

CORPORATE AFFAIRS AND AUDIT COMMITTEE

A meeting of the Corporate Affairs and Audit Committee was held on Thursday 30 September 2021.

PRESENT:	Councillors B Hubbard (Chair), J Platt (Vice-Chair), T Higgins and T Mawston
PRESENT BY INVITATION:	Councillors J Thompson
ALSO IN ATTENDANCE:	S Reid (External Auditor) (Ernst Young), M Rutter (External Auditor) (Ernst Young) and M Thomas (Internal Auditor) (Veritau)
OFFICERS:	S Lightwing, M Brearley, C Benjamin, R Painter, J Savage, C Walker, J Weston and I Wright
APOLOGIES FOR ABSENCE:	Councillors J Hobson, D Rooney and C Wright

21/12 WELCOME AND EVACUATION PROCEDURE

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

21/13 DECLARATIONS OF INTEREST

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

21/14 MINUTES - CORPORATE AFFAIRS AND AUDIT COMMITTEE - 5 AUGUST 2021

The minutes of the Corporate Affairs meeting held on 5 August 2021 were submitted and approved as a correct record.

21/15 PAYMENT OF COUNCIL TAX - COUNCILLORS

A report of the Director of Finance was presented to outline the Council's position and approach in regards to the collection of Council Tax from Councillors and the obligations on Councillors in relation to meeting payment requests. The report also provided information on Councillors' compliance with their legal duties in relation to the payment of Council Tax.

The payment of Council Tax was a statutory obligation, governed by the Local Government Finance Act 1992. Payment of Council Tax was due at regular intervals, usually on a monthly basis. Should non-payment result in further action, the legislation was clear on the stages that could be taken to secure payment.

Where payment was not made as indicated on the bill, a reminder notice was issued within 14 days of the amount becoming overdue. If payment was still not forthcoming, the account would be selected for a summons and the full year's council tax would become payable.

If full payment was not received, the Council would make a request to the Courts for a Liability Order. If granted, a Liability Order provided additional powers to recover monies due. In respect of Councillors, one of these powers was an attachment to the Councillor's allowances. If an attachment was undertaken, a percentage of the Councillor's allowance could be deducted on a monthly basis until the amount due was cleared.

Middlesbrough Council had 46 Councillors, excluding the elected Mayor, and 87.5% of Councillors paid their Council Tax by monthly direct debit, with the remainder choosing to pay by cash on a monthly basis.

The legislation which governed the payment of Council Tax and the obligations of Councillors was contained within Section 106 of the Local Government Finance Act 1992 (LGFA 1992). This legislation made it a criminal offence for any Councillor who had arrears of Council Tax outstanding for two months or more to attend any meeting at which a decision affecting the

Council's budget was to be taken, unless the Councillor concerned declared at the outset of the meeting that they were in arrears and would not be voting on the decision for that reason.

Checks made dated back to 2015, confirmed that no Councillor had been excluded from voting, albeit a small number might have fallen behind with payment. All Councillors' accounts were up to date and in some instances the full year's amount had been paid.

Revenues Service provided monthly checks against each Councillor's account. Notification was forwarded to Democratic Services should any Councillor hit triggers and fall behind with payment by two months or more.

It was highlighted that, although the Service undertook these checks, the responsibility for meeting payment obligations and raising non-payment issues, rested entirely with the Councillor, as it also applied to any other resident within the borough. The Council did not provide any variation in service that would result in Councillors being treated preferentially over other residents.

It was accepted that payment difficulties could arise, and support and payment plans could be put in place for Councillors in the same way as they could for residents. Paragraph 27 of the Members' Code of Conduct, attached at Appendix A to the submitted report, provided that Councillors must, at the earliest opportunity, make arrangements to repay. Any service response to this situation would be dealt with confidentially, provided non-payment had not resulted in other action.

Section 4 and Section 8 of the Members Handbook, attached at Appendix B to the submitted report, provided Councillors with the information pertaining to S106 of the Local Government Finance Act 1992.

AGREED that the information provided was received and noted.

21/16 **SUSPENSION OF COUNCIL PROCEDURE RULE NO 5 - ORDER OF BUSINESS**

ORDERED that, in accordance with Council Procedure Rule No 5, the Committee agreed to vary the order of business. The remaining agenda items would be considered as follows: Agenda Items 8, 9, 6, 7, 10, 11, 12 and 13.

21/17 **PROCUREMENT OVERVIEW FOR 2020/21**

A joint report of the Executive Member for Environment and Finance and Governance and the Director of Finance was presented to provide a summary of the Council's procurement activity over the last financial year including compliance with Standing Orders, practice changes and contract awards.

The Covid-19 pandemic had a significant impact on procurement activity during 2020/21 and there had been some significant challenges, which the procurement team had handled positively with suppliers to ensure continuity of provision and services.

The table at paragraph 4 of the submitted report showed the thresholds as at 1st April 2020 to 31st March 2021, which all procurement activity should adhere to. It was clarified that the thresholds were set by OJEU and Central Government. Some contracts allowed for a variance which might go over the threshold if there were sudden increases in supplies such as fuel but this was closely monitored.

