

Confirmed



Minutes of a Meeting of the **Audit and Governance Committee** held in the Conference Room, Riverside, Lowestoft, on **Monday, 28 June 2021 at 6:30pm**

Members of the Committee present:

Councillor Edward Back, Councillor Tony Cooper, Councillor Linda Coulam, Councillor Geoff Lynch, Councillor Ed Thompson

Other Members present:

Councillor Maurice Cook, Councillor Janet Craig, Councillor Richard Kerry

Officers present:

Chris Bing (Interim Head of Legal & Democratic Services), Kerry Blair (Head of Operations), Sarah Carter (Democratic Services Officer), Laura Fuller (Audit Manager), Matt Makin (Democratic Services Officer), Siobhan Martin (Head of Internal Audit Services), Marie McKissock (Finance Manager Compliance), Brian Mew (Chief Finance Officer & Section 151 Officer), Sheila Mills-James (Corporate Fraud Manager), Lorraine Rogers (Deputy Chief Finance Officer)

Others present:

Debbie Hanson (Ernst and Young LLP)

1 Apologies for Absence and Substitutions

Apologies for absence were received from Councillors Judy Cloke and Tess Gandy. Councillor Janet Craig attended as Councillor Gandy's substitute.

2 Declarations of Interest

There were no declarations of interest.

Announcements

The Chairman highlighted that item 15 on the agenda, relating to report **ES/0819** of the Interim Monitoring Officer on the outcome of an investigation of a complaint, had been published in Part Two of the Agenda to be heard in confidential session.

The Chairman explained that it could be considered prudent for the Committee to hear this item in the open part of the meeting, as it had with previous reports of a similar nature, and invited Mr Chris Bing, the Council's Interim Monitoring Officer, to explain the reasons behind this suggestion.

Mr Bing noted that the purpose of the report was to present to the Committee an investigation report for a Code of Conduct complaint against a town councillor; it had been issued as an exempt report under Section 100A(4) of the Local Government Act

1972 (as amended) on the grounds that it involves the likely disclosure of exempt information as defined in Paragraphs 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual) of Part 1 of Schedule 12A of the Act.

Mr Bing advised the Committee that in arriving at its decision it needed to consider if it was in the public interest for this report to be considered in the public domain and highlighted the practice of the Committee to hear standards matters reports in public.

On the proposition of Councillor Back, seconded by Councillor Cooper it was by unanimous vote

RESOLVED

That report **ES/0819** of the Interim Monitoring Officer be heard by the Committee in the open session of its meeting.

Following this resolution the Chairman advised that he would re-order the agenda so that item 15 was heard after item 12 and before item 13.

There was a short pause whilst Mr Matt Makin, Acting Clerk to the Committee, made report **ES/0819** available to the public on the Council's website.

3 Minutes

RESOLVED

That the Minutes of the Meeting held on 15 March 2021 be agreed as a correct record and signed by the Chairman.

4 Audit of Accounts 2019/20 - Update on Progress

The Committee received a verbal update on the audit of the Council's 2019/20 accounts from Debbie Hanson, Associate Partner at Ernst & Young LLP (EY).

Ms Hanson referred to the report received by the Committee at its meeting on 15 March 2021 on provisional audit results for 2019/20, which had outlined the areas of work outstanding at that time; Ms Hanson reported that two areas of work remained outstanding:

- The audit of the Council's property, plant & equipment and investment property balances.
- Consideration of the Council's going concern assessment.

Ms Hanson confirmed that EY had received the final pieces of information to complete these two areas of work and it was anticipated that the work would be completed in the next two weeks. Ms Hanson said that EY would not be in a position to complete the audit by the end of June 2021 but was confident that the final review of the audit could be completed in time to allow EY to issue its final audit opinion by the end of July 2021.

Ms Hanson did not anticipate any additional unplanned work being required to complete the audit and advised the Committee that if this was the case a report would be brought back to the Committee.

Ms Hanson confirmed that it was expected that, subject to no issues with the remaining pieces of work, the audit would be completed by the end of July 2021 and EY would issue its final audit opinion at that time.

It was noted that the next scheduled meeting of the Committee was on 20 September 2021; Councillor Lynch proposed that authority be delegated to himself as the Chairman of the Audit and Governance Committee and to Mr Brian Mew, the Council's Chief Finance Officer and Section 151 Officer, to sign off the 2019/20 accounts ahead of the next Audit and Governance Committee ahead of its next meeting on 20 September 2021.

Councillor Cooper suggested that the final 2019/20 accounts also be circulated to the Audit and Governance Committee at least seven clear days in advance of the accounts being signed off.

On the proposition of Councillor Lynch, seconded by Councillor Coulam it was by a unanimous vote

RESOLVED

1. That the final 2019/20 accounts be circulated to the Audit and Governance Committee at least seven clear days in advance of the accounts being signed off and;
2. That authority be delegated to both the Chairman of the Audit and Governance Committee and Mr Brian Mew, the Council's Chief Finance Officer and Section 151 Officer, to sign off the 2019/20 accounts ahead of the next Audit and Governance Committee ahead of its next meeting on 20 September 2021.

5 Draft Statement of Accounts 2020/21

The Committee received report **ES/0816** of Councillor Cook, the Cabinet Member with responsibility for Resources, which presented the draft Statement of Accounts 2020/21 to the Committee for review and comment prior to publication.

Councillor Cook introduced the report and confirmed that the draft Statement of Accounts 2020/21 was required to be published for public inspection by 1 August 2021 and the Council intended to publish it early on 5 July 2021.

Councillor Cook invited Mr Brian Mew, the Council's Chief Finance Officer and Section 151 Officer, to address the Committee.

Mr Mew noted the impact of the COVID-19 pandemic on the Council's finance and considered that the Council had ended the financial year in a favourable position, compared to what had been forecast both when the 2020/21 budget was set and twelve months previously.

Mr Mew highlighted the grant funding received from the Government and how it distorted the final position of the Council's reserves; this funding was required to be used to address specific impacts of the pandemic on areas such as Business Rates and Council Tax.

Councillor Cooper complimented the Finance team for their work on producing the accounts during a difficult period.

Councillor Lynch concurred with Councillor Cooper's statement and noted that support from the Government had been higher than anticipated. Councillor Lynch acknowledged that the Council's reserves had been inflated by this financial support and asked if any grant funding would need to be returned. Mr Mew stated that the funding had been granted to mitigate the impact of the pandemic on certain areas of the Council's finances in 2020/21, which would need to be addressed in 2021/22.

On the proposition of Councillor Back, seconded by Councillor Thompson it was by a unanimous vote

RESOLVED

That the Committee note the draft Statement of Accounts 2020/21.

6 Annual Governance Statement 2020-21

The Committee received report **ES/0812** of Councillor Cook, the Cabinet Member with responsibility for Resources, which sought the Committee's review and approval of the draft Annual Governance Statement for 2020/21, alongside the draft Statement of Accounts for 2020/21.

Councillor Cook introduced the report and outlined the need for the Annual Governance Statement along with its relationship to the Seven Principles of Public Life (the Nolan Principles) and highlighted section 4 of the report, which related to the effectiveness of the Council's governance framework including the Head of Internal Audit's opinion.

Section 5 of the report outlined significant issues and reported progress on contract management; Councillor Cook reported that significant work had been undertaken on this issue and was ongoing. Councillor Cook invited Mrs Siobhan Martin, the Council's Head of Internal Audit, to address the Committee.

Mrs Martin explained that she had given a reasonable assurance of the Council's governance and summarised that the Council had coped well given the difficulties it faced in 2020/21.

Councillor Lynch noted paragraph 5.4 of the report and agreed with Mrs Martin's view that a lot had happened during what had been a challenging year and considered it positive that improvements had been made in some areas of the Council's governance. Councillor Lynch highlighted that the Council had been forced to react to events during 2020/21 and was content this work had been undertaken in a proper manner.

Councillor Cooper complimented Councillor Cook and the officers for their hard work.

