

# Minutes

## *REGULATORY AND AUDIT COMMITTEE*

**MINUTES OF THE MEETING OF THE REGULATORY AND AUDIT COMMITTEE HELD ON WEDNESDAY 10 APRIL 2013 IN MEZZANINE ROOM 1, COUNTY HALL, AYLESBURY, COMMENCING AT 9.32 AM AND CONCLUDING AT 12.05 PM.**

### **MEMBERS PRESENT**

Mr N Brown (Vice-Chairman)  
Mr T Butcher  
Ms N Glover  
Mr Z Mohammed (Chairman)  
Mr R Woollard

### **OTHERS IN ATTENDANCE**

Mr H Burroughs, Business Manager, Safeguarding Adults Team  
Mrs A Davies, Service Director, Legal and Democratic Services / Monitoring Officer  
Mr I Dyson, Chief Internal Auditor  
Ms M Gibb, Risk and Insurance Manager  
Mr C Munday, Service Director, Learning, Skills and Prevention  
Mr I Murray, Manager - Assurance, Grant Thornton  
Ms T Robertson, Acting Service Manager, Service Provision, Adults and Family Wellbeing  
Mr R Schmidt, Assistant Service Director (Strategic Finance)  
Ms H Wailing, Democratic Services Officer

### **1 APOLOGIES FOR ABSENCE / CHANGES IN MEMBERSHIP**

Apologies for absence were received from Mary Baldwin, Paul Grady and Steve Kennell.

### **2 DECLARATIONS OF INTEREST**

There were no declarations of interest.

### **3 MINUTES**

The Minutes of the meeting held on 30 January 2013 were agreed and signed as a correct record.



INVESTOR IN PEOPLE



## **Matters arising**

*Page 8 – Review of Purchasing Cards* – an update would be brought to the next meeting as part of Ian Dyson’s progress report – **Action: ID**

*Page 10 – Report of the Local Government Ombudsman (re: SEN)* – the Service Director would be covering this under agenda item 4.

*Page 11 – Response from Senior Officers in regard to the e-portal* – the Chairman had written to the three Service Directors, one of whom had not replied. This would be followed up.

## **4 UPDATE ON RISKS RELATING TO ACADEMIES / BUCKINGHAMSHIRE LEARNING TRUST / SPECIAL EDUCATIONAL NEEDS**

Chris Munday, Service Director for Learning, Skills and Prevention, was welcomed to the meeting.

Chris Munday updated members as follows.

### **Beaconsfield High School (BHS)**

Once the sale of the land had gone through (over the next few months) BHS would pay back the Council in full the £1.6m it owed.

### **Home to School Transport**

This had been managed through a consultation in the previous year and the new policy was being implemented.

### **11+ Exam**

There would be an opt-out test with the same scoring system. There had been a debate at the Overview and Scrutiny Commissioning Committee about this and members had asked why they had not been better informed of the changes. There were no maintained grammar schools left in Buckinghamshire (unlike in Kent). The Council had been working closely with schools to ensure there was a single test and score, and had continued to maintain relationships with academies. Further reports will be made on developments.

### **Free Schools**

Two free schools were likely to be in place in Buckinghamshire from September 2013.

One of these was the St Thomas Fremantle School in Winslow which would be located in the Adult Learning building under a two-year lease.

The other school was the Khalsa Secondary School in Stoke Poges, which would meet the needs of pupils in Slough and other areas. The Secretary of State had written to Slough Council about using Council land for the School.

The Council remained concerned about a secondary school with two forms of entry, and the Council advised there should be four or five forms, for curriculum. However the Council was not opposed to the concept of Free Schools and would work with them as much as possible.

### **Academies**

There had been an Overview and Scrutiny Review ‘*Learning New Ways: Academies and the local authority in Buckinghamshire,*’ and the Council was working on completing the actions in the action plan.

A member asked if academies and free schools were free to ignore advice from the Council. Anne Davies said that they were. The member said that they did not think that the public were aware of this.

