

Meeting of the Governance and Audit Committee



SOUTH
KESTEVEN
DISTRICT
COUNCIL

Wednesday, 14 June 2023, 2.00 pm

Committee Members present

Councillor Tim Harrison (Chairman)
Councillor Patsy Ellis
Councillor Bridget Ley
Councillor Charmaine Morgan
Councillor Peter Stephens
Councillor Mark Whittington
Councillor Sue Woolley

Cabinet Members present

Councillor Richard Cleaver (Leader of the Council)
Councillor Ashley Baxter (Deputy Leader and Cabinet Member for Finance and Economic Development)
Councillor Phillip Knowles (Cabinet Member for Corporate Governance and Licensing)

Other Members Present

Councillor Emma Baker
Councillor Phil Gadd
Councillor Graham Jeal
Councillor Virginia Moran
Councillor Ian Selby

Officers present

Richard Wyles (Chief Finance Officer and Section 151 Officer)
Alison Hall-Wright (Assistant Director of Finance and Deputy Section 151 Officer)
Craig Spence (Acting Director of Housing)
Graham Watts (Monitoring Officer and Assistant Director of Governance)
Anne-Marie Coulthard (Assistant Director of Operations and Public Protection)
Karen Whitfield (Assistant Director of Culture and Leisure)
Debbie Roberts (Head of Corporate Projects, Policy and Performance)
Tracey Elliott (Governance and Risk Officer)
Sarah Downs (Democratic Services Officer)

1. Apologies for absence

Apologies for absence were received from Councillors Rob Shorrocks, Ian Stokes and Paul Wood.

Councillor Mark Whittington substituted for Councillor Paul Wood.

2. Disclosure of interests

No interests were disclosed.

3. Minutes of the meeting held on 15 March 2023

The minutes of the meeting held on 15 March 2023 were proposed, seconded and **AGREED** as a correct record.

4. Updates from previous meeting

The action sheet from the previous meeting was noted.

5. Market Service Operational Review

The report on the operational practice of the Markets was introduced by the Deputy Leader of the Council.

Weekly markets were held in the market towns of Grantham (Saturday), Stamford (Friday and Saturday), and Bourne (Thursday and Saturday) and operated by the Council utilising directly employed staff. Following a change in the operational management arrangements for the markets service, an external review of processes and procedures was undertaken. A significant number of issues were identified which emanated from a history of poor management of the service over a significant period of time. The review was divided into four areas – Employment, Income, Waste Collection and Operations (including Health and Safety). An action plan had been developed, supported by a number of corrective measures.

All market trader fees were collected in cash on the day of trading. This exposed the Council to avoidable risks. Where possible, cash was to be avoided and card payments encouraged in future. There was an opportunity to introduce a direct debit or standing order system.

Traders at the Saturday markets at Stamford and Bourne (one trader only) were required to remove their own waste. A supplementary fee for waste disposal for excess waste was detailed in the fees and charges but only charged to fruit and vegetable stalls. As such, the costs associated with the collection and disposal of waste from traders were effectively being subsidised. As a Council, charging for waste removal would discourage the amount of waste generated.

Operational and health and safety issues were outlined in the action plan. Risk assessments were to be updated to reflect a number of issues.

Employment practices were to be updated in line with current HR policies and to address the fact that the service lacked resilience and the operatives were employed on a casual basis and therefore not contractually obliged to attend work, often relying on the goodwill of a number of dedicated individuals.

Members raised the following points during discussion:

- The inconsistencies and security issues around cash collection was cause for concern and left staff vulnerable to potential accusations as well as the lack of basic procedures and compliance with job descriptions.
- Had all monies due historically, been collected?
- Grantham Market in particular was widely reported as losing money – was that due to such anomalies mentioned within the report?
- The nature of the frequency of a direct debit payment option could have enabled stallholders to amass several weeks debt. Card payments were instant.
- Safety of the working practices was an urgent consideration. There was an understanding that due to the nature of the work and lack of guarantee of staff numbers on the day, the team generally took on whatever roles were required.
- The anti-social hours of the work had to be acknowledged.
- Was there an option to store equipment at the new Depot if rent was being charged on the Grantham store?
- An internal audit was completed in 2021, did the scope of this include operational practices?
- Lessons were to be learnt from the findings of the review.
- Officers were commended for their work in completing the action plan and Members wanted to look forward to an improvement in market operations.

