit Committee as a standing item until delivery of all actions was complete. Progress would also be reported to the Independent Improvement Advisory Board (IIAB) that had been established to oversee delivery of the Council's Corporate Governance Improvement Plan, as set out in the report to Council on 18 September 2023 that outlined phase three of the Corporate Governance Improvement Plan.

The Chair of the IIAB and the Council's three statutory officers would also meet regularly with both the External Auditor and the Department of Levelling Up, Housing and Communities in separate meetings to discuss the Board's independent view of the Council's progress against both the Section 24 action plan and phase three of the Corporate Governance improvement Plan. Progress against the CGIP would be reported as a standing item to each ordinary meeting of full Council to maintain Member visibility.

Since the report was approved by Council on 18 September 2023, two actions had been completed in line with their target dates as follows:

1. A review of all existing purchasing cards had been completed. A process was in place for reducing the number of cards across the business and mandatory training had been developed for cardholders identified moving forward. Training for the initial cohort would be complete by November 2023 and then there would be a rolling programme of training aligned with the assignment of cards going forward.

2. Pre-2021 'open' exemptions had been identified and a full analysis of would be reported to the Audit Committee in December within the annual assurance report on Procurement activity.

The first meeting of the Independent Improvement Advisory Board (IIAB) had taken place on 2 October 2023 and another meeting was scheduled for November. It was confirmed that a note of actions points had been made rather than recorded minutes. This point was queried by Members as it had been stated at a recent Council meeting that minutes would be kept of IIAB meetings. The Monitoring Officer confirmed the question had been raised at Council and agreed that this position would be corrected.

The first meeting had set the scene for the IIAB to understand Middlesbrough Council and discussion had also taken place regarding engagement with Members. An informal two-way conversation with Members was envisaged as well as the formal process, and this was high up on the IIAB's agenda.

The IIAB had been created by the Head of Paid Service following discussions with the Department for Levelling Up, Housing and Communities (DLUHC) and the External Auditor, EY, and was required as part of the Council's improvement journey. The appointments were made by the Head of Paid Service, with the costs approved by Council.

It was noted that approximately £750,000 was spent per month on purchasing cards and as part of a review the number of cards in use had been reduced and more transactions were now going through the purchasing system. The Head of Procurement would be presenting a report to the next Audit Committee meeting which would provide further detail on the review. It was highlighted that use of purchasing cards had been reviewed previously, and it was explained that given the Council's current financial position, spending had to be restricted. In some cases VAT on transactions had not been recouped.

It was clarified that the mandatory Elearning would be delivered initially and then on a cyclical basis to ensure that new employees would be included.

The target dates for action in the report would have a detailed delivery plan and timeline and the Audit Committee would receive regular updates.

Regarding Middlesbrough Development Company (MDC), the Chair requested that the audited accounts, when prepared, were submitted to the Audit Committee for information. It was confirmed there were currently two Board Members and the Liquidators would appoint any further Board Members required as part of the Company wind-up process.

AGREED as follows that the:

1. information provided was received and noted.
2. proposed monitoring arrangements were approved.
3. audited accounts for Middlesbrough Development Company (MDC) would be submitted to the Audit Committee for information when available.
4. Monitoring Officer would ascertain the minuting arrangements in relation to IIAB meetings and the process for the appointment of its Members.

23/4

UPDATE ON AUDIT OF ACCOUNTS PROGRESS

A report of the Interim Director of Finance (Section 151 Officer) was presented to update the Audit Committee on the audit of the Council's Statement of Accounts and provide new information on action proposed by the Department for Levelling Up Homes and Communities (DLUHC) to address the current audit backlog.

The report provided an update on the outstanding audit of the Council's Statement of Accounts for 2021/22. In addition, the Council draft accounts for 2022/23 had yet to be finalised for publication although the statutory date for doing this was 31 May 2023. There was also an update from DLUHC in relation to the national backlog of audits currently outstanding within the local government sector and initial proposals on how to address this.

The completion of the external audit of the Council's last two years financial statements and value for money assessment took significantly longer to finalise than in previous years:

- For 2019/20, this was completed on 2 March 2021 (the statutory date for these audited accounts was 30 November 2020).
- For 2020/21, this was completed on 29 April 2023 (the statutory date for these audited accounts was 30 September 2021).

