

NORTH DEVON COUNCIL

Minutes of a meeting of Governance Committee held at Barum Room - Brynsworthy on Tuesday, 11th June, 2024 at 6.30 pm

PRESENT: Members:

Councillor Norman (Chair)

Councillors Bushell, Haworth-Booth, Jones, Quinn, Walker and Whitehead

Co-Opted Independent Member Naomi Whitmore

Officers:

Director of Resources and Deputy Chief Executive, Head of Governance, Senior Solicitor and Monitoring Officer and Head of Customer Focus

Also Present in person:

Tony Rose (Devon Audit Partnership ((DAP)), Paul Middlemass (DAP), Bradley Hutton (DAP).

85. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Orange and Stevenson.

86. TO APPROVE AS A CORRECT RECORD THE MINUTES OF THE MEETING HELD ON 11TH MARCH 2024

RESOLVED that the minutes of the meeting held on 11th March 2024 (circulated previously) be approved as a correct record and signed by the Chair.

87. ITEMS BROUGHT FORWARD WHICH IN THE OPINION OF THE CHAIR SHOULD BE CONSIDERED BY THE MEETING AS A MATTER OF URGENCY.

The Chair thanked the Auditor, Paul Middlemass, for his contribution to the Governance Committee, and the Authority, and wished him well on his upcoming retirement.

The Chair noted that item 6 on the agenda: "Review of Chief Officer Salary Levels" would be deferred until the next meeting of the Committee (in September 2024).

88. DECLARATIONS OF INTERESTS.

There were no declarations of interest announced.

89. INTERNAL AUDIT ANNUAL REPORT

The Committee considered a report by Devon Audit Partnership regarding the Internal Audit Annual Report (circulated previously).

The Internal Auditor introduced his colleagues to the Committee and thanked the officers and Committee Members for their support provided to Paul Middlemass during his time as their auditor. Paul would shortly be retiring.

The Committee was advised of the following in relation to the Internal Audit Annual Report 2023-24:

- Overall, the Head of Internal Audit's opinion was of "Reasonable Assurance".
- A summary of the assurance opinions provided within the year confirmed the following at each level:
 - 8 Substantial
 - 16 Reasonable
 - 1 Limited
 - 1 Grant certification

The Internal Auditor (PM) advised that:

- This compared favourably to 2022-23 which had 4 Substantial, 16 Reasonable, and 4 limited.
- Governance had improved on the prior year. The team were more settled and improvements had been made as a result of follow-up works following auditor advice.
- Weaknesses identified in previous audits on Cyber Security and Information Management had been largely addressed following the introduction of new ICT tools.
- There was now appropriate priority on debt management to ensure collection of unpaid debt from individuals.
- The audit assurance map was now largely 'green' which highlighted the improvements made.
- The global auditing standards had been revised and would take effect in 2024 which in turn would result in changes to the audit and CIPFA standards.
- DAP were currently working on a new customer service excellence standard.

In response to questions from the Committee, the Director of Resources and Deputy Chief Executive advised that the level of arrears shown on the Housing Benefit (HB) audit (of £798k) was for a total six-year period. This figure had reduced against the prior cumulative six-year period, and when considered against the total annual figure of HB paid out (£25m – £26m per year) it was a low percentage. Overpayments were recovered from ongoing benefit payments made, or, if the person was no longer

entitled to benefits, an invoice was raised. Alternatively an 'attachment to earnings' could be used as a recovery method.

The Head of Customer Focus noted that the £798k figure equated to approximately £120k per annum.

In response to a question from the Chair, the Internal Auditor (PM) confirmed that most Authorities would have mainly 'reasonable' assurances across the board, rather than substantial, therefore in a similar situation to NDC.

RESOLVED that the Internal Audit Annual Report be approved.

90. COMPENSATION PAYMENTS MADE UNDER DELEGATED POWERS

The Committee considered a report by the Head of Customer Focus (circulated previously) in relation to Compensation Payments Made under Delegated Powers (April 2023 to March 2024).

The Head of Customer Focus advised the Committee of the following in relation to the report:

- A total of £1547 had been paid out during the year (2023-2024).
- The number of payments had been similar to the prior year although there were a few more in relation to Waste and Recycling (missed collections) as a result of challenges in the service in the summer.
- The £250 payment to a planning customer was due to exceptional circumstances in a pre-application.

In response to questions from the Committee, the Head of Customer Focus confirmed that:

- Compensation Payments were not refunds that were made to planning customers in the cases of non-determination.
- In future reports, the number of complaints which did not lead to a compensation payment will be included.
- In 2022-23 the percentage of missed recycling collections was 0.27%. This did increase in 2023-24 due to the problems experienced during the re-design of the rounds, however it only increased to 0.32%.

In response to a questions from the Committee, the Director of Resources and Deputy Chief Executive advised that regular updates from the Waste and Recycling team, in relation to missed collections, was presented to the Policy Development Committee.

RESOLVED that the Compensation Payments Made under Delegated Powers report be noted.

91. DRAFT STATEMENT OF ACCOUNTS 2023 - 2024

The Committee considered a report by the Director of Resources and Deputy Chief Executive regarding the Draft Statement of Accounts 2023/24 (circulated previously).

The Director of Resources and Deputy Chief Executive highlighted the following points for the Committee:

- The Draft Statement of Accounts were signed-off on 31st May 2024 by the Chief Financial Officer. As at 3rd June 2024, around 65 District Councils had theirs signed (of a total 164).
- External audit works were programmed (by Bishop Fleming) for August/September 2024, with a view to being presented to Full Council in November 2024.
- The aim was for an 'Unqualified opinion'.
- The narrative report covered the external pressures and challenges to the Council in the period up to 2023-24. These included the Covid pandemic, Russia's invasion of Ukraine, Brexit, double-digit inflation, and cost of living pressures.
- Despite a reduction in inflation it still presented pressure to the Council's accounts.
- The financial pressures have been built into the Medium Term Financial Plan (MTFP).
- As at 31 December 2023 the Council was forecasting a net surplus of £0.073m against the budget, but with favourable variances in the quarter (such as Business Rate Retention through the Devon-wide pool) the final outturn position was a budget surplus of (£0.630m) against the original budget.
- The most notable variance to income was £0.760m Business Rates income.
- Other income was generated through Government Grants, the Building Control partnership and a reduced spend on agency staff.
- The only certainty in the short term was the potential impact of the Government's Fair Funding Review and Business Rates Retention changes had now been delayed to 2026/27 at the earliest.
- The refreshed forecasted cumulative budget gap for 2024/25 was £0m and at 2025/26 £0.487m. From 2026/27 £2.945m, to 2027/28 £3.306m. This further increased to £3.044m in 2028/29, and £3.263m in 2029/30.
- In June 2021 Members approved the acquisition of the Green Lanes Shopping Centre (which completed in November 2021). The financial outturn for the centre produced a net return for:
 - 2021/22 (£243,600) due to minimal borrowing costs (as these commenced in 2022/23).
 - 2022/23 trading position produced a net return of (£291,000), including borrowing costs.
 - 2023/24 trading position produced a net return of (£237,000) this included £150,000 from the income volatility reserve due to the financial impact of losing Wilko in August 2023.

- From the revenue budget surplus of £630,000, it was proposed to set aside the amount into the following earmarked reserves:
 - Corporate Property income volatility reserve - £150,000
 - Insurance Reserve - £280,000 – mitigate 2024/25 higher insurance costs
 - Digital Transformation Financial system reserve - £200,000.
- The recommended level of general fund balance was 5%-10% of the Council's net revenue budget. The combination of in year measures and robust budget management saw the Council through the financial pressures and resulted in a general fund reserve balance at 31 March 2024 of £1,238,000, which was a level of 8.4%. This was within the 5-10% levels recommended for an authority of this size.
- Long term external borrowing remained at the same level as in 2022/23
- The balance sheet currently showed an £18.2m bottom line. The Movement in Reserves statement covered those changes to the reserves as explained such as capital receipts reserves and capital grants; giving total useable reserves of £17.5m which was an increase on what was held as at 31 March 2023. The Balance sheet shows the Council had net assets of £125m- an £18m increase on 31 March 2023.
- Financed lease liabilities for the vehicles had increased by £1.3m
- The Pension fund liability reduced from £14.1m to £8.5m due to changes in financial assumptions in relation to mortality and pension / salary increase assumptions.