The Chief Finance Officer confirmed that the proposed action plan was there to provide assurance to Members that the identified issues were being addressed, some already completed and the updated action plan would be presented at a future meeting. The Council needed to operate within the parameters of its recruitment policies and procedures with robust internal procedures and governance. Fees and charges were agreed by the Council on an annual basis and should not set at a local level between officers and stallholders. Members were to consider that the timelines stated within the action plan were appropriate to facilitate its completion. The Grantham store was owned by South Kesteven District Council so there was no rental charge and its close location to the market area was an important consideration when considering alternative storage arrangements. It was recognised that the store was underutilised currently. An audit into cash-handling practices had been completed in 2021 and some weaknesses in market cash collection procedures had been captured. This was rectified and actions agreed by Governance and Audit Committee within the same year.

The Chief Finance Officer continued that Grantham had to pay a market fee to hold the market in Grantham whereas Bourne and Stamford did not and the markets were not wholly comparable in terms of costs as which operated differently.

The Deputy Leader informed Members that maintaining popularity of the markets had been a struggle due to the changes in retail practices, particularly during the pandemic. The Stamford market, however, was one of the most popular in the East Midlands and the Council should recognise this achievement.

(Councillors' Emma Baker, Phil Gadd and Ian Selby left the meeting at 15:00)

The Assistant Director for Operations and Public Protection confirmed that the market traders had to abide by a code of practice. The supervisor role was currently vacant which had an impact on the working practices of the team. Changes had already been implemented in the collection of fees. As an example, the majority of stallholders in Stamford paid by card along with all but one at Bourne Market.

The Chief Finance Officer clarified that the independent review found no evidence of fraud or misappropriation of funds.

It was proposed, seconded, and AGREED that the Governance and Audit Committee:

- a) Approved the Action Plan.**
- b) Agreed to receive an update on the actions undertaken in three months**
- c) Recommended that the review of the market service be passed to the relevant Overview and Scrutiny Committee for consideration.**

6. Timing of Full Council Meetings

The Cabinet Member for Corporate Governance and Licensing introduced the report.

At the Annual Meeting of the Council held on 18 May 2023 consideration was given to the authority's committee structure. During this item, discussion ensued on the subject of the start time of meetings of Full Council and it was agreed that the matter be referred to the Governance and Audit Committee for further consideration.

The Council's Constitution stated that the time and place of meetings was to be determined by the Chief Executive. The Chief Executive was the Council's Head of Paid Service and had responsibility for the authority's management structure which included the deployment of Officers. Meetings of Full Council had traditionally commenced at 1pm at South Kesteven District Council.

During discussion the following points were made by Members:

- A survey was proposed to identify preferences from all Members of the Council.
- A later start time of 2pm was proposed.
- It was acknowledged that later start times for meetings would have implications for staff through impact on working hours and discussions with Trade Unions would be required.
- A preferred end time was suggested as a consideration.

It was proposed that the Monitoring Officer would arrange a questionnaire for all Members and the feedback was to be heard at a future meeting of the Governance and Audit Committee meeting.

It was proposed, seconded, and AGREED that a survey to all Members of the Council be undertaken to seek their preferences in respect of start times for meetings of Full Council, together with starts times for meetings of other public meetings and that the results be reported back to the Governance and Audit Committee.

7. Members' Allowances Scheme - distribution of Special Responsibility Allowance for Opposition Leaders

The Committee heard a verbal report on the Members' Allowances Scheme and the distribution of Special Responsibility Allowance for Opposition Leaders. The Cabinet Member for Corporate Governance and Licensing introduced the report.