In previous years to these, the statutory deadlines had been achieved.

Reasons for the delays had been reported to the Corporate Affairs and Audit Committee several times before and were grouped into three main categories:

1. Onerous regulatory requirements for external auditors, mainly from the National Audit Office and the Financial Reporting Council. This had required extensive additional work to be undertaken and evidence to be gathered by auditors as part of their examination of the Council's financial statements and transactions. This had been in response to a high number of corporate failures in the private sector.
2. A significant amount of additional work had been required on the value for money assessment, mainly in relation to the Ofsted judgement on the quality of Children's Services being delivered by the Council, and the governance issues within the Council which had recently led to a set of statutory recommendations being issued.
3. Extra work, evidence and focus on the Going Concern Assessment, given the well-publicised issues on local authorities and their financial sustainability.

In addition, there had been resource constraints and recruitment issues within both the Council's financial team and for Ernst & Young (EY), the external auditors, over most of this period. The Head of Finance and Investment confirmed that the Council had brought in additional resources to assist with completion of the accounts and provide better resilience.

The deadline for publication of the draft accounts for 2022/23 was consulted on by DLUHC during April 2023 due to some concerns as to whether this could return to normal following the pandemic. The outcome of this was announced on 3 April 2023 and the deadline returned to 31 May date. There was no penalty for failing to meet the statutory deadlines. However, it was important for local authorities and their stakeholders to have assurance of the Council's financial position and therefore timely reporting and audit was an essential aspect of robust financial management.

The percentage of Councils that met the deadlines in 2021/22 was 9% of English local authorities for the draft accounts and for the audited accounts was 12%.

Despite the obvious difficulty for local authorities to meet the less stringent deadlines of the past 3 years, the revised deadline had been reduced by 2 months for the financial year 2022/2023 to reinstate the original statutory deadline of 31 May. The Council had not yet issued the draft statutory accounts due to the need to take account of audit amendments that were likely to flow from the 2021/22 audit.

The National Audit Office (NAO) and DLUHC intended to set a series of statutory deadlines for accounts preparers and auditors to clear the backlog of delayed audits for financial years 2015/16 to present. Achieving these deadlines, might result in qualifications and disclaimers of opinions on statutory accounts in the short term for a number of local bodies. The NAO was considering whether to develop a revised Code of Audit Practice to give effect to the changes. Legislative change might also be needed to address any knock-on effects of the proposals which might impact the audit of opening balances within the accounts for future years. Under these proposals, Section 151 officers would be expected to work with Audit Committee Members to approve the final accounts by the statutory deadline for the audit opinion to be issued at the same time.

The External Auditor commented that in terms of the Government consultation, audit firms were awaiting further guidance. EY were working through the implications of the current proposals. The purpose of the proposals was to try and get the 2023/2024 accounts back onto a reasonable timetable. The deadlines did not apply to Pension Fund audits and they would go ahead through to completion.

The draft Statement of Accounts for 2021/22 was authorised for issue by the former Director of Finance on 8 August 2022. EY had been working on the 2021/22 audit of accounts with the internal finance team since the start of September 2022. There was a period of concentrated work on this audit between early September 2022 and the end of March 2023. At that point, the audit was paused to allow the finance team to focus on the closure of accounts process

for 2022/23 and to prepare a draft Statement of Accounts for the latest financial year.

One area that EY had been working on related to the Collection Fund Bad Debt provision. The debt on both council tax and business rates was around £50m in total, so any judgement on the level of bad debt provision was significant. The Council reviewed its bad debt provision formula in 2021/22 because of comments made on the previous year's audit and a general recognition that the existing provision was overstated in comparison to neighbouring authorities.

Given recent changes in relation to IAS 37 on provisions and contingent liabilities, the accounting standard that informed the local authority accounting code in this area, a stronger link was needed between the provision being held in the accounts and the actual collection of council, tax, and business rates debts from within the local community. The final bad debt provision included within the 2021/22 accounts was around £36m. This included the element of a new formula and a buffer for future collection issues, following the pandemic. Officers were in discussion with the external auditor in relation to this change which could result in a material adjustment to the 2021/22 accounts and would need to be fed through the 2022/23 draft accounts.

