



Brent

MINUTES OF THE AUDIT AND STANDARDS ADVISORY COMMITTEE Tuesday 11 December 2018 at 6.00 pm

PRESENT: Mr Ewart (Chair), Councillors A Choudry (Vice-Chair), Donnelly-Jackson, Naheerathan and Nerva, and Independent Members Robert Cawley, Sheila Darr and Karen McArthur

Also Present: Councillor S Choudhary

Absent: Councillor Kansagra and Independent Member Margaret Bruce

Everyone introduced themselves as this was the first meeting attended by Bianca Robinson (Senior Lawyer – Constitutional and Governance, Brent Council) and Councillors Donnelly-Jackson and Naheerathan.

1. **Apologies for absence and clarification of alternate members**

The Chair informed Members that he had received apologies for absence from Carolyn Downs (the Council's Chief Executive) and Althea Loderick (the Council's Strategic Director of Resources).

It was noted that Independent Persons Nigel Shock and Keir Hopley had given apologies for absence.

2. **Declarations of Interest**

In relation to Agenda item 7, David Ewart declared that he had worked together with Marc Dorfman, the independent reviewer of the Planning Code of Practice, at the London Borough of Ealing.

3. **Deputations (if any)**

There were no deputations.

4. **Minutes of the previous meeting**

It was **RESOLVED** that the minutes of the previous meeting of the Audit and Standards Advisory Committee, held on 17 October 2018, be approved as an accurate record.

5. **Matters arising (if any)**

Report on i4B Holdings Ltd and First Wave Housing Ltd *(Item 5 of the minutes of the minutes of the previous meeting)*

It was noted that an update on the operation of the Council's wholly owned companies – i4B Holdings Ltd and First Wave Housing Ltd, would be provided either at the February 2019 or the March 2019 meeting of the Committee.

Independent Advisor to the Committee

(Item 5 of the minutes of the minutes of the previous meeting)

Conrad Hall (the Council's Chief Finance Officer) informed the Committee that he had approached leading recruitment agencies in the field. A job advertisement was expected to go out either in late December 2018 or early January 2019. Mr Hall said that he would discuss the details of the recruitment process with the Chair and the Vice-Chair of the Committee.

Risk Management Framework Review

(Item 5 of the minutes of the minutes of the previous meeting)

It was noted that an update on the Risk Management Framework Review would be provided at the meeting of the Committee on 5 February 2019.

Lender Option Borrower Option Loans

Mr Hall noted that KPMG (the Council's former External Auditor) were still considering the objection to the Council's accounts that had been raised in respect to the Council's Lender Option Borrower Option (LOBO) loans. Mr Hall explained that KPMG had emailed him earlier that day to explain that they were looking to issue their provisional view in January 2019 and Mr Hall, therefore, expected that he would be able to provide an update to the Committee at the meeting on 5 February 2019.

Paul Dossett (Partner, Grant Thornton – External Audit) explained the process in detail – after the auditor had issued their provisional view, the objector and the Council would usually have 20 working days to respond. The auditor then took into account whether the points that had been raised were substantive and would issue their final view. Once this had happened, the objector could not raise any further points of legality unless they took their objection via appeal to the court system at their expense within 21 days. He referred to his experience and noted that his understanding was in cases where there were had not been complications in taking out the LOBOs, auditors had not found the process to be unlawful. However, in other instances, such as when inverse LOBOs had been taken out, work on some objections continued, but his understanding was judgement was likely to be that the LOBOs had been taken out without this being contrary to the interests of the local authorities at the time.

Mr Hall provided more information about the nature of the LOBOs, pointing out that these were transactions in which the Local Authority had entered in the late 1990s and early 2000s, with the most recent one being about ten years old. The objection that had been made to the Council's accounts argued that the decisions to enter into the LOBO contracts were unreasonable and called on the auditor to take action. Although it had been difficult to locate some documents related to the decisions taken to enter into the loans the auditor now had everything that Brent had been available to locate. The evidence that was available showed that Brent had withdrawn substantially less money than other local authorities. Furthermore, the Council had recently been able to redeem one of the LOBOs at favourable terms.

An Independent Member asked whether the transaction was ultra vires, and Mr Hall replied that the Objector contended that this was or may be the case, which would be for the auditor to determine.

A Member commented that some local authorities, like the London Borough of Croydon, had used money from the Public Works Loan Board (PWLB) to repay their LOBOs and asked whether more information on the issue could be provided at the next meeting of the Committee on 5 February 2019.

The level of Council's reserves

(Item 8 of the minutes of the previous meeting)

The contents of the discussion on the level of the Council's reserves had been reflected in the Update Report from the Vice-Chair of the Audit and Standards Advisory Committee presented at the Full Council meeting on 26 November 2018.

It was noted that although the level of the Council's reserves had been considered to be adequate for the present situation, monitoring it would continue.

Counter Fraud Quarterly Progress Report 2018/19 (Fraud case)

(Item 10 of the minutes of the previous meeting)

Michael Bradley (the Council's Head of Audit and Investigations) provided an update on an internal fraud case. The case was heard at a Harrow Crown Court on 5 December 2018 and the former employee had been sentenced as follows:

- Two years imprisonment per offence to run concurrently suspended for two years;
- 240 hours unpaid work;
- Compensation in the sum of £44,669.57; and
- Costs in the sum of £2,500 payable within 12 months.

It was noted that Mr Bradley would circulate the factors that the judge had taken into account when making this decision to all Members of the Committee.

Mr Bradley pointed out that the Council had asked for costs of £27,232. However, the judge had concluded that £2,500 was all that the defendant could afford to pay.

The Committee heard that the Council had been successful in recovering the full amount of the fraud. In response to a question related to measures that had been put in place to prevent similar situations from occurring in the future, Mr Bradley said that details on an audit of the relevant controls would be presented at the next meeting of the Committee on 5 February 2019.

6. Quarterly Update on Gifts and Hospitality

Debra Norman (the Council's Director of Legal and HR) presented the report which updated the Committee on gifts and hospitality registered by Members and a recent case involving the Freedom of Information Act and Independent Persons. Ms Norman reminded the Committee that Members were required to register gifts and hospitality received in an official capacity worth an estimated value of at least £50,

with a list of declared items being available at Appendix 1 to the report (page 15 of the Agenda pack).

Ms Norman referred to the case of Cyril Bennis v Information Commissioner & Stratford-on-Avon District Council (EA/2107/0220) which related to an unsuccessful complaint of misconduct against a Councillor in relation to their handling of a planning matter and the subsequent refusal of the Local Authority to withhold disclosure of information received from one of its Independent Persons (IPs) (for more details please see paragraphs 3.4-3.11 of the report (pages 12 and 13 of the Agenda pack)). She highlighted that the First Tier Tribunal (FTT) had judged that the ICO's decision notice to be wrong in its assessment of the public interest test in relation to the Section 36 of the Freedom of Information Act (FOIA) exemption as it had not placed not enough weight on the fact the IPs opinion would have been made public if there was to be a hearing. However, it was noted that the Council had been correct to rely on Section 40 (2) of the FOIA. The FTT found the correct approach was to consider the rights of the Councillor concerned as a data subject and for unsubstantiated complaints against Councillors, e.g. the details of unsubstantiated complaints, those details should not be published.

Ms Norman informed Members that the Committee on Standards in Public Life had undertaken a review of local government ethical standards with the aim to implement robust standards arrangements to safeguard local democracy, maintain high standards of conduct, and protect ethical practice in local government. Brent had made a submission (following a discussion with Members) which had been included in the consultation which had closed in May 2018. It was expected that the Committee on Standards in Public Life would publish its report by the end of 2018.

RESOLVED that the contents of the Quarterly Update on Standards (Gifts & Hospitality) report, be noted.

7. **Planning Code of Practice Review update**

The Chair explained that the Planning Code of Practice Review Update report would be considered by the Audit and Standards Advisory Committee, following which a formal decision on the recommendations outlined in the paper would be made by the Audit and Standards Committee.

Debra Norman (the Council's Director of Legal and HR) introduced the report which provided an update on the outcome of the Independent Review, and the consequential recommended changes, in relation to the Planning Code of Practice. Ms Norman reminded Members that the Council had undertaken an internal review which had proposed various changes to the Code which had been approved by Full Council (Appendix 2 on page 43 of the Agenda pack).¹ She added that an Independent Review had been carried out simultaneously and the Independent Expert's report had been attached at Appendix 1 (page 21 of the Agenda pack). Members heard that a summary of its key findings was available in paragraph 3.3 of the report (page 18 of the Agenda pack) – Ms Norman highlighted that the Independent Review had supported the changes made and approved by the Council in January 2018, noting that 'the overall structure of Brent's Code and changes were sound'. In addition, the Independent Expert compared Brent's Code

¹ The additional changes that had arisen from the independent review had been highlighted in red.

of Practice to neighbouring authorities positively and noted that the Planning Committee meeting he had observed had been well chaired; its governance arrangements were good; officer presentations made the technical reports easier to understand; and Members demonstrated an understanding of material planning matters. Furthermore, he had noted that a small proportion of recommendations made by officers were rejected and suggested that the Code should clarify that if a Planning Committee Member opted to act in a representative (as opposed to decision making) capacity then they would be subject to the same rules as other Members. When the Council explained their rationale and the process which addressed this, the Independent Expert was content with the explanation provided.

A specific recommendation outlined in the Independent Review report related to the fact that the Council should consider re-inserting a 'call-in' section in the Code. This was addressed by gate-posting where further information on call – in could be found and referring to the updated terms of reference of the Planning Committee which includes a clear and robust call-in criteria.

It was also noted that the Local Authority should consider referring all officer, Member and council applications to be decided by the Planning Committee. After consideration, the Council's response to this recommendation had been that there was no overriding justification for automatically referring such applications to the Planning Committee in all cases. The normal rules put in place provided a discretionary system to support both flexibility and proportionality with officers referring applications to the Planning Committee as appropriate.

RESOLVED that:

- (i) The contents of the Planning Code of Practice Review Update report, be noted and;
- (ii) The proposed changes to the Planning Code of Practice be recommended for approval by the Audit and Standards Committee.

8. External Audit Progress Report

Sophia Brown (Senior Manager, Grant Thornton - External Audit) introduced the report which provided the Committee with an update on progress in delivering Grant Thornton's responsibilities as the Council's external auditors. Ms Brown noted that the paper also included a summary of emerging national issues and developments that might be relevant to Brent. She said that Grant Thornton had been began their planning and risk assessment work on 5 November 2018 and they had familiarised themselves with major business process systems so they could identify key controls to be monitored and tested. The Grant Thornton Team had met with the Internal Audit Team in order to learn more about their work and understand how it would impact Grant Thornton's testing strategy. Moreover, the Team had engaged with the auditors of the Council's wholly owned companies – i4B Holdings Ltd (i4B) and First Wave Housing Ltd (FWH) in order to plan audit work and the closure of the 2018/19 accounts.

Ms Brown pointed out that the Accounts Audit Plan would be presented to the Committee at the meeting scheduled to take place on 5 February 2019.

The Committee welcomed the report and Members asked questions that related to the audit of i4B. Conrad Hall (the Council's Chief Finance Officer) said that the timing of the next substantive update on the operation of the Company was to be confirmed but would either be February or March 2019. Nevertheless, he assured Members that the process of auditing the group accounts had been simplified as the same external auditor had been appointed to look at the accounts of the Council, i4B and FWH. This led to a discussion about the risk associated with using a single external auditor and Paul Dossettt (Partner, Grant Thornton – External Audit) explained that different teams worked on i4B and FWH and, therefore, the team working on the Council's account had no ability to influence the conclusions their colleagues reached.

Mr Hall pointed out that although information about the operations of i4B would be included in the update presented to the Committee, Members should be aware that specific queries related to the social value and the value for money delivered by i4B could fall in the remit of other committees such as the Housing Scrutiny Committee.

RESOLVED that:

- (i) The contents of the External Audit Progress Report, be noted;
- (ii) The timing of the next substantive update on the operation of i4B Holdings Ltd and First Wave Housing Ltd be confirmed prior to drafting the Agenda for the Audit and Standards Advisory Committee meeting on 5 February 2019.

9. **Internal Audit External Quality Assessment**

The Chair explained that Members and officers originally wanted the Council's internal audit function to be reviewed externally. However, as the pan-London peer review mechanism administered by the London Borough of Croydon had not been able to provide an independently selected reviewer, the Audit and Standards Advisory Committee had previously agreed the review to be carried out by the newly recruited Internal Audit Manager who reported directly to the Council's Chief Finance Officer in relation to this task.

Colin Garland (the Council's Internal Audit Manager) introduced the report and reminded Members that having a professional, independent and objective internal audit service was one of the key elements of good governance in local government. He added that the principal objective of the review was to assess conformance to the Public Sector Internal Audit Standards (PSIAS). Mr Garland had used a questionnaire consisting of 75 questions which had been designed by the Global Institute of Internal Auditors (IIA Global) and he had spoken to senior stakeholders such as the Head of Internal Audit and Investigations, the Chair and the Vice-Chair of the Audit and Standards Advisory Committee, the Chief Finance Officer, the Chief Executive and a number of Strategic Directors.

Mr Garland explained the Chartered Institute of Internal Auditors used a scale of three ratings – 'Generally Conforms'; 'Partially Conforms' and 'Does not Conform' to measure the effectiveness of Internal Audit against the PSIAS, with the outcome for Brent being 'Generally Conforms' (paragraphs 4.1 and 4.2 on pages 66 and 67 of the Agenda pack). Nevertheless, there were a few areas of improvement, such as revising the Key Performance Indicators with the external service provider and risk

management, which had been outlined at Appendix 1 (pages 69 and 70 to the Agenda pack).

The Committee welcomed the report and expressed their satisfaction that Brent's Internal Audit function had achieved a 'Generally Conforms' rating. However, Members asked whether a specific date for reviewing the actions marked as 'ongoing' could be set. They questioned whether the Council's Internal Audit function would be successful in identifying a shortfall in resources which could lead to a situation such as the one at Northamptonshire County Council. This led a wider discussion whether the Members understood the role of external auditors; the provisions for them to meet with external auditors outside the formal Committee meetings; and their interactions with senior officers. Paul Dossett (Partner, Grant Thornton – External Audit) explained that although it was considered good practice to hold such meetings, Grant Thornton had not had a reason to request one. In relation to Members of the Audit and Standards Committee interacting with senior officers, Mr Hall noted that there was already substantial such interaction. For example, although it was unusual for Chief Executives (and sometimes even Chief Finance Officers) of other authorities to attend the meetings of their respective audit committees. Brent's Chief Executive, with the exception of this meeting for which there was an unavoidable diary clash, had attended all other meetings of the Committee.

A Member enquired whether it would be possible for details of the discussions Mr Garland had had with various stakeholders to be circulated to the Committee so Councillors could be aware of the engagement levels among officers. Conrad Hall (the Council's Chief Finance Officer) explained that sharing the notes of these conversations could impact senior officers' willingness to speak freely to reviewers and advised that this would not be practical. Michael Bradley (the Council's Head of Audit and Investigations) suggested that Mr Garland could attend an informal meeting with the Chair and the Vice-Chair to provide them with general feedback without breaking the rules of confidentiality.

Members felt that it would be beneficial to hold an open and honest discussion about improving the performance of the Audit and Standards Advisory Committee. They noted that commissioning an external body to carry out an extensive review would not be feasible, but carrying out a self-assessment and identifying areas for improvement should be sufficient. Mr Hall suggested that he could provide a briefing note which could facilitate a conversation on assessing the committee's own effectiveness. In addition, it might be possible to create an internal questionnaire and carry out preliminary work in order to provide a structured guidance for the self-assessment.

RESOLVED that:

- (i) The contents of the Internal Audit External Quality Assessment report, be noted;
- (ii) An update against the actions related to the areas for improvement, including the ones marked as 'ongoing', be provided at the Committee meeting on 20 March 2019;
- (iii) Providing that the pan-London peer review mechanism became operational again, a peer review of Brent's Internal Audit function

against the PSIAS be requested prior to the next due date in five years' time;

- (iv) A briefing note to facilitate a conversation on assessing the Committee's effectiveness be provided by the Chief Finance Officer to the Committee meeting in February 2019 or March 2019;
- (v) The feasibility of creating an internal questionnaire and carrying out preliminary work in order to provide a structure and guidance for the self-assessment be considered; and
- (vi) The Independent Members be involved in the self-assessment of the Committee's effectiveness.

10. **Forward Plan and Agenda for the Next Meeting**

The Chair directed Members' Attention to the Committee's Forward Plan (page 71 of the Agenda pack) and suggested that it might not be necessary for Grant Thornton to provide External Audit progress reports at all future meetings due to their high frequency.

An Independent Member suggested that the Committee considered the Council's response to the report on local government ethical standards issued by the Committee on Standards in Public Life.

RESOLVED that:

- (i) The contents of the Audit Advisory Committee Forward Plan, be noted;
- (ii) The frequency of External Audit progress reports being provided to the Committee be reduced, if necessary;
- (iii) An item related to the Council's response to the report on local government ethical standards issued by the Committee on Standards in Public Life be added to the Forward Plan; and
- (iv) An item related to the self-assessment of the performance of the Committee be added to the Forward Plan.

11. **Any other urgent business**

None.

The meeting closed at 7.07 pm

DAVID EWART
Chair