The Monitoring Officer clarified that when considering Members' remuneration, the Independent Remuneration Panel had to be involved and provide advice and recommendations to Full Council. The Independent Panel was due to undertake a mini-review of the Members' Allowances Scheme in July 2023 at a date yet to have been confirmed. The Officer recommended that the item be deferred to the Independent Remuneration Panel, particularly as the Council being under no overall political control had brought about some anomalies regarding the distribution of the Opposition Group Leaders' Special Responsibility Allowance

A Member asked what happened in the situation where two Cabinet Members were Green Party Members but the Leader of the Council belonged to a different group. It was suggested that that the letter of the law was in direct contradiction to the spirit of the law regarding the definition of 'opposition'. Members were reminded that the Leader was appointed by the Council, but that he individually selected Members to sit on his Cabinet. Cabinet Members were therefore appointed on an individual basis and not representative of their respective political group. One group outside of the formal South Kesteven Coalition Group did not have a Member on the Cabinet and that group leader had expressed a wish that this issue be referred to the Independent Remuneration Panel.

The Monitoring Officer informed the Committee that no Members were currently in receipt of the Opposition Group Leaders' Special Responsibility Allowance. The payments were suspended until confirmation had been received as to how it should be distributed.. The current scheme was introduced in political circumstances that were very different to how the no overall political control position that the Authority was now in..

The Leader reminded the Committee that the Council's Constitution did not explicitly define what the Opposition was, or similarly, who the Leader of the Opposition was. He added that the Leader of the Council was appointed at Full Council but was not necessarily the Leader of the largest political group as had been the case with his appointment.

It was proposed, seconded and **AGREED that the Governance and Audit Committee:**

- a) **Refer consideration of the distribution of the Opposition Group Leaders' Special Responsibility Allowance to the Independent Remuneration Panel for its consideration.**

8. Cabinet and Overview & Scrutiny Protocol

The Cabinet Member for Corporate Governance and Licensing introduced the report.

The Centre for Governance and Scrutiny conducted a review of the Council's overview and scrutiny function, further to which an action plan based upon recommendations from the review was developed. The Governance and Audit Committee endorsed the action plan at its meeting on 28 September 2022. The Monitoring Officer presented the report, informing that one of the recommendations from the Centre for Governance and Scrutiny was the development and publication of a Cabinet and Overview & Scrutiny Protocol, setting out the relationship between the two functions and associated roles and responsibilities.

A draft Cabinet and Overview & Scrutiny Protocol had been developed, taking into account the content of the Council's Cabinet Procedure Rules and Overview and Scrutiny Procedure Rules, as well as good practice from other authorities. The Protocol set out the relationship between the Council's Cabinet and its Overview and Scrutiny Committees, including the processes that both bodies followed, where they were to interact with each other and how they expected the other to conduct itself.

During discussion, Members raised the following points:

- A Member queried reference within the protocol which seemingly indicated a legal right of the Council to review and scrutinise the performance of other appropriate public bodies.

- The Deputy Leader encouraged Members to look outside the walls of the Authority and informed Members that he welcomed valuable contribution from external sources as part of the scrutiny procedure.
- There were organisations such as the NHS where the Local Authority had an essential role in the decision-making process as consultees.
- More effective work programming was to be considered when submitting decisions to Cabinet to allow sufficient scrutiny.

The Monitoring Officer confirmed that the list of responsibilities included in the protocol was from the Terms of Reference for the Overview and Scrutiny Committees in the Council's Constitution. In the case of joint partnership collaboration, it was appropriate that performance of public bodies be scrutinised, particularly where that work was in relation to residents effected by the services offered. The emphasis with these organisations was that they would be invited to contribute to a scrutiny review as opposed to the Committee having any legal right to demand their participation.

At least once a year the Council was under an obligation for one of its Overview and Scrutiny Committees to consider crime and disorder. The Council used this opportunity to invite a senior representative from the Police to conduct a question and answer session with all Councillors at the designated Overview and Scrutiny Committee.

The Officer continued that effective agenda-setting from the Chairman and senior officers would enable sufficient time to scrutinise decisions, adding that both Key Decisions and Non-Key Decisions were to be included on the Cabinet Forward Plan which offered greater transparency than solely including Key Decisions.