In response to questions from the Committee, the Director of Resources and Deputy Chief Executive advised that:

- The property valuation of Green Lanes had reduced as it took into account the income generation of the properties and, at the time of valuation, the Wilko unit in Green Lanes impacted this overall value. Therefore, the snapshot at that time took that reduced income level into account. The unit has since been re-let so this valuation would now increase.
- The Authority was about to go out to tender for works on the new Hub in Green Lanes
- Other assets, such as Lynton House, would be reviewed to assess the use of space and any income generation possibilities.
- Reduction in income from car-parking was not due to a reduction in payments received for parking, but from a reduction in the number of fines issued.
- The refreshed Commercialisation Strategy was yet to be approved by Members although there was little change to the original document.
- Temporary accommodation costs had reduced in the last quarter although these had since increased again. The authority had purchased its own properties on which Housing Benefit could be claimed – resulting in a net reduction in cost.

The Head of Customer Focus advised that the increase in income from Cremation Services was due to the introduction of a lower fee for local residents looking for a basic cremation service. This service was developed to match the demand for 'basic

cremations' (ie without a service) which was offered by national companies. These national companies were no longer providing such services in the area.

RECOMMEND that the Draft Statement of Accounts 2023/24 be approved and proceed to Council for consideration.

92. DRAFT ANNUAL GOVERNANCE STATEMENT 2023 - 2024

The Committee considered a report by the Head of Governance regarding the Annual Governance Statement 2023/24 (circulated previously).

The Head of Governance advised the Committee of the function of the Annual Governance Statement (AGS) and that the framework included the work of the Strategy and Resources Committee and Full Council in setting budgets, strategies and corporate objectives.

The Head of Governance advised the Committee that:

- There had been 16 internal audits carried out by the Devon Audit Partnership (DAP) within 2023-2024 and the overall assessment was that the Council had a sound system of governance, risk management and control in place.
- However, there were some areas identified for improvement such as:
 - Reviewing the requirements of the Local Government Transparency Code
 - Updating the Procurement Strategy (to be ready for the new Procurement Act which would come into force in October 2024)
 - Updating the Asset Management Plan, Commercialisation Strategy and Housing Strategy.
- The view of the external Auditors, Bishop Fleming, would be included in the final AGS when presented to Full Council with the full accounts.

In response to questions from the Committee, the Head of Governance advised that external assurances were sought such as previous peer reviews and Local Government Ombudsman reports. Internal audit reports were refreshed as part of a rolling programme of works.

In response to questions from the Committee, the Head of Customer Focus advised that of the four complaints within the ombudsman report, only three were detailed on the website. The fourth was in relation to a rural noise complaint and was likely not included on the website due to the timing of the complaint.

RECOMMEND that the Draft Annual Governance Statement 2023/24 be noted and proceed to Council for consideration.

93. REVIEW OF THE COMMITTEE'S TERMS OF REFERENCE

The Committee considered a report by the Senior Solicitor and Monitoring Officer regarding the Review of the Committee's Terms of Reference (circulated previously).

The Senior Solicitor and Monitoring Officer presented the report to the Committee and confirmed that:

- The Governance Committee was lacking in suitable powers within the Constitution to determine complaints regarding the conduct of District and Parish Councillors. Therefore a revision to the Constitution was needed to provide for this and further, such powers should be delegated to newly established sub-committees of the Governance Committee (Hearing Panels) to hold hearings relating to Code of Conduct complaints.
- Appendix F showed a refreshed version of the arrangements for dealing with standards matters as required under the Localism Act 2011. This had been in place as an unpublished flow chart but the proposal was to change this to a more detailed process available to the public to ensure the procedure was clear to follow, and transparent for both customers and councillors alike.
- Appendix E covered the Local Hearing Procedure
- Appendix D was the proposed membership of the hearing panels.
- Appendices A-C covered the changes required to the Constitution to enable the delegation of powers to enable the determination of complaints regarding the conduct of District and Parish Councillors.

RECOMMENDED that the Committees Terms of Reference are updated at Paragraph 5, Annexe 1 to Part 3 of the Constitution, as provided in Appendix A to the committee report, are approved by Full Council.

RESOLVED, subject to the recommendation, above:

- a) That the Committee appoint three Sub-Committees (hereafter referred to as “Hearing Panels”) each with three Members with the delegated powers detailed in Appendix C to the committee report and with the proposed membership as set out in Appendix D to the committee report;
- b) That alternative arrangements be made for the appointment of Members of the Hearing Panels in accordance with the powers set out in section 17 of the Local Government and Housing Act 1989 and the provisions of the Local Government (Committees and Political Groups) Regulations 1990;
- c) That the alternative arrangements provide that, subject to paragraph (d) below, the membership of the Hearing Panels shall not be politically balanced;
- d) That the Chairs of Hearing Panels be appointed on the day of the meeting and that membership should comprise members drawn from at least two different political parties;
- e) That the appointed Hearing Panels be restricted in that they may not further delegate any of their powers to an officer of the Council or any other body
- f) That the Hearing Panels adopt the Local Hearing Procedure as included at Appendix E to the committee report as its terms of reference for hearings related to standards matters and, in accordance with that Procedure, that the Chair of the Hearings

Panel is delegated the right to depart from the arrangements (as referenced in paragraph (g) below) where he/she considers that it is expedient to do so in order to secure the effective and fair consideration of any matter

- g) That the arrangements for dealing with standards allegations under the Localism Act 2011 be updated as provided at Appendix F to the committee report

94. ADJOURNMENT OF MEETING

RESOLVED that it being 8:03 pm the meeting adjourn for five minutes for a comfort break.

RESOLVED that it being 8:09 pm, the meeting now re-convene.

95. REVIEW OF THE PLANNING CODE OF CONDUCT

The Committee considered a report by the Senior Solicitor and Monitoring Officer regarding the Review of the Planning Code of Conduct (circulated previously).

The Senior Solicitor and Monitoring Officer presented the report to the Committee and confirmed that:

- The review had come about following comments from Planning Barrister, Tim Leader, of St John's Chambers. During a training session, the barrister had questioned elements of the Council's Planning Code of Conduct, which led to it being reviewed in full. The reviewed Planning Code of Conduct had taken on board the comments made by Mr Leader, and had been presented to the Chair and Vice Chair of the Planning Committee, and the Lead Member. Their comments had been incorporated into the amended code.

The Committee discussed the instances at which a member of the Planning Committee would be required to declare an interest in an application, and whether they would be required to remove themselves from the Planning Committee meeting whilst an item was being considered.

RECOMMEND that the Review of the Planning Code of Conduct, in Part 5 of the Constitution, be approved as at Appendix A to the committee report by Full Council.

96. ANNUAL REVIEW OF THE COMMITTEE'S EFFECTIVENESS

The Director of Resources and Deputy Chief Executive confirmed that

- 8 of the 9 Committee members had completed surveys
- Of those the majority of answers had been 'Yes' which was a positive outcome.

The Director of Resources and Deputy Chief Executive provided additional information regarding those questions, and gave answers where there had been missed or not known responses:

- Committee members had received training which was provided 'in-person' and then recordings had been provided to any who had been unable to attend.
- Refresher training sessions would be provided for Committee members at intervals during their time on the committee.
- Attendance at Governance Committee overall had been very high

In response to questions from the Committee, the Director of Resources and Deputy Chief Executive advised that:

- In accounting context it was good practice to present negative figures within brackets, rather than using red ink, in order to prevent confusion when documents were printed.
- The June Governance agenda was often 'heavy' due to the number of reports which needed consideration following the year-end procedures.
- He also noted that the agendas for Governance Committee were longer than historically as the Committee had requested more items to be considered.