Chris Munday said that academies and free schools had to work within the Department for Education’s rules, rather than the Council’s rules. However this was not significantly different

to County Council maintained schools in which the Governing Body had been in charge of running the school. Academies and free schools did not have to use the National Curriculum or follow National Teachers' Pay and Conditions.

Members of the public approached the Council when they had an issue regarding an Academy, when in fact they should be approaching the Academy directly, and then the Secretary of State. Letters from MPs which were received by the Council were referred back to the school involved.

Ian Dyson said that this was an issue for local members to understand. Chris Munday noted that the Council had responsibility for the co-ordinated admissions arrangements. The Schools Adjudicator had responsibility for overseeing complaints about this nationally.

Anne Davies said that the Council now had more of an influencing role.

Chris Munday said that the Council was maintaining very good relationships with the majority of colleagues in academies, but that there were limitations on what could be done. There was an achievement gap in Buckinghamshire, shown by Acorn data. The gap was very large in a number of academies as well as maintained schools in Buckinghamshire. The Schools Minister had written to the Council and asked what was being done to address this. The Council was committed to continuing to influence as much as possible as the children in the schools were Buckinghamshire children.

A member asked if the Council would be asked to run a school if an academy failed. Chris Munday said that this was unlikely and that a new sponsor would probably be sought.

A member asked if there would be scrutiny of academies. Chris Munday said that the Council and parents could make representations, e.g. a parent could give their views to Ofsted. Information about how representations could be made should be available on the Council's website.

A member said that the University Technical College (UTC) was opening in September 2013, and asked if the Council was working to make parents aware of the UTC.

Chris Munday said that the Strategic Director had sent a letter to all parents via schools, and that parents had been made aware that there was a different choice. It was important that all information was available so that people could make the right choices. However it was not the role of the County to promote a particular institution.

A member asked if academies leased properties from the Council. Chris Munday said that it depended on the status of the schools before they became academies. If they had been foundation schools already, they would already own their land. If they had not been foundation schools, they would have a 125-year lease with the Council. Insurance was resolved directly through the academies. If an academy burnt down, the Council would be responsible for the education of the children but not for rebuilding the school.

A member said that under the lease arrangements the Council should ensure that schools had insurance.

Chris Munday said that there had been one fire at an academy, but that the school had been insured.

A member asked what would happen if the school had not insured the building, or if the building had been insured for the wrong value. Ian Dyson suggested that the relevant chapters of the lease be circulated to members – **Action: AD**

A member asked if the Council could report an academy which was failing or not performing. Chris Munday said that the Council could report an academy, although this had not happened to date. Some academies were not working at the standard expected, and the Council was working with the sponsor providers.

A member asked how this would be reported to members. Chris Munday said that an Overview and Scrutiny report could be produced every year. A regular meeting was also held with the Head of School Improvement and the Lead Member. One challenge was that the Council did not know the outcome of Ofsted inspections until they were published. This had been raised with the Secretary of State, as part of a discussion about how the Council could hold people to account locally.

A member asked for further information on the risks associated with academies – **Action: CM**

### **Learning Trust (LT)**

The Council had agreed to establish the LT as a new model of delivery, and the proposed start date was 1 July 2013. A staff consultation was ongoing.

The LT had been registered as a company and as a charity. The Chief Executive appointment process was currently going on. Chris Munday had attended Regulatory and Audit Committee meetings regarding risks, and the risk register was reviewed regularly. There had also been an independent Gateway Review. Chris Munday said that he was mindful of the risks and was monitoring these closely. Members had particularly asked for information on performance indicators and on the 'exit' strategy.

In regard to performance indicators, result-based accountability was being used. Performance indicators would need to be embedded in all plans from September 2013. The key aim was to narrow the achievement gap in Buckinghamshire and to have more pupils in schools rated as 'good' or 'outstanding.'

In regard to the 'exit' strategy, there was no Council guidance on this. An 'exit' strategy was being developed, looking at best practice from the private sector. The framework for this would be circulated to members – **Action: CM**

Ian Dyson said that the 'exit' strategy template could be used in the future for other projects.

In regard to the Trustees for the LT, the Deputy Leader would make a decision on this after the upcoming election. The Local Authority Trustees would be elected members and others as appropriate. It would be difficult for officers to be trustees as they would have conflicts of interest. Trustees would have a duty to promote the LT as a primary interest.