It was proposed, seconded and AGREED that the Governance and Audit Committee:

Recommended to Full Council to adoption of the Cabinet and Overview & Scrutiny Protocol as part of the Council's Constitution under Part 5 (Codes of Protocols).

9. Appointment of Directors of Council-Owned Companies

(Councillor Charmaine Morgan and the Assistant Director of Finance left the meeting at 15:40, declaring an interest in the report as respective nominees).

The Cabinet Member for Corporate Governance and Licensing introduced the report.

A number of vacancies had arisen on the Boards of Council-owned companies. The Governance and Audit Committee was requested to consider making appointments to fill these vacancies.

Following the resignation of Directors from Aubers Ridge Management Company Limited and Gravitas Housing Limited, the Board of each company currently consisted of Richard Wyles (Chief Finance Officer at South Kesteven District Council). Both companies were no longer operational and Mr Wyles was continuing his role as Director to assist in the process of their dissolution given the extensive knowledge he had in respect of both entities.

A minimum of two additional Directors were recommended for appointment to the Board on each company to ensure that they were quorate, could take decisions and operated in accordance with their articles of association. A key element of their work as newly appointed Directors will be to oversee dissolution of the respective companies.

Councillor Elvis Stooke had been nominated as a Director for both Aubers Ridge Management Company Limited and Gravitas Housing Limited. Alison Hall-Wright, the Assistant Director of Finance had also been nominated as a Director for both companies.

Councillors James Denniston and Charmaine Morgan had been nominated as Directors of LeisureSK Limited. In terms of the Officer vacancy, it was recommended that Craig Spence as the Council's Acting Director of Housing be appointed onto the Board of LeisureSK Limited. A remaining vacancy for an elected Member had been offered to the South Kesteven Coalition Group. The Leader of the Group confirmed that, subject to the Committee granted a delegation, that he would nominate an appropriate member from his Group.

It was proposed, seconded, and **AGREED:**

That the Governance and Audit Committee:

- a) **Approved the appointment of Councillor Elvis Stooke and Alison Hall-Wright as Directors to Aubers Ridge Management Company Limited with immediate effect.**
- b) **Approved the appointment of Councillor James Denniston, Councillor Charmaine Morgan and Craig Spence as Directors to LeisureSK Limited with immediate effect, and granted Councillor Graham Jeal as Leader of the South Kesteven Coalition Group with delegated authority to nominate and appoint a Member from his Group onto the Board**
- c) **Approved the appointment of Councillor Elvis Stooke and Alison Hall-Wright as Directors to Gravitas Housing Limited with immediate effect.**

((Councillor Charmaine Morgan and the Assistant Director of Finance rejoined the meeting at 15:47))

10. Proposed Amendments to Constitution

The Governance and Audit Committee was required to consider any proposed amendments to the Council's Constitution before Full Council was able to approve them, unless there was alternative provision elsewhere in the Constitution. A number of proposed amendments to the Constitution were included within the report for the Committee's consideration.

The Cabinet Member for Corporate Governance and Licensing introduced the report which proposed five changes to the Constitution. One of these changes sought to reintroduce the right of members of the public to ask a supplementary question should they have registered their intention to ask a question at any meeting of the Council. Additionally, a proposed amendment to Procedure Rules for all meetings would enable all members of the Council who were not members of particular bodies the right to speak, without this being at the discretion of the person presiding the meeting.

The Monitoring Officer informed the Committee that a supplementary report had been published which set out proposed changes to the Licensing Procedure Rules to align the Council's procedures with the Licensing Act.

Members discussed the report and made the following points:

- The report was welcomed as an improvement to existing procedure and gave a voice to all backbench Councillors.