On the proposition of Councillor Back, seconded by Councillor Coulam it was by a unanimous vote

RESOLVED

That the draft Annual Governance Statement for 2020/21 (1 April 2020 to 31 March 2021) be approved prior to final sign-off with the audited Statement of Accounts.

7 Corporate Fraud Annual Report 2020-21

The Committee received report **ES/0814** of both Councillor Cook, the Cabinet Member with responsibility for Resources and Councillor Kerry, the Cabinet Member with responsibility for Housing, which provided a summary of the performance of the Corporate Fraud Service for the period 1 April 2020 to 31 March 2021.

Councillor Cook introduced the report and invited Mrs Siobhan Martin, the Council's Head of Internal Audit, to address the Committee. Mrs Martin advised the Committee that Mrs Sheila Mills-James, the Council's Corporate Fraud Manager, was also present.

Mrs Martin explained that the report highlighted the work of the Corporate Fraud team during 2020/21, outlining the team's structure and costs; Mrs Martin reported that the team's anti-fraud work had resulted in £1.9m of savings for the Council.

Mrs Martin advised that significant work had been undertaken around fraud relating to grant applications, as 13 different grant schemes had been operated by the Council in 2020/21. This work had been in conjunction with officers across the Council and Mrs Martin stated it had been a team effort to ensure grants could be made quickly and with sensible due diligence.

Anti-fraud work relating to Right to Buy, Social Housing and Council Tax had continued; Mrs Martin said there was a flexible plan to adapt the team's focus to where it was needed. Mrs Martin referred to paragraphs 5.4 and 5.5 of the report and noted the significant take up of the Right to Buy scheme, noting Corporate Fraud's role to support applicants through that process. Mrs Martin reported that in 11 cases the Council had retained properties where there were discrepancies in the application.

The team's work with the Anglia Revenues and Benefits Partnership was outlined and Mrs Martin highlighted the £642,000 in savings this had achieved. Mrs Martin reminded Members on how to contact the Corporate Fraud team to report any issues.

Councillor Lynch praised the report and asked if officers had identified any significant changes in fraudulent activities due to the COVID-19 pandemic. Mrs Mills-James considered that there had been a shift at both national and local levels and significant fraud had been seen relating to online shopping, particularly during the first few months of the pandemic. Mrs Mills-James said she could provide further detail of the referrals received outside of the meeting.

Councillor Lynch asked officers to keep the Committee informed about the Corporate Fraud team's workload, given the significant impact it has on the Council's housing stock, so that it can support the provision of short-term resources if required.

On the proposition of Councillor Cooper, seconded by Councillor Thompson it was by a unanimous vote

RESOLVED

That the performance of the Corporate Fraud Service for the year 2020/21 be noted.

8 Covert Investigation Policy

The Committee received report **ES/0815** of Councillor Cook, the Cabinet Member with responsibility for Resources, which sought approval of the Council's refreshed Covert Investigation Policy.

Councillor Cook introduced the report and outlined the Council's use of the Regulation of Investigatory Powers Act 2000 (RIPA) for many years as a tool to combat fraud and corruption. Additional powers were granted to Local Authorities in 2016 with the introduction of the Investigatory Powers Act 2016. These Acts enable covert surveillance by public bodies under strict conditions.

The Committee was advised that the Council's current policy was last reviewed in January 2018 and that it was expected practice to review it regularly; the policy and its associated procedures had been refreshed to ensure clarity for all parties and Councillor Cook confirmed that refresher training would be provided to all relevant senior officers listed in the policy in the 2021/22 financial year.

Councillor Lynch asked how the refresher training would be delivered during COVID-19 restrictions; Mrs Siobhan Martin, the Council's Head of Internal Audit, said that face-to-face training was preferred but given the experienced nature of the senior officers listed in the policy it would be proportionate to deliver the training through e-learning.

Mrs Martin confirmed that overt CCTV work was not part of RIPA and needed to comply with the Information Commissioner Office's arrangements.

On the proposition of Councillor Thompson, seconded by Councillor Back it was by a unanimous vote

RESOLVED

That the refreshed Covert Investigation Policy be approved.