The School Trustees were very committed to making the LT a success.

### **Ombudsman Findings**

The Ombudsman had found maladministration causing injustice because the Council had failed to provide a child with suitable education between February 2010 and April 2011 and had failed to fulfil its duties under the Education Act 1996.

Officers had met together and had considered the lessons learnt.

There was concern from officers that many changes were happening regarding Education Welfare, and that it might be harder to liaise on these type of cases in the future.

The Council had noted the Ombudsman's report and had put an action plan in place.

Anne Davies said that she would highlight areas in which academies legislation did not join up with other legislation - **Action: AD**

### **Special Educational Needs (SEN)**

In January 2013 an internal SEN audit had been commissioned. This followed on from a review in 2011. Chris Munday remained concerned about the performance indicators and the complaints systems and processes.

The findings of the Audit would be brought to a future meeting, and were consistent with Chris Munday's views. There were areas of concern in regard to staff reductions and change programmes.

Chris Munday said that they were moving forward to implement the management action plan, and that this might need further resourcing. There was a split between funding from the Council and funding from the Dedicated Schools Grant (DSG).

A further SEN audit would be commissioned in January 2014 to look at how the issues had been addressed.

A member asked if all schools were aware that they could approach the Council for services, such as insurance, and asked if there was a booklet for schools.

Chris Munday said that information was provided every year on the Council website and in a booklet. Chris Munday said he could send members a copy – **Action: CM**

The Council had maintained a significant level of 'buy-back' of Council services. The challenge was to ensure that services were affordable.

A member referred to the SEN review and said that members did not receive information on these types of issues until the process was quite advanced. The process needed to be reviewed as it only came to the attention of members when something went wrong or was seen to be going wrong. The member asked if any significant improvements were being made. Chris Munday said that he had taken over the SEN Service in 2011 and had commissioned a review due to the concerns. There were very strong procedural rules which were defined nationally. The upcoming Children and Families Bill would change some of the SEN guidance. There were increasing SEN demands from parents. Buckinghamshire had high levels of statements and spent more on SEN than its statistical neighbours.

Ian Dyson said that Chris Munday had met with him to say that an SEN Review had been carried out but that he was not getting the assurances he needed. This was why the Audit had been carried out. There would be increased transparency through the management chain.

A member asked why Buckinghamshire had high levels of SEN statement. Chris Munday said that it was very difficult to know the cause.

A member asked which Local Authorities were compared with Buckinghamshire when looking at data. Chris Munday said that there was a list of bench-marked Local Authorities, which he could circulate – **Action: CM**

A member asked if lessons could be learnt from the processes in other authorities. Chris Munday said that they could be, and that although the overall system was the same, provision in different areas might be different.

A member asked for the number of SEN Statements in Buckinghamshire. Chris Munday said that he could supply this figure – **Action: CM**

A member asked about the cost of each SEN Statement. Chris Munday said that each statement cost £6000 due to the detailed paperwork. Chris Munday noted that children in Buckinghamshire were often given statements at an early age (pre-school) and that these continued until they were 18. One question was what support could be offered to providers to provide the services without bureaucracy. There was also a question about whether it was right to statement a child in all cases, as it affected the whole of their education and into adulthood.

Ian Dyson said that this was a financial pressure against a statutory responsibility. There was real management information available to address this and the risk management processes were working effectively.

Chris Munday said that for the significant majority of those children with an SEN statement it was exactly right for them to have a statement. The Local Authority needed to look at what could be done without a statement, and what could be done to ensure that SEN needs were met appropriately.

Ian Dyson asked members what information they would like in the future regarding the Bucks Learning Trust and the risks involved. A member said that the new Regulatory and Audit Committee would need to be consulted, but that members would need to be made aware if something went wrong or went outside the budget. Members asked for a brief report for the September 2013 meeting about the new BLT service and learning points. The Chairman also asked for an update at the next Risk Management Group (RMG), and asked for a copy of the Risk Register for the RMG.