It was proposed, seconded and **AGREED**:

1. That the Governance and Audit Committee recommended the following Constitutional amendments to Full Council:

a)The inclusion of an additional paragraph to the Officer Scheme of Delegation under Paragraph 26(f) of Part 3(c) (Responsibility for Functions) in respect of lettings of land and property to read: "To arrange lettings (in excess of seven years) of land and property not immediately required for other purposes at rent/license fees fixed by the Section 151 Officer, providing that the total cost of the lease in its entirety does not exceed £100,000."

b)The amendment of paragraph 14.14 of Contract Procedure Rules under Part 4 (Rules of Procedure) in respect of the common seal of the Council to reflect that this should only be used for those contracts where the total cost exceeds a value of £500,000.

c)The amendment of Council Procedure Rules and Overview and Scrutiny Committee Procedure Rules to reflect that members of the public be entitled to ask a supplementary question without notice when having registered to speak.

d)The amendment of Procedure Rules for all meetings of the Council to entitle any Member of the Council to speak at meetings without requiring the discretion of the person presiding the meeting.

- 2. That the Monitoring Officer be authorised to amendment the Licensing Procedure Rules to ensure that they were consistent with the requirements of the Licensing Act 2003, as set out in the report.**

11. Internal Audit Draft Plan 2023-2024

The Internal Audit Manager and Principal Auditor introduced themselves to Members.

This Internal Audit Manager presented the proposed Internal Audit Plan for 2023/2024. The plan detailed the activities to be audited and the indicative scope for each audit. The draft plan gave Members an opportunity to comment on the plan and the priorities that had been established. The audit plan delivered assurance within agreed resources. For 2023/24 this was 142 days and was to be amended throughout the year to reflect changing assurance needs.

It was recognised that the Council was to be flexible and prepared to revise audit activity, responding to changing circumstances or emerging risks. Liaison meetings with senior management were to enable the Auditors to firm up audit activity during the year and deliver the audits included in the plan in accordance with the schedule once the plan was agreed. Resources would then be allocated accordingly to the audits at the specified times. The areas covered in the plan were to be reported to the Governance and Audit Committee and enable the Head of Internal Audit to provide an annual internal audit opinion.

The report included details of the audits that were to be conducted as well as suggestions of areas where more assurance may have been sought.

Compliance with the required protocol and framework were confirmed.

The Auditor invited Members to arrange several meetings with Internal Audit within the year as detailed in the terms of reference as Members required.

During discussion, Members raised the following points:

- It was acknowledged that a complete change of administration was a highly unusual situation. Were the plans decided prior to the current administration?
- Housing Repairs and related compliancy issues were a particular concern within Members communities. Could this be added?
- Was there enough time to complete all the audit work planned within the timescale given?

The Auditor confirmed discussions around the plan had included officers and managers from across the organisation, with a focus on key risk areas informing the work as well as the view of Assurance Lincolnshire. There was an emphasis on determination to complete the work whilst accepting that the implementation of further pieces of work would cause another area to become delayed.

The Chief Finance Officer clarified that the plan was not necessarily focussed on performance issues but the assessment of internal framework issues. The plan was flexible and was likely to be adapted and modified during the year with the support of Members. The Committee had to consider that resources were finite if changes were to be made to the plan.

The Governance and Audit Committee **NOTED** the report.

12. Treasury Management Annual Report 2022-2023

The Deputy Leader introduced the report, informing Members that work had been done to improve the scope of environmental and ethical issues within the Strategy. The Council had received criticism in the past for investing in Qatar.

The Assistant Director of Finance confirmed that there were no current investments in Qatar Bank.

The Council was required by regulations issued under the Local Government Act 2003 to produce an annual treasury management review of activities and the actual prudential and treasury indicators for 2022-2023. This report met the requirements of both the CIPFA Code of Practice on Treasury Management, (the Code), and the CIPFA Prudential Code for Capital Finance in Local Authorities, (the Prudential Code).

For the financial year 2022-2023 the Council adhered to the suggested minimum reporting requirements and members received the following reports:

- An annual treasury management strategy in advance of the year which was approved by Council on 3 March 2022
- A mid-year treasury update report which was approved by Governance and Audit Committee on 30 November 2022
- An annual review following the end of the year describing the activity compared to the strategy

The Strategy for 2022/23 was approved by Council on 3 March 2022. A key element of daily operations focused on comparing current market conditions in conjunction with the Link (the Council's treasury advisors) credit rating list, using this as a tool for guidance, with the option to deviate from this guidance only when there were clear alternative options available to the Council. Any decision of this nature was clearly documented for audit purposes.