As a result of this potential audit adjustment and any possible changes needed for opening balances for the 2022/23 accounts, plus the delay in restarting the 2021/22 audit whilst awaiting further details from DLUHC, the Director of Finance had decided that the 2022/23 accounts would be published once the adjustment had been determined to enable her to be satisfied that the accounts presented a true and fair view of the Council's financial position at 31 March 2023. It was anticipated that the 2022/23 draft pre-audited accounts would be signed and issued before the end of this calendar year to enable the audit to commence subject to EY's planned approach. The accounts would be brought to the Audit Committee for consideration at the earliest opportunity thereafter.

A Member commented that the Council had recently been criticised in the press regarding the outstanding accounts but noted that Middlesbrough was different to other local authorities due to the current governance issues and government intervention. The Head of Finance and Investment confirmed that there were some issues in the earlier years' accounts that could impact the starting point for the 2022/2023 accounts and therefore needed to be resolved.

AGREED that the information provided was received and noted.

23/5

INTERNAL AUDIT AND COUNTER FRAUD PROGRESS REPORT

The Head of Internal Audit, Veritau, presented a report to provide the Audit Committee with an update on the delivery of internal audit and counter fraud work and on reports issued and other work completed since the last update report to Committee.

The internal audit progress report was contained at Appendix 1 to the submitted report. This included a summary of current work in progress, internal audit priorities for the year, completed work, and follow-up of previously agreed audit actions.

Good progress had been made since the last update. Seven reports had been finalised and 3 reports were in draft. One of the 3 draft reports – Homecare - had been finalised since this report was written.

The final report on Middlesbrough Development Company was reported to the August meeting of the Corporate Affairs and Audit Committee. Five of the final reports provided substantial or reasonable assurance. The opinion on the Children's Commissioning and Contract Management audit was limited and actions had been agreed with target dates. The actions would be followed up to ensure they had been completed.

Annex E to the submitted report provided details of the follow up of agreed actions and one action has been completed since the last report to Committee. This was a priority 3 action relating to the audit of the main accounting system. A total of 18 actions with original due dates that had passed were still outstanding. Of those 18, 15 had revised target dates agreed and the remaining 3 were being followed up.

Members asked questions in relation to the prioritisation of audits, the length of time taken to

complete and overdue actions. The purpose of Internal Audit was to help the Council and its managers to mitigate and manage risk. Internal Audit focussed on areas that would be of most benefit to the Council and likely to be the most risky.

The counter fraud progress report was contained at Appendix 2 to the submitted report. 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 worked with Human Resources to update the Council's Whistleblowing Policy. The updated policy was finalised in June 2023 and reflected national guidance and best practice as well as detailed guidance for managers on how to address whistleblowing concerns. A central log of whistleblowing reports was now being maintained by Veritau. With the support of the Communications Team, the revised Whistleblowing Policy was highlighted to all Council employees as part of World Whistleblowers' Day on 23 June.

Middlesbrough had participated in a National Day of Action against Blue Badge fraud in June 2023, alongside 80 other councils. The exercise involved making checks on blue badges displayed in the town to determine if they were being properly used by legitimate badge holders. The Counter Fraud and Neighbourhood Safety Teams worked together to check 38 badges on the day, which resulted in one penalty charge notice (PCN) being issued. Nationally 5000 badges were inspected, 196 PCNs were issued, and 92 badges were seized.

Between 1 April and 31 August 2023, the counter fraud team received 47 referrals of suspected fraud. These covered potential council tax fraud, council tax reduction fraud, internal fraud and debt recovery issues. Referrals had been made by members of staff, the NFI, and the public. Ten investigations had been completed this year and there were currently 24 cases under investigation.

Investigative work in 2023/24 had identified £33k of loss to the Council to date. The counter fraud team supported the Council to recover debts identified as part of investigations. Counter fraud savings were also tracked by monitoring repayments to the Council and calculating the value of stopping ongoing fraud. To date £11k of counter fraud savings had been generated. Internal Audit tried to get best value for the Council by prioritising high value frauds to investigate. Amounts recovered would continue to be collected, sometimes through repayment plans that could take a number of years, or potentially from a person's assets.