9 Annual Internal Audit Report 2020-21

The Committee received report **ES/0813** of Councillor Cook, the Cabinet Member with responsibility for Resources, which summarised the results of the Annual Internal Audit Report for the 2020/21 year.

Councillor Cook introduced the report and invited Mrs Siobhan Martin, the Council's Head of Internal Audit, to address the Committee. Mrs Martin referred to page 205 of

the report which set out her formal opinion for the year, which had been reflected in the Annual Governance Statement received by the Committee earlier in the meeting.

Mrs Martin advised the Committee that she was able to give reasonable assurance on the Council's internal controls and good governance. Mrs Martin noted that an area of concern remained relating to a lack of a procurement strategy or plan; Mrs Martin had been assured that this was near completion but had a duty to report this as it was a key area where the Council should be fully competent.

It was noted that the Internal Audit team had needed to be flexible in its approach to areas of coverage, due to the COVID-19 pandemic, and that a number of officers from the team had been supporting anti-fraud work relating to pandemic issues. Mrs Martin advised that this had impacted the Internal Audit Plan as previously presented to the Committee; Mrs Martin added that officers from other teams had also been redeployed to react to the pandemic and this had also impacted on being able to complete areas of work, but enough work had been completed for her to form an opinion for 2020/21.

Mrs Martin considered there was satisfactory coverage across the Council and detailed the areas of work deferred as outlined in the report. Mrs Martin expressed her gratitude to her officers for working under significant pressure in the last year.

Councillor Cooper noted the proximity of 'reasonable' to 'limited' in terms of an assurance and asked if any immediate action was required. Mrs Martin stated that areas of concern had been highlighted in the report but the main area of concern related to procurement.

Councillor Lynch considered that achieving a reasonable opinion was positive in the current situation and acknowledged the extenuating circumstances brought about by the pandemic. Councillor Lynch asked what challenges officers working from home presented in terms of the Council meeting the requirements of the General Data Protection Regulation (GDPR).

Mrs Martin considered this to be a salient point and stated that this would be covered in a future report she would be bringing to the Committee in her role as the Council's Data Protection Officer. Mrs Martin assured the Committee that regular information had been provided to Members and officers about the use of Council laptops and confidential information at home, in addition to the mandatory training provided.

On the proposition of Councillor Cooper, seconded by Councillor Coulam it was by a unanimous vote

RESOLVED

That the Head of Internal Audit's Opinion for 2020/21, as set out in Appendix A to the report, be accepted.

The Committee received report **ES/0811** of Councillor Cook, the Cabinet Member with responsibility for Resources, which provided an Internal Audit report for the Committee to comment upon as per its Terms of Reference.

Councillor Cook introduced the report and noted that one Internal Audit Report was appended to the report, on Treasury Management 2020/21. Councillor Cook paid compliment to Mr Julian Sturman, one of the Council's Senior Accountants, for his work which was reflected in the outcome of the Internal Audit Report. Councillor Cook invited Mrs Siobhan Martin, the Council's Head of Internal Audit, to address the Committee.

Mrs Martin confirmed that she had given an effective assurance of the Council's treasury management in 2020/21 and had found that no required improvements had been identified when testing control issues.

Councillor Cooper agreed with the outcome of the Internal Audit Report and commended the achievement of this rating, given the larger than usual sums the Council had handled in 2020/21. Councillor Lynch thanked the Finance team for their hard work in achieving this.

On the proposition of Councillor Craig, seconded by Councillor Back it was by a unanimous vote

RESOLVED

The the Internal Audit report on Treasury Management 2020/21 be noted.

11 Standards Matters, Declarations of Gifts and Hospitality Received by Members and Officers and Review of Complaints

The Committee received report **ES/0818** of Councillor Gallant, Leader of the Council, which provided an update on declarations of gifts/hospitality received by Members and Officers, and on the number of complaints received under the Suffolk Code of Conduct (the Code) since the last report to the Committee in December 2020.

The report was introduced by Mr Chris Bing, the Council's Interim Monitoring Officer, who advised the Committee that since December 2020 27 complaints received under the Code against District, Town and Parish councillors. Mr Bing noted that 16 of these complaints had been related to a single meeting of East Suffolk Council's Planning Committee North and all had later been either withdrawn or dismissed.