## **5 SAFEGUARDING VULNERABLE ADULTS AUDIT - ASSURANCE RE: ACTIONS**

Trish Robertson, Acting Service Manager, Service Provision, Adults and Family Wellbeing, and Harvey Burroughs, Business Manager, were welcomed to the meeting.

An Internal Audit Review of the Safeguarding Vulnerable Adults (SVA) auditing arrangements had recently been completed. The Review had found that there was limited assurance that relevant risks were effectively identified, managed and controlled. The audit had been undertaken at the request of the Service Director for Service Provision, to support the changes being made within the Directorate. Members had asked for this matter to come to the Regulatory and Audit Committee.

The paper set out an Action Plan based on the Internal Audit Review recommendations.

The main findings were to restart the audits which had been suspended.

There were also recommendations to:

- Have a forward plan of audits
- Review assurance levels
- Establish a clear process for management, review and sign off
- Ensure reporting to a relevant management level
- Develop a model of trend analysis (this was an ongoing issue which was being worked on)

A member asked who was carrying out the auditing. Trish Robertson said that in the past this had been carried out by a Quality Assurance Officer. The new model would involve managers and there would also be peer audits. Harvey Burroughs said that about 15 people carried out the audits and that they were all internal.

A member said that the auditing in this area had been historically weak, and asked if the new arrangements would address this. Trish Robertson said that they should do, and that they had broadened out who would take the audits. They were also looking at the audit tools being used and updating these. There was a focus on immediate protection and on any learning.

A member asked if outsourced care was audited in the same way. Harvey Burroughs said that this was a broader issue, for contract management monitoring.

A member asked if an outsourced team would make the same alerts regarding safeguarding. Trish Robertson said that they should do and that there was widespread understanding and a commitment to follow the safeguarding policies and procedures. The Council was also working with the Care Quality Commission on this.

Ian Dyson said that the risks were managed in external contracts via contract management arrangements. The contract management framework had come to the Regulatory and Audit Committee previously that year. Improvements in contract management were being put in place.

Trish Robertson said that they were able to suspend new placements and packages from outside firms if necessary. There was also a Care Home Team who worked with providers positively to improve standards.

A member said that they had private experience of missed calls from providers. Trish Robertson said that if there was a pattern, this would be a safeguarding issue.

A member asked about the 15 people carrying out audits. Trish Robertson said that there were a number of people doing audits across the teams. They all did the same job but with different client groups. There were three people on the same level as Trish Robertson who were responsible for all those teams. The member said that they were concerned about whether there was proper liaison across the board. Trish Robertson said that there was and that Harvey Burroughs oversaw this.

A member asked if people would be auditing their own teams. Harvey Burroughs said that in the first part of the Action Plan this did happen. From April 2013 there would be peer audits.

Ian Dyson said that if there were issues they would be identified so that they could be addressed. Peer review was an important part of this. Trish Robertson said that peer reviews would highlight where things had gone wrong or right and that there was a commitment to do this.

A member asked how many client alerts there had been. Harvey Burroughs said that there had been 1400 alerts in the previous year. Trish Robertson said that there were about 20 audits per month.

Ian Dyson asked what management information was available which would give assurance to the manager that processes were being followed. Trish Robertson said that she reported to the Leadership Team Business meeting regularly, with outcomes and trend analysis. Timescales were put in for carrying out the audit and for addressing any issues.

A member asked who had made the decision to suspend the audits in 2012. Trish Robertson said that it had been an operational management decision, and an acknowledgement that the tool was not as it should be.

The members said that the decision to suspend audits had not been highlighted to members, and that the Cabinet Member should have been briefed on this.

Trish Robertson said that Adults and Family Wellbeing were in complete agreement with the recommendations in the audit report.

A member asked how alerts arose and how they decided whether to carry out an audit. Trish Robertson said that an audit would be carried out for cases which had been investigated. Alerts came from many sources (e.g. clients, carers, NHS, anonymously). Alerts had a very high priority, and came in via the Safeguarding Team. The referrals were screened and prioritised, and a worker allocated if necessary. They might be eventually closed as safeguarding alerts, but these might still need actions.

