

SOUTH RIBBLE BOROUGH COUNCIL

Governance Committee

Meeting held at 6.00pm on Wednesday, 25 November 2015 in Wheel Room, Civic Centre, West Paddock, Leyland, PR25 1DH

Present:-

Councillor Ogilvie (in the chair)

Councillors Clark, Foster, Patten, Mrs Snape and Mrs K Walton

In Attendance:-

Mark Gaffney (Director Neighbourhoods, Environmental Health & Assets), Susan Guinness (Head of Shared Financial Services), Janet Hinds (Principal Procurement Officer), Andy Houlker (Senior Democratic Services Officer), Steve Nugent (Head of Human Resources) and David Whelan (Legal Services Manager)

Also in attendance

Councillor Bennett (Cabinet member for Finance and Resources) and Councillor Mullineaux (Cabinet member for Neighbourhoods & Streetscene)

Fiona Blatcher (Grant Thornton) the council's external auditors

Public Attendance:- 0

Other Members & Officers:- Councillors Mrs Moon and Wharton and 2 officers

Minute No.	Description/Resolution
20	Apologies for Absence None, all members of the committee were present.
21	Declarations of Interest There were no declarations of interest.
22	Minutes of the Last Meeting The minutes were accepted as a correct record. However, on balance for clarity the committee felt that in respect of the Review of Investment Counterparties 2015/16 (min. no.18 refers), the degree/level of the committee's questioning/challenge was not fully reflected in the preamble of that minute. The committee had asked a variety of questions on this item around forms of investment, request for due diligence, clarification on the selection process for treasury management advisors (mandatory requirement and/or limited options and, decided by whom?) and also around whether central government had a guarantee scheme for any investments made by a local authority into another local authority should the latter subsequently be declared bankrupt. RESOLVED (unanimously): That the minutes of the meeting held on 23 September 2015 be approved as a correct record and signed by the chairman.
23	External Audit - The Annual Audit Letter for SRBC Further to min. no.14, 23 September 2015 (External Audit - The Audit Findings for South Ribble) Fiona Blatcher (Grant Thornton-external auditor) presented the report. This report summarised the previous report and confirmed the council's positive position and was expected to appear on the council's website. In respect of the apparent rebate of fees from the former Audit Commission, it was confirmed that this was a rebate to the council because as part of the Audit Commission's winding-up process it was identified that it had received more income than needed so clients had received a percentage refund of their fee. The committee was advised that there might still be some residual monies next year indicating

	<p>the council might receive a subsequent further refund.</p> <p>RESOLVED (unanimously): That the report be noted.</p>
24	<p>External Audit – Governance Committee Update Report Further to min. no.14, 23 September 2015 (External Audit - The Audit Findings for South Ribble) and min. no.23 above (External Audit - The Annual Audit Letter for SRBC) Fiona Blatcher (Grant Thornton-external auditor) remained present and addressed the committee. The report gave a background to external audit, an update on the work of external audit and drew attention to national developments. External audit was keen to receive the committee's views on how this information might be presented, such as whether it did not want a report or the information be in a different format.</p> <p>In addition Fiona Blatcher explained that as the council's external auditor's engagement lead she had been involved with South Ribble for seven years. Under their rules concerning the independence of external audit, she now had to move away from being involved with this council. The external auditor's new engagement lead would be Mark Heap who would attend the next meeting of the committee.</p> <p>The committee questioned whether the substance of this and the previous item warranted external audit's attendance at the meeting. It was confirmed that there would not have been any reduction of the council's fee if external audit had not attended. The Chairman indicated that he would discuss further external audit's reporting to the committee at a later date with Mark Heap.</p> <p>Responding to an enquiry about members registering to receive email updates on topics from Grant Thornton, the external auditor confirmed that there was for no extra charge the updates.</p> <p>In respect of the three local government issues/topics (Devolution Revolution, Government's New Homes announcement, Council Tax Collection Consultation) identified on pages 10-12 of the report and whether councillors had been briefed on those. The committee confirmed that to date members had not. The chairman wondered if those might be the subject of a future member learning hour or the committee receive a briefing on them. The Cabinet member commented on the topics and felt there had not been sufficient detail/clarity on which to brief members. The Director Governance and Business Transformation (Monitoring Officer) commented the council continually received numerous consultation/questionnaire requests and had to be selective on those it responded to, and in respect of the council tax collection consultation this had not contained anything the council was not already doing.</p> <p>The Chief Executive (in the audience) commented that external audit had included such topics to ensure councillors were aware of them. It might be that a briefing on a topic was unnecessary as it would be considered in another forum such as Cabinet, full Council or by the Scrutiny Committee. He re-assured the committee that the council was picking key issues/topics (and not being hidden from them). The committee felt that it needed to know where the council stood against the three topics in the report. The Chief Executive confirmed a co-ordinated response on the three topics would be presented to the next meeting of the committee.</p> <p>RESOLVED (unanimously) that:</p> <ol style="list-style-type: none"> 1) the report be noted; 2) a co-ordinated response on the three local government topics in the report be presented to the next meeting of the committee; and 3) Fiona Blatcher be thanked for her commitment and professionalism during her term as the council's external audit engagement lead.
25	<p>Capital Programme – Parks & Open Spaces 2014/15 Further to min. no.41, 15 April 2015, the chairman welcomed the Cabinet member for Neighbourhoods & Streetscene (Councillor Mullineaux) and the Director Neighbourhoods, Environmental Health & Assets (Mark Gaffney). The Cabinet member commented that</p>

following the committee's previous comments and subsequent discussions he presented the report which he felt provided the requested additional information around schemes (both completed and on hold) in the 2014/15 Parks and Open Spaces Capital Programme. The chairman appreciated the revised report as a step forward and suggested there should always be an explanation if and when a scheme is put on hold. Councillor Mullineaux confirmed that in future that was the intention.