Mr Bing reiterated the criteria for Members and officers to declare gifts and hospitality received and referred to Appendix A of the report, which detailed the latest return for officer declarations. Mr Bing confirmed that all of the Council's officers received training on declaring gifts and hospitality as part of the Officer Code of Conduct.

Councillor Lynch considered the additional work created for officers by the high volume of complaints related to a meeting of Planning Committee North and was disappointed that so many had later been withdrawn; Councillor Lynch said he hoped individuals could be mindful of this when considering lodging a complaint. Councillor Lynch

acknowledged that due to the COVID-19 pandemic, the number of officer declarations was lower than average.

On the proposition of Councillor Back, seconded by Councillor Cooper it was by unanimous vote

RESOLVED

That the report and the contents of Appendix A to the report be noted.

12 Audit and Governance Committee's Draft Work Programme 2021/22

The Committee considered the draft Work Programme for 2021/22.

Given the estimated delay in the completion of the Council's 2019/20 Audited Statement of Accounts, including the 2019/20 Annual Governance Statement, it was agreed that this report would be received at the Committee's meeting scheduled for Monday, 13 December 2021.

15 Report on Outcome of an Investigation of a Complaint

The Committee received report **ES/0819** of Mr Chris Bing, the Council's Interim Monitoring Officer, which presented to the Committee for consideration an Investigatory Report into a Code of Conduct (the Code) complaint against Councillor Alice Taylor of Lowestoft Town Council, and sought the Committee's determination of the matter.

Mr Bing introduced the report and outlined the detail and timeline of the complaint.

A complaint against Councillor Taylor was submitted on 5 June 2020; the allegation against Councillor Taylor was that she had breached the Code in failing to declare a Local Non-Pecuniary Interest (LNPI) in the Excelsior Trust at a meeting of Lowestoft Town Council on 26 May 2020, when she advocated for heritage organisations to be given priority when applying for grants under the emergency COVID-19 rules. Councillor Taylor had declared a LNPI in the Excelsior Trust on her Register of Interests.

The Council's Monitoring Officer at the time of the complaint, Mrs Hilary Slater, received Councillor Taylor's response to the complaint; Councillor Taylor refuted the complaint and denied breaching the Code. Mrs Slater considered this response and consulted Mr Urey, the Council's Independent Person, who determined that the Code had been engaged by Councillor Taylor's conduct at the meeting of Lowestoft Town Council on 26 May 2020.

Mrs Slater wrote to Councillor Taylor recommending that she provide a written apology to the complainant for failing to declare a LNPI and that she review her Register of Interest to ensure it was up to date and sought training if at all uncertain on making declarations both on her Register of Interest and at meetings.

On 11 November 2020, Councillor Taylor confirmed that she had reviewed her Register of Interest and considered it to be correct. On 13 November 2020 Councillor Taylor

contacted Mrs Slater to declare she disagreed with her recommendation and would not be apologising to the complainant.

Mrs Slater referred the case back to Mr Urey as to whether or not the matter should be investigated; Mr Urey considered that an investigation was required and therefore, Wilkin Chapman LLP was instructed to undertake an investigation into the complaint. During the course of the investigation Councillor Taylor was interviewed and a transcript of this interview was contained within the Investigatory Report. The report was produced in April 2021 and a draft was circulated to both Councillor Taylor and the complainant.

Mr Bing summarised the outcome of the investigation was that Councillor Taylor had breached the Code by not declaring a LNPI at the meeting of Lowestoft Town Council on 26 May 2020; the investigation also found that the LNPI on Councillor Taylor's Register of Interest was incorrect as it was not possible to be a member of the Excelsior Trust. Mr Bing advised the Committee that Councillor Taylor would not have been precluded in taking part in discussions if she had declared a LNPI at the meeting and concluded that her breach of the Code was a technical one.

Mr Bing confirmed that the Investigatory Report was referred back to Mr Urey, who had agreed that the report be referred to the Audit and Governance Committee to determine if Councillor Taylor had breached the Code, stating that it was reasonable for the public to expect Members to correctly declare their interests.

Mr Bing noted that Councillor Taylor's Register of Interest continued to contain a LNPI as a member of the Excelsior Trust despite the investigation concluding this was an error. The Committee was advised that the transcript of Councillor Taylor's interview shows that she had conceded she was not a member of the Excelsior Trust but her Register of Interest showed the LNPI as having been amended to include the word 'volunteer'. Mr Bing noted that the definition of an LNPI was any body of which you are a member or in a position of general management and control, and that Councillor Taylor's position with the Excelsior Trust did not meet this definition.

Mr Bing concluded that the Committee was required to consider the following matters:

- i. whether the way the complaints have been handled and investigated has been fair and thorough;
- ii. whether the investigation findings of fact and the breach of the Code are agreed; and
- iii. if the breach of the Suffolk Local Code of Conduct identified in the investigation report is considered proved, after a fair and thorough investigation, whether it is appropriate to recommend to Lowestoft Town Council to impose any sanction on Councillor Taylor.

The Committee considered if way the complaints have been handled and investigated has been fair and thorough.

On the proposition of Councillor Cooper, seconded by Councillor Back it was by a unanimous vote

RESOLVED

That the way the complaints have been handled and investigated has been fair and thorough.

The Committee considered whether the investigation findings of fact and the breach of the Code were agreed.

On the proposition of Councillor Back, seconded by Councillor Craig it was by a unanimous vote

RESOLVED

That the investigation findings of fact and the breach of the Code be agreed.

The Committee was asked to consider what actions should be taken in response to Councillor Taylor's breach of the code.

It was established during discussion Councillor Taylor had previously been the Mayor of Lowestoft and, therefore, Chairman of Lowestoft Town Council. Mr Bing confirmed that the incident had occurred when Councillor Alan Green had been Mayor of Lowestoft Town Council and had been chairing the meeting. Mr Bing summarised the requirements for Members to declare relevant interests and noted that membership of the Excelsior Trust was not the only LNPI on Councillor Taylor's Register of Interests that did not meet the definition of a LNPI.

In response to a question from Councillor Lynch, Mr Bing confirmed it was not a criminal offence to declare a LNPI incorrectly and that a criminal offence only occurred when incorrectly declaring a Disclosable Pecuniary Interest (DPI).

Following further discussion, the Committee agreed on actions that should be taken. On the proposition of Councillor Cooper, seconded by Councillor Back it was by a unanimous vote

RESOLVED

1. That the Interim Monitoring Officer write to the complainant to confirm that the Committee's decision that there was a breach of the Code by Councillor Alice Taylor.
2. That Councillor Alice Taylor removes membership of the Excelsior Trust as a Local Non-Pecuniary Interest from her Register of Interests.
3. That Councillor Alice Taylor undertake appropriate training, preferably from the Suffolk Association of Local Councils, on how to correctly complete her Register of Interests
4. That Councillor Alice Taylor write to Lowestoft Town Council apologising for and acknowledging her technical breach of the Code and the incorrect declaration of a Local Non-Pecuniary Interest as a member of the Excelsior Trust.

Councillor Lynch suggested that a reminder be sent to all towns and parishes in East Suffolk that Members should regularly check their Register of Interests and amend it where necessary.

On the proposition of Councillor Lynch, seconded by Councillor Back it was by a unanimous vote

RESOLVED

That a reminder be sent to all towns and parishes in East Suffolk that Members should regularly check their Register of Interests and amend it where necessary.

13 Exempt/Confidential Items

On the proposition of Councillor Back, seconded by Councillor Thompson it was by a unanimous vote

RESOLVED

That under Section 100A(4) of the Local Government Act 1972 (as amended) the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1, 2 and 3 of Part 1 of Schedule 12A of the Act.

14 Exempt Minutes

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).

16 Internal Audit: Status of Actions

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).

17 Internal Audit Reports Recently Issued (Exempt)

- Information relating to the financial or business affairs of any particular person (including the authority holding that information).

The meeting concluded at 9:02pm

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Chairman