



AUDIT AND GOVERNANCE COMMITTEE

MEETING : Monday, 19th June 2017

PRESENT : Cllrs. Gravells (Chair), Stephens, Morgan, H. Norman and Coole

Others in Attendance

Jon McGinty, Managing Director
Jonathan Lund, Corporate Director and Monitoring Officer
Anthony Hodge, Head of Place
Andrew Cummings, Finance
Stephanie Payne, Group Manager, Audit, Risk and Assurance
Atika Tarajiya, Democratic and Electoral Services Officer
David Rice, Democratic and Electoral Services Officer

APOLOGIES : Cllrs.

1. APPOINTMENT OF CHAIR AND VICE-CHAIR

The appointments of Councillor Gravells as Chair and Councillor Melvin as Vice Chair were noted.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. MINUTES

Councillor Stephens asked for an update on the progress of arrangements with Marketing Gloucester (MGL). The Monitoring Officer responded that the Memorandum of Articles & Association and Contract for Services had been signed and that the Performance Framework would be ready to share with Members after Monday 26th June. He noted that discussions relating to staff on secondment to MGL were on-going. Councillor Stephens shared his view that the loan to MGL should be called in for repayment.

RESOLVED:

That the minutes of the last meeting held on the 13th March 2017 to be confirmed as a correct record.

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4. PUBLIC QUESTION TIME (15 MINUTES)

There were no public questions.

5. PETITIONS AND DEPUTATIONS (15 MINUTES)

There were no petitions or deputations.

6. DECISION OF THE OFFICE OF THE INFORMATION COMMISSIONER

The Chair expressed concern that the Committee was first informed of the issue via the media rather than by officers.

The Managing Director stated that Members were informed together as soon as was possible. He explained that the Office of the Information Commissioner (ICO) had issued a notice of intent just before the Bank Holiday Weekend (29th May) and had allowed 48 hours for a response. He advised that the Council had made representation to the ICO appealing the penalty on the basis that the Council had taken appropriate action when they had become aware of the system failure. He further explained that the fact of the penalty having been applied was only discovered when the press release had been issued by the ICO. He commented that there had been no advance notice other than the aforementioned notice of intent, and a conversation with the Local Government Association concerning this conduct of the ICO was currently being held.

The Managing Director clarified the steps taken by the City Council after the incident in 2014. He confirmed that the Council believed that it had taken timely and robust action to remedy the vulnerability within the IT system and disputed the ICO's finding that the Council had not taken reasonable steps. He explained that the request to apply the necessary software to remedy the vulnerability had been lodged on the 10th April 2014, via the IT help desk, the day it became available and the contractor had confirmed that it had been applied. He noted that it was not until July 2014 when the Council became aware that the software had not in fact been patched. He further noted that when the incident was reported the police began an investigation, a news blackout had been requested, and that as far as the Council were aware a criminal investigation was still on-going. He further explained that communication started with the IOC in December 2016 when a draft notice of intent to fine £175,000 was issued which was contested. He noted that the May notice of intent had reduced the fine by £75,000 but the evidence submitted by the Council appeared to have been disregarded without explanation. He informed the Committee that legal advice into the possibility of an appeal was being considered, acknowledging that the Council would forfeit the option for a further reduced fine if they proceeded with the appeal.

The Chair expressed disappointment that Members were not kept informed of developments during this period and noted that the Committee undertook its responsibility seriously.

Councillor Stephens noting that Councillor Pullen had been approach by the media on this issue commented that there was discrepancy in the dates for the supposed application of the patch software between the Council's response and ICO's

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findings. He further questioned why a process was not in place to monitor the contractor's actions. He stated that as the contractor was at fault they should be made liable for the cost, noting that legal action could incur additional costs. He suggested that an independent review of Council's patch application checking procedures be looked into by the Council's external auditors to ensure that it was sufficiently robust and report back to Members.

The Managing Director responded that the ICO statement was factually incorrect as far as the contravention was concerned as the Council believed it had taken the required action on 10th April 2014. He explained that it would not be reasonable to check the work of IT professionals without specialist expertise. He reassured Members that a checking procedure with the current contractors was now in place.

Councillor Stephens commented that the patch not having been applied, no check made, and the time gap before final resolution would make it difficult to successfully challenge the ICO in court, commenting that early payment of the penalty may save the Council money.

In response to a query from Councillor Wilson as to whether there was a record of the request to the IT Service Desk, the Managing Director confirmed that the Council had a record of having requested the patch and this had been supplied to the ICO.

The Chair commented that some of the Committee were present at the time of the incident and recalled the atmosphere of confusion as the police investigation continued. In response to his query regarding the implications of the police investigations, the Managing Director responded that he was unsure if Gloucestershire Police were actively pursuing the investigation and resolved to make representations to them to ascertain the current status on the enquiry.

Councillor Morgan reported that if the contractor responsible was well-respected in the sector it would not want to risk reputational damage to their business if their failures were advertised. He questioned whether application of software patches was a common or exceptional occurrence. The Managing Director stated that software patch applications were a common occurrence, and that looking into the contractor's actions was under consideration. He commented that the dispute with the ICO concerned a difference of opinion as to what constituted 'reasonable steps'. Councillor Stephens reiterated that the Council did not have a procedure to check the actions of the contractor and that an external auditor would advise on whether the Council's processes were reasonable.

The Chair thanked the Managing Director.

RESOLVED that:

1. External auditors be asked to review the Council's patch application checking processes at the time of the incident and the discrepancies between the Council's and ICO's statements
2. Representations be made to the police to determine the status of the police investigation into the incident.

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7. AUDIT AND GOVERNANCE COMMITTEE ACTION PLAN

The Committee considered the Action Plan and made no comment.

8. POSITION STATEMENT ON STATEMENT OF ACCOUNTS

The Management Accountant provided a verbal update. He commented that this has been a more challenging year than usual due to a new system and the implementation of Together Gloucester (organisational change programme). He stated that the accounts were intended to be completed and signed off by the Head of Policy and Resources this week. He informed the Committee that KPMG would begin their audit on 26th June 2017 with the report to be presented in September 2017.

9. ANNUAL REPORT ON INTERNAL AUDIT ACTIVITY 2016/17

The Group Manager Audit, Risk and Assurance noted that the report closes the 2016-17 reporting period and meets all four relevant requirements of the Public Sector Internal Auditing Standards. She gave a verbal summary of the key findings in the report.

Councillor Stephens commented that he was pleased to see the report and congratulated the authors on its quality. He expressed concern regarding the results of the Human Resources Shared Service audit, especially in regard to Together Gloucester, and that there would be significant organisational risk if the service was not delivered as expected.

The Monitoring Officer reassured the Committee that the Council was looking carefully at all services shared with the County Council. He commented that Together Gloucester has identified both strengths and weaknesses in the shared service arrangements currently in place and that the HR service had been strengthened by the process.

The Monitoring Officer stated that since the finalisation of the report in March, considerable progress had been made with Together Gloucester. She assured Councillor Stephens that it would be possible to provide feedback at the next meeting.

The Head of Regeneration and Economic Development pointed out that the Gloucester Supports Business Grants internal audit report recommendations with respect to HR have been responded to and mechanisms are in place to deal with the issues raised in the report.

RESOLVED:

1. That the performance of Audit Risk Assurance meets the required standards be noted.

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2. That reasonable assurance be taken that the internal control environment at the City Council is operating effectively.

3. That confirmation be provided that actions arising from the HR Shared Service Audit have been implemented and steps taken to address the recommendations.

10. AUDIT AND GOVERNANCE COMMITTEE ANNUAL REPORT 2016/17

The Committee considered the report of the Chair of the Audit and Governance Committee.

RESOLVED:

That the report of the Chair of the Audit and Governance Committee be approved and recommended to Council.

11. DRAFT ANNUAL GOVERNANCE STATEMENT 2016/17 (INCLUDING REVISED CODE OF CORPORATE GOVERNANCE)

The Management Accountant provided a verbal summary of the draft statement, described the key actions and was thanked by the Chair.

The Cabinet Member for Performance and Resources (Councillor Norman) reminded the Committee that the organisation was at an early stage of the necessary significant transformation, with the Together Gloucester process currently settling personnel arrangements, and despite any potential change in central government priorities, the Committee must continue to make the governance arrangements fit for purpose.

RESOLVED:

That the Draft Annual Governance Statement be approved.

12. TREASURY MANAGEMENT SIX MONTHLY UPDATE 2017/18

The Management Accountant provided a verbal update particularly noting a pleasing investment performance, that there was no new long-term borrowing and that the short-term borrowing was a good deal.

The Chair thanked the Management Accountant for an important report.

RESOLVED:

That the contents of the Treasury Management Six Monthly Update 2017/18 be noted.

13. REVIEW OF BENEFIT AUDIT ACCURACY RATE AND MONITORING OF BENEFIT SOFTWARE

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The Committee considered the report of the Head of Policy and Resources. Councillor Wilson noted a typing error in paragraph 3.3.

The Management Accountant referred to a question arising from the last meeting concerning royalty payments and informed the Committee that an invoice for £20,000 had been issued and confirmation had been received from Civica that this would be paid. He reminded the Committee that as the contract year varied from the financial year, the current year's figures are not yet available.

RESOLVED that:

The Housing Benefit accuracy rate as outlined in the report of the Head of Finance be noted.

14. AUDIT AND GOVERNANCE COMMITTEE WORK PROGRAMME

The Committee noted the Audit and Governance Committee Work Programme 2017.

RESOLVED that:

The Audit and Governance Committee Work Programme be adopted.

15. DATE OF NEXT MEETING

Monday 18th September 2017 at 6.30pm in the Civic Suite, North Warehouse.

Time of commencement: 6.30 pm hours

Time of conclusion: 7.32 pm hours

Chair