AGREED that the information provided was received and noted.

23/6

COUNTER FRAUD FRAMEWORK ANNUAL REPORT

A report of the Head of Internal Audit, Veritau, was presented to update Members on the impact of fraud nationally and in particular on local authorities; summarise outcomes from the annual review of the Council's counter fraud policy framework; and present an updated Counter Fraud Strategy action plan and Fraud Risk Assessment.

Fraud was a significant risk to the public sector. The government estimated that between £33.2 and £58.8 billion of public spending was lost to fraud in 2020/21. At a local level, fraud could impact a council's ability to support public services and cause reputational damage. To effectively combat fraud councils should have a counter fraud framework that helped to prevent, detect and deter fraud.

Covid-19 payments to businesses and the public concluded last year. Councils across the country had been working with the former Department for Business, Energy and Industrial Strategy (BEIS) to complete reconciliation and assurance exercises. BEIS estimated that 8.4% of payments (£985m nationally) was lost to fraud from the initial Covid-19 schemes at the start of the pandemic. Later schemes lost 1% (£83m) of payments due to fraud. Councils and central government were currently working together to recover money lost due to fraud through Covid-19 grant schemes.

The Government had reacted to those losses and set up a public sector fraud authority to give advice and improve the fraud mechanisms in Government. New legislation, which might affect public sector organisations, was being introduced to criminalise larger organisations who failed to prevent fraud from occurring. The Bill was currently going through Parliament and the Committee would be kept updated on progress.

Veritau began providing counter fraud services to the Council in January 2020. Raising awareness of fraud within the authority and with the public had been a key priority. This had resulted in year on year increases in the numbers of cases of suspected fraud being referred to the team. The chart at paragraph 8 of the submitted report showed the number of referrals received by the team since 2020, and the source of the referrals.

Between 1 April and 31 August 2023 the team received almost as many referrals as the total received in the previous year. The number of referrals from Council officers and the public had also grown each year. The team was increasingly taking more responsibility for the investigation of data matches highlighted by the National Fraud Initiative.

The Council's current counter fraud and corruption strategy was adopted in 2020. The strategy set out the Council's aims for counter fraud work up to 2024. The strategy also included actions needed to maintain and develop counter fraud arrangements at the Council. The associated strategy action plan was reviewed and updated annually. This year's update was contained in Annex A to the submitted report and detailed progress made against last year's plan and introduced new priorities for the counter fraud team in 2023/24 taking into account local and national developments.

New objectives this year included:

- Presenting a new counter fraud strategy to the Audit Committee in 2024.
- Supporting the Council to meet central government requirements around grant provision.
- Delivery of new whistleblowing e-learning packages to support employees and managers.

No policy updates were identified as part of the current review.

Veritau completed an annual Fraud Risk Assessment, designed to identify the areas of fraud that presented the greatest risk to the Council. National and regional reports of fraud affecting local authorities, as well as fraud reported to and investigated by the counter fraud team, were used to develop the risk assessment. The updated risk assessment was attached at Annex B to the submitted report.

A Member noted that in 2021 there were 29 fraud referrals and asked how many converted into fraud or error being found. The Auditor stated that each case was different but it was generally 50%. When fraud was uncovered the subject would be invited for an interview under caution. Sometimes it may just have been a mistake or equally it could be an attempt to defraud the Council. Once all the facts were known they would be assessed and actions recommended to the Council. Actions could include a warning, fine or prosecution which would be publicised to try and deter people. Details of a prosecution that the Council was undertaking would be shared with the Audit Committee at the appropriate time.

The National Fraud Initiative (NFI) was a large-scale data matching exercise that involved all councils and other public sector bodies in the UK. This exercise was completed every two years.

AGREED that the updated Counter Fraud Strategy Action Plan and the Fraud Risk Assessment were received and noted by the Audit Committee.

23/7

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

The Chair suggested that the Audit Committee might need to meet more frequently in future to meet an increased workload which included the Section 24 Report updates, outstanding accounts and completed audits. The Democratic Services Officer would circulate a provisional date for a meeting in November 2023.

AGREED that a provisional date would be circulated for a meeting of the Audit Committee in November 2023.