The Chairman asked for a report on audit and peer reviews to come back to the Committee in June / July 2013. Harvey Burroughs said that the trend analysis would be completed by 31 May 2013.

Ian Dyson said that there was a continuous management control process.

A member asked for a copy of the first audit report – **Action: TR**

Harvey Burroughs said that the Action Plan was about creating ownership of the audit function, which had not happened before. The trend analysis would be used to check the same process across Adult Social Care services.

## **6 CONSTITUTIONAL CHANGES**

The Committee received the report of the Monitoring Officer.

Anne Davies, Monitoring Officer, and Ben Cahill, Overview and Scrutiny Team Leader, were welcomed to the meeting.

Anne Davies told members that the Constitution was updated at the end of every term of office. This review had been larger than previous reviews.

### **Overview and Scrutiny**

The proposal would change the two committee model (Overview and Scrutiny Commissioning Committee and the Health Overview and Scrutiny Committee) to four select committees with remits to be agreed following the 2 May 2013 County Council elections (the health scrutiny committee function would continue and could look at health, social care, public health and GP responsibilities). The recommendations from the Francis Report had also been taken into account, that there should be robust challenges from Health Overview and Scrutiny. General terms of reference for the select committees would be included in the Constitution.

A member said that the proposal would allow the Leader to choose which areas were scrutinised, and that he could also decide not to scrutinise a certain area. Anne Davies said that the Scrutiny function was required by law, and that intervention in the way described would be an issue for the Monitoring Officer.

After some discussion, members agreed that Article 6 (and the corresponding reference in Part 1 of the Constitution) should be amended to state that the Chairman of the Council, rather than the Leader, would report annually to Council on the number of select committees.

Ben Cahill noted that many overview and scrutiny committees reported to Cabinet, but that some authorities had a system in which Overview and Scrutiny Committees reported to Council, so as to be more independent.

A member asked about political proportionality on the select committees. Anne Davies said that the select committees would be subject to political proportionality.

### **Appeals and Complaints Committee**

Anne Davies said that due to the reduction in the number of members from 57 to 49, there were capacity issues regarding the number of committees. The proposal was to remove the Appeals and Complaints Committee. Officer complaints and complaints relating to the Code of Conduct would now go to SABPAC. School transport appeals would go to the Rights of Way Committee.

A member referred to Article 5 and said that this should include the right of the Chairman of the Council to call a Ceremonial Council. Anne Davies said that this was included in the Council standing orders.

A member referred to members' access to information and said that pink confidential papers should be made available to all members of the Council. Anne Davies suggested that the wording in the Constitution be amended to say that papers would 'normally be made available to all members of the Council.' Members agreed this change.

The member noted that 'normally' would have to be defined.

### **Deputy Cabinet Members**

Anne Davies said that the proposal was to appoint Deputy Cabinet Members who would be able to deputise for the Cabinet Member and who could take decisions jointly with a senior officer.

A member said that there should not be as many as 10 Deputy Cabinet Members. Anne Davies suggested that the wording be amended to state that the number of Deputy Cabinet Members should not exceed the number of Cabinet Members. Members agreed this change.

### **Health and Wellbeing Board**

The Health and Wellbeing Board was a new requirement from the Department of Health. The Board contained officers as voting members, which was very unusual in Local Government.

The Health and Wellbeing Board would have an influencing role and would assess need. The Council would need to have regard to the Joint Health and Wellbeing Strategy when developing other policies.

The officers on the Board would be subject to the members' Code of Conduct, as would GP members and the Healthwatch representative.

The Health and Wellbeing Board did not have to be politically proportional.

The proposal was that the work of the Health and Wellbeing Board should be reviewed annually.

A member said that the Health and Wellbeing Board should include an additional elected member, who was not a member of the Executive. Members discussed this and noted that the additional member should not be a member of the Health Overview and Scrutiny Committee, as they would have a conflict of interest.

### **Other changes**

There was a new requirement regarding disclosable pecuniary interests. Members also now needed a dispensation to allow them to take part in budget discussions, as they were all Council-tax payers and would therefore have a conflict of interest.

The petitions scheme would be removed from the Constitution as this was no longer a national requirement.

There were new requirements regarding Access to Information and 28 days' notice now had to be given in advance of a meeting held in closed session.

**Members agreed all the changes to the Constitution, subject to their comments minuted above. They also granted power to Anne Davies to make further minor amendments.**

**The Committee recommended that the Council accept the changes that were proposed for the Constitution and recommended that the document was adopted by the Council with effect from 2<sup>nd</sup> May 2013.**

## **7 2013/14 ANNUAL INTERNAL AUDIT STRATEGY**

Ian Dyson, Chief Internal Auditor, referred members to his report.

The Internal Audit Strategy outlined how the resources of Audit and Risk Management Service would be applied, and the methodology that would be adopted to ensure that Internal Audit activity was effective and enabled the Chief Internal Auditor to provide an annual opinion on the Council's Systems of Internal Control.

The Chief Internal Auditor drew members' attention to the following points:

- Details of staffing for the Internal Audit Team (page 21), including management of the conflict of interest for the Chief Internal Auditor.
- Quarterly internal audit assurance plans would be produced, in consultation with the Risk and Insurance Manager and with consideration of the risk registers. This would be agreed with the Directors and their Leadership Teams during quarterly meetings. The Quarterly plans would then be presented to the Regulatory and Audit Committee for consideration, comment and challenge.
- Counter-fraud would continue to be a significant part of the planned audit activity. The Senior Auditor leading on counter-fraud activity had recently completed training on using data interrogation software (Idea) which would be put into practice by undertaking a series of proactive reviews of fraud risks.
- Draft performance Indicators had been listed on page 27.
- The report highlighted the priority to carry out assurance-mapping, with a focus on critical services in Buckinghamshire. This would be carried out in conjunction with Grant Thornton.

A member asked about the Principal Auditor post. Ian Dyson said that a Senior Auditor from Deloitte had been seconded for six months, and that the post would be re-advertised.

A member asked about the cost of the secondment. Ian Dyson said that using Deloitte was more expensive than using internal resources but that they were able to manage the secondee directly.

A member asked where the post was being advertised. Ian Dyson said that they were targeting professional websites. The post would be held by Oxfordshire County Council, and a competitive salary was being offered. Oxfordshire County Council would then charge Buckinghamshire County Council for the number of chargeable days used. The Deloitte contract was also managed by Oxfordshire County Council.

**| The Committee approved the Internal Audit Strategy and the Internal Audit Work Plan.**

## **8 RISK MANAGEMENT GROUP UPDATE**

Maggie Gibb, Risk and Insurance Manager, referred members to her report.

A member asked if the risk register for the Energy from Waste project was updated. Maggie Gibb said that it was regularly under review and regularly updated.

The Chairman said that he had received letters from Dr Evershed, and that these had been thoroughly discussed at the Risk Management Group. The Chairman asked members to raise any further issues which might be necessary. A response would be drafted and circulated to members. A member thanked Dr Evershed for his interest and for raising the issues.

Ian Dyson referred to the issues regarding the current financial performance of FCC. The overall risk on this had always been there and the risk was regularly reviewed. The Risk Management Group had received information about the mitigation of this risk. The necessary assurances had been obtained at the Risk Management Group meeting.

Members asked that Energy from Waste financial risks be discussed again at the September meeting of the Regulatory and Audit Committee.

Further dates for the Risk Management Group would be set.

## **Members noted the Report**

### **9 FORWARD PLAN**

Members noted the Forward Plan, and asked that changes discussed earlier in the meeting be incorporated.

### **10 DATE AND TIME OF NEXT MEETING**

11 June 2013, 9:30am, Mezzanine Room 1, County Hall, Aylesbury

### **AOB**

Members thanked Zahir Mohammed for his work as Chairman of the Committee.

Timothy Butcher thanked Robert Woollard for his work on the Committee, as he was not standing in the upcoming election. The Chairman also thanked Robert Woollard, and said that his input had been valuable.

The Chairman also thanked the officers who supported the Committee.

Robert Woollard thanked Zahir Mohammed for his chairmanship and said that he had enjoyed working with him.

**CHAIRMAN**