One of the consequences of the Covid-19 pandemic had been the extension of 77 contracts, since it was not possible for formal tenders to be carried out. These extensions were compliant with the Public Contract Regulations and the relevant PPN's and contracts were formally varied. These procurements were being re-scheduled into future tender pipeline.

Throughout the pandemic the Council had worked to ensure that services continued without disruption and that suppliers were supported as much possible. There were currently 475 active contracts recorded on the Council's Contract Register.

In line with Standing Orders there were occasions where an exemption from Standing Orders could be obtained through a fully transparent approval process. During 2020/21 there were

48 exemptions approved, compared to 60 in 2019/20.

2020/21 breaches were minimal due to COVID restrictions reducing the procurement activity being undertaken by the Council. However there were recent occasions where standing orders had not be adhered to and assurance measures were being undertaken now to deal with them. Further training would be beneficial for staff in order to promote better understanding of the contract procedure rules and the Procurement Manager had been tasked with developing this work.

During 2020/21 the Council spent £7,515,013 via purchasing cards via a total of 25,438 transactions. The majority of spend continued to be low value with 16,842 (66%) being under £99, 6,621 (26%) were £100 to £499.99 and 1,975 (8%) were over £500. Rebates for the cards were paid 1 December to 30 November and in December 2020 the Council received a rebate of £67,345.83. A further rebate would be received in December 2021.

Previous audit recommendations in relation to purchasing cards had been implemented and this had strengthened monthly reporting to cardholders and line managers on the reviewing of the purchasing cards, and cards being cancelled where the Council's policy was not being adhered to. It was confirmed that purchasing cards were allocated to individuals only and that a pin number was usually required to make a purchase.

Following Executive approval, the Council intended to procure the Supplier Incentive Programme (SIP) (also known as an Early Payment System) with Oxygen Finance via the NEPO Framework in order to enable early as possible payment options for all suppliers in return for a rebate payment. This project would have a number of efficiencies both in relation to practice as well as financial and would result in decreased use of purchasing cards. It was anticipated that the SIP would be live by the end of the financial year and more detail on its performance would be provided in next year's report.

Local spend continued to be monitored against the Council's target, and work to enhance reporting continued to be developed. A new report had been designed in Business World and the Data Team had assisted in transferring that report into PowerBI in order to provide a visual data dashboard on spend performance. A summary of performance during 2020/21 was included at paragraph 31 of the submitted report.

AGREED that the information provided was received and noted.

21/18

SUBJECT ACCESS REQUESTS - COMPLIANCE UPDATE

A report of the Data Protection Officer was presented to provide an update regarding Middlesbrough Council's legal compliance with the right of subject access.

The Committee previously received the Annual Senior Information Risk Owner (SIRO) Report at its meeting on 29 April 2021 which included an update regarding the backlog of subject access requests (SARs).

Since the last update to the Committee, the temporary post in the Children's Services department had been put on a more permanent footing within the Medium Term Financial Plan. The effect of that role, and the existing post dedicated to historical Children's Services SARs, had resulted in a reduction of the backlog of cases received prior to 2021, to 10 within that department.

A small number of those cases were awaiting 'life story work' to be provided by the Children Looked After Service to ensure that those requestors received the information they had asked for, but with the right level of pastoral support and explanation about their time in care.

The other requests were taking a significant amount of time to process due to the nature of those cases and people who had spent a significant number of years in care. In one example, there was in excess of 650 files totalling 6,000 pages, all of which needed to be reviewed and redacted to comply with the data protection legislation. The requestors in those cases were aware of the reasons for the delays and were content to receive the information in a number of partial responses as the work progressed. It was noted that the Department had recently received thanks from someone who had been overwhelmed by the amount of information that was provided and the history of what happened to that person in care,

acknowledging the painstaking work undertaken to provide it.

It was noted that a further 56 SARs had been received by the Children's Services Department in 2021 to date, 42 of which had been responded to. In total, the current number of open SARs in the department was 24, with 17 of those being overdue.

The Chair, on behalf of the Committee, thanked the Department for the work undertaken.

AGREED that the information provided was received and noted.

21/19

INTERNAL AUDIT AND COUNTER FRAUD PROGRESS REPORT

The Head of Internal Audit, presented a report to update the Committee on the progress of internal audit and counter fraud work during 2021-2022 and the outcomes from work completed since the last report.

A copy of the internal audit progress report was attached at Appendix 1 to the submitted report. Details of progress against the internal audit work programme and a summary of current work in progress, internal audit priorities for the year, completed work, and follow-up of previously agreed audit actions were included. The Auditor had no specific issues to bring to the Committee's attention.

It was highlighted that target completion dates for audits were always subject to change. In addition, all P1 and P2 internal audit actions were part of the corporate performance management system and were regularly reviewed by the Chief Executive and the Corporate Management Team.

The counter fraud progress report was attached at Appendix 2 to the submitted report and detailed a range of work including activity to promote awareness of fraud, work with external agencies, and information on the level of fraud reported to date.

AGREED as follows that:

1. the progress of internal audit and counter fraud work in 2021/2022 was noted.
2. the outcomes from work completed since the last report to Committee were noted.

21/20

ANNUAL COUNTER FRAUD FRAMEWORK REPORT

The Head of Internal Audit provided a report to update Members on the impact of fraud nationally and in particular on local authorities. The Council's counter fraud policy framework had been reviewed and the Counter Fraud Strategy Action Plan, The Fraud Risk Assessment, and the Anti-Fraud, Bribery and Corruption Policy had been updated. A copy of the annual Counter Fraud Framework Report was attached at Appendix 1 to the submitted report.

AGREED that the following documents were received and noted by the Committee:

1. updated Counter Fraud Strategy Action Plan.
2. the updated Fraud Risk Assessment.
3. the updated Anti-Fraud, Corruption, and Bribery Policy.

21/21

VERBAL UPDATE - STATEMENT OF ACCOUNTS AUDIT PROGRESS/VAT

Statement of Accounts 2020/2021

The Head of Finance and Investments provided a verbal update. The statutory date for approval of the audited statement of accounts for 2020/21 was 30 September 2021. However, the audit of the accounts was not yet finished and, as a result, the approval report on the audited accounts and planned training for Members would be delayed until the work had been completed.

The Covid-19 pandemic and the ongoing impact on local authority finance teams, the overall financial position of Councils generally, and the work required by external auditors to undertake the audit had been significant. These factors had resulted in delays in audit work being undertaken and audits being signed off nationally. Many audits had still not started due

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to delayed audit opinions relating to previous years and workload for finance teams and audit firms. Middlesbrough Council's audit was progressing well and was ahead of many other authorities in comparative terms.

There were some complex expenditure and funding arrangements to assess as a result of Covid-19, in respect of uncertainty around material assets and liability values. This work needed additional discussion and evidencing by auditors. There had also been staffing issues at both the Council and for local auditors also. Middlesbrough Council had had a vacancy at Chief Accountant level since early last year.

The aim was to complete the audit in the next one to two months and the audited Statement of Accounts would either be presented to Members for approval at the Corporate Affairs and Audit Committee meeting scheduled for 9 December 2021, or at an ad hoc meeting if completed earlier.

As a result of the statutory deadline not being met, a notice would be placed on the Council's website with the draft accounts from 30 September 2021, with a note to explain that the audit was ongoing and the audited accounts were not yet available for publication.

It was highlighted that no other Tees Valley local authority had been able to complete their audit of accounts within the statutory timeframe.

Responding to members' queries it was clarified that the main areas of focus were pensions accounting and covid business grants. It was confirmed that there were no penalties for late approval of the accounts.

The Chair requested that Members received notification of training as early as possible.

Value Added Tax

The Council had appointed a new VAT officer who had been in post since 23 March 2021.

In relation to purchasing cards, the auditor had previously raised an issue of council staff using their purchasing cards but either not reclaiming any relevant VAT, and/or not retaining receipts and invoices as proof for HMRC.

In general there were a number of internal controls that need improving on the use of purchasing cards and most of this was in terms of awareness and compliance with business process that the Council used in this area. This was being led by the Procurement team who had issued updated procedure notes and some direct training to remind users of what was required. The main approach on VAT would be awareness via training sessions for managers and staff, publicity via the procurement forum on purchasing cards, and also in VAT newsletters.

AGREED that the information provided was received and noted.

21/22

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

Exempt Reports

Following a brief discussion in relation to exempt reports, the Monitoring Officer suggested that it would be appropriate for the Constitution and Members' Development Committee to give this topic further consideration.

NOTED

21/23

EXCLUSION OF PRESS AND PUBLIC

ORDERED that the press and public be excluded from the meeting for the following items on the grounds that, if present, there would be disclosure to them of exempt information as defined in Paragraphs 1 and 2 of Part 1 of Schedule 12A of the Local Government Act 1972 and that the public interest in maintaining the exemption outweighed the public interest in

disclosing the information.

21/24

APPOINTMENT OF LA GOVERNORS

A report of the Executive Director of Children's Services was presented regarding a vacancy for a Local Authority appointed School Governor that had arisen as a result of a resignation.

Members were asked to note that "The Constitution of Governing Bodies of Maintained Schools Statutory Guidance for Governing Bodies August 2015 states that Local Authority governors are nominated by the Local Authority but appointed by the Governing Body."

The Local Authority could nominate any eligible person as a Local Authority Governor, but it was for the Governing Body to decide whether their nominee had the skills to contribute to the effective governance and success of the school and met any other eligibility criteria they had set. Local Authorities should therefore make every effort to understand the Governing Body's requirements and identify and nominate suitable candidates.

Members were asked to consider formally approving the appointment of Governors highlighted in bold in Appendix 1 attached to the submitted report.

ORDERED that the following appointments, for a four year term of office, as agreed by the respective School Governing Bodies, were approved:

Berwick Hills Primary – Councillor A Hellaoui
Holmwood School – Councillor D Branson