RESOLVED that the update on the Annual Review of the Committee's Effectiveness be noted.

97. EXEMPTIONS TO CONTRACT PROCEDURE RULES

The Senior Solicitor and Monitoring Officer updated the Committee in relation to Exemptions to Contract Procedure Rules made since the date of the previous Governance Committee.

The Committee considered an extract from the minutes of the Strategy and Resources Committee of 8 April 2024 (circulated previously). The extract covered a decision in relation to the contract with 361 Energy CIC.

The Senior Solicitor and Monitoring Officer advised that the contract was an extension of an existing programme but that it had met the criteria to require it to be presented to the Governance Committee.

RESOLVED that the Exemptions to Contract Procedure Rules be noted.

98. AUDIT RECOMMENDATION TRACKER

The Senior Solicitor and Monitoring Officer updated the Committee in relation to Exemptions to Contract Procedure Rules made since the date of the previous Governance Committee.

The Committee considered an extract from the minutes of the Strategy and Resources Committee of 8 April 2024 (circulated previously). The extract covered a decision in relation to the contract with 361 Energy CIC.

The Senior Solicitor and Monitoring Officer advised that the contract was an extension of an existing programme but that it had met the criteria to require it to be presented to the Governance Committee.

RESOLVED that the Exemptions to Contract Procedure Rules be noted.

99. WORK PROGRAMME 2024 - 2025

The Committee considered the work programme for 2024-25 (circulated previously).

RESOLVED:

- a) that the item 'Community Risk Register' be added as an item for the September 2024 meeting, and
- b) That the work programme for 2024-25 be noted.

100. REPORT ON THE CORPORATE RISK REGISTER

The Committee considered the Summary of the Risks Identified under the Corporate Risk Register report by the Head of Governance (circulated previously).

The Head of Governance confirmed that the risks identified would be considered in greater detail under agenda item 20 of this agenda.

Item 20 was classified as restricted and would be discussed following the exclusion of Public and Press.

101. EXCLUSION OF PUBLIC AND PRESS AND RESTRICTION OF DOCUMENTS

RESOLVED:

- (a) That, under Section 100A (4) of the Local Government Act 1972, the public and press be excluded from the meeting for the following item as it involved the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of the Schedule 12A of the Act (as amended from time to time), namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

- (b) That, all documents and reports relating to the item be confirmed as

“Not for Publication”.

102. REQUEST FOR FLEXIBLE RETIREMENT

The Committee considered a report ‘Request for Flexible Retirement’ by the Director of Resources and Deputy Chief Executive (circulated previously).

The Director of Resources and Deputy Chief Executive confirmed that:

- The position held by the member of staff included a number of key functions that have significant impact upon the council’s financial framework, and the post was also the Systems Administrator for a number of key software systems. However, resource planning had started within the team to ensure the team could cover wider responsibilities of the member of staff in their absence.
- If the employee had chosen to fully retire in 2024 it would have a bigger impact to the wider team.
- To allow a flexible retirement would significantly reduce risk and enable the retention of a very experienced member of staff.

RESOLVED to support the proposal for flexible retirement for the employee with effect from October 2024.

103. CORPORATE RISK REGISTER

21:09pm Cllr Walker left the meeting.

The Committee considered the Corporate Risk register report by the Head of Governance (circulated previously).

The Head of Governance advised the Committee that:

- Each risk had been updated following the meeting of the Corporate Risk Management Group
- A new risk had been added in relation to insurance coverage.

In response to a question from the Committee, the Director of Resources and Deputy Chief Executive advised that alternative roofing options were being considered at Green Lanes Shopping Centre with a view to their renewable energy solutions and their ‘green’ options.

RESOLVED that the Corporate Risk Register be noted.

Chair

The meeting ended at 9.15 pm

NOTE: These minutes will be confirmed as a correct record at the next meeting of the Committee.