As of 31 March 2023, the Council had a fixed rate debt of £86.2 million which related to the self-financing of the Housing Revenue Account which took place in 2012 and there were total investments of £69.6 million. There was a reduction of investments of £20 million over the past year which related to the repayment of the balances of the COVID-19 business grants which the Council was responsible for distributing to eligible businesses. The Council received a grant of £8.2 million in March 2022 which related to the energy rebate that was distributed to eligible households.

Of the £86.2 million, £3.2 million was short-term debt repaid annually and the balance was considered long-term debt. There were no liquidity issues. The Council complied with the policy to not retain more than 35% of investments long-term (over 365 days). This totalled £3.8 million.

As part of the Prudential Code, the Council set out a number of Prudential and Treasury indicators as part of the treasury strategy. Treasury Management functions had operated effectively over the year. All deposits placed had been repaid in a timely manner. Investment income levels had exceeded the amended budget by £1.4 million which had been higher than anticipated. Performance indicator levels had all been achieved.

Members raised the following points during discussion:

- What amount was reserved as cash liquidity?
- There was £3 million in the local authority property fund, the value of which had temporarily reduced due to performance challenges within the commercial property market. It was acknowledged that this was a factor to monitor closely.
- A Member asked for an explanation on the investments in other Local Authorities.
- Officers were commended for their treasury management investment performance which had produced significantly increased income levels

The Assistant Director of Finance confirmed that a maximum of £19 million was kept in overnight investments as it ensured the Council could meet cashflow liquidity requirements. The Local Authorities investment had a maturity date attached and was similar to investing in a bank. Prior to such investments, advice was taken from treasury advisors and such investments were considered amongst the most secure to make. It was clarified that Local Authorities benefitted from supporting each other.

The Chief Finance Officer added that a long-term view was established when considering the property market and the risk profile was considered robust enough to withstand the current volatility.

It was proposed, seconded, and **AGREED:**

That the Governance & Audit Committee:

- a) **Approved the content of the annual report on the Treasury Management activity for 2022/2023.**

13. Draft Annual Governance Statement 2022-2023

The Chief Finance Officer presented the report.

On an annual basis the Leader of the Council and the Chief Executive publish an Annual Governance Statement.

The 'Delivering Good Governance in Local Government; Framework' set the standard for local authority governance in the UK. The concept underpinning the Framework was to support local government in taking responsibility for developing and shaping an informed approach to governance, aimed at achieving the highest standards in a measured and proportionate way.

Ensuring compliance to the code was important and several key principles were adhered to so as ensure this. There was an element of forward planning in the production of an action plan as well as looking back over the year. The Committee were to be kept informed on the implementation of those actions.

Assurance Lincolnshire were to add their work on the internal audit and there were some external audit work to be completed on the statement of accounts and returned at a later date.

During discussion, the following points were raised:

- If the Statement of Accounts were delayed, there would be an impact on the work in the coming year. What effect would this have on the governance for 2023-2024?
- What were the parameters for confirming when stakeholders were consulted?

The Chief Finance Officer confirmed that a delegation was agreed at the Governance and Audit Committee in November 2022 for the accounts to be signed off by the Chairman and the Chief Finance Officer. There had been further audit work undertaken and nationwide influences that required modifications to the Council's accounts. It was an unfortunate position and outside of the Council's control. External Audit resources are due to be returned in July and Officers will keep Members informed. Consultation was a key principle within the Framework with due process in place to seek engagement when necessary. Response was on a service-by-service basis.

The Assistant Director of Culture and Leisure informed Members that a consultation was underway involving Wyndham Park and the Green Flag status.

The Governance and Audit Committee:

- a) **Considered the contents of the report and provided feedback on the Draft Annual Governance Statement**

14. Work Programme 2023 - 2024

The Committee noted the Work Programme 2023 – 2024.

The Chief Finance Officer confirmed that the Market Review update would be scheduled for the September Committee and a statement of accounts update at the July meeting.

15. Any other business, which the chairman, by reasons of special circumstances, decides is urgent.

There was no other business raised.

16. Close of Meeting

The Chairman closed the meeting at 16:40.