In response to a comment that 37% (by value) of the schemes had been moved to the following year (2015/16) and how this might then impact on resources, the Director Neighbourhoods, Environmental Health & Assets re-assured the committee that the officer resources were allocated to schemes in the capital programme (whether direct staff or consultants) and should capacity be an issue the council could allocate additional resource.

The committee was re-assured that schemes delayed/put on hold had no advance borrowing and therefore the council had no adverse financial impact.

The Cabinet member for Finance and Resources took the point that the council had a history of underspend on the capital programme but commented that improvements had been made and there would be more. He added that he would have liked to have seen the Gregson Lane scheme this year but as explained in the report an external funding opportunity arose through Sport England for a larger wider scheme.

In respect of a question regarding the risk implications in the report, the Director referred to the explanation in the report for the delay of the footpath scheme in Withy Grove Park. In that it had been appropriate and financially prudent to delay the council's scheme in view of the works by Network Rail.

The committee was advised that the difference in figures between those in this report and a later item on budget monitoring was because the figures in this report were more detailed.

The committee was informed that each year the council started with the intention of completing all the schemes in the capital programme. However, there were invariably circumstances that arose which changed this such as Network Rail's proposal to install a footbridge over the railway into Withy Grove Park. If those eventualities were known about at the beginning they could be catered for. As the council continued to actively seek new funding streams, if and when they became available these would affect the progress of schemes in the capital programme.

RESOLVED (unanimously): That the report be noted.

26

Contracts Procedure Rules & the 2015 Public Procurement Regulations

The chairman welcomed the Cabinet Member for Finance and Resources (Councillor Bennett) and the Principal Procurement Officer (Janet Hinds). The report highlighted changes brought about by the 2014 EU Public Contracts Directive which had been transposed into UK law as new 2015 Public Contracts Regulations. In addition it informed the committee that the UK government had also taken the opportunity to incorporate additional areas for below the EU threshold procurements. Those were aimed at improving access to procurement opportunities for small businesses.

To comply with those requirements and to incorporate some additional practical updates, the committee was asked to consider and comment on the Contracts Procedure Rules (CPRs) amended as illustrated in Appendix 1 attached to the report.

In relation to the apparent lengthy timescale between the change in legislation coming into effect and this report, the committee had concerns and sought and received re-assurance. In that at a practical level procedures and processes were in place within the council to comply with the requirements. Also, in response to an enquiry, should the council have been audited on this matter in August, it would not have been found deficient in its compliance with requirements.

In respect of Paragraph 40 and non-compliance reporting, the committee was informed

there was no recollection of this previously being referred to the Monitoring Officer. However, any instances would be dealt with on their own merits, such as the extent of non-compliance and what if any impact it might have on the contract. It was envisaged that if the matter was to be pursued it would be to the Governance Committee.

Regarding the use of the council's provisions for urgent decision between meetings (Standing Order No.38) the committee was informed there was no recollection this as yet had been used for a procurement issue. The provision was included in the CPRs should the need arise.

The changes were aimed to demonstrate that the UK was open to small and medium-sized enterprises. As indicated in the report adverts for local authority contracts above £25000 were not only published on the council's portal but also had to be advertised on the national Contract Finder portal.

It was confirmed the current threshold of £172,514 for the pre-qualification stage was based on an amount in Euros. The threshold amount changed every two years and was next expected in January 2016, following which, documentation would be updated.

An area the committee discussed was around CPR 8.3 relating to instances where a number of low value contracts of the same type might be awarded in a 12 month period, had been expanded and clarified. Whilst contracts below £10,000 might not be looked at by the procurement service, there would be spend analysis and checks on procurement activity (how procured/procedure followed). Spend analysis would enable the council to identify (in value order) the annual spend with each supplier.

In respect of the council keeping records on disposals, the committee was informed that the council maintained an assets register in which these were recorded.

In respect of CPR 5, the committee was advised that the decision as to whom was felt to have the appropriate skills and knowledge appropriate to the task was taken by the specific service area/department. The council provided procurement training and documents/guidance were available on its intranet (Connect). Similarly when there were changes to the CPRs there were often update training sessions lead by the procurement and legal services.

The committee was keen that in respect of CPR 39.4 and the development of an e-form, the wording be strengthened from an intention to develop to that an e-form would be developed.

The committee appreciated the report which showed a lot of work had been done on this topic. It was easy to read and clear where and what changes had been made.

RESOLVED (unanimously):

That subject to an amendment of the wording of Contract Procedure Rule 39.4 relating to the development of an e-form, the committee recommends the council adopt the changes to the Contract Procedure Rules as illustrated in Appendix 1 to the report.

27

Budget Monitoring Statement as at 30 September 2015

The Cabinet Member for Finance and Resources (Councillor Bennett) and the Head of Shared Financial Services (Susan Guinness) presented the report. This provided an update on the council's overall financial position compared to the financial plan for the first six months of the current financial year (2015/16). The Cabinet member felt the report was comprehensive with variances itemised. He was pleased to report the level of savings the council had already made in 2015/16.

In respect of Business Rate Retention, the committee was disappointed to note the council had as last year been made to pay a levy to central government. This was again a result of the council exceeding the level of income from original forecasts. Whilst optimistic the council would not have to pay a further levy in 2016/17 the scheme was very complex and not transparent and going forward there was the possibility the scheme would change and more would be known next month.

	<p>Whilst the report highlighted a couple of health warnings at the beginning and one at the end, the Cabinet member was not concerned in the short term but currently the long term financial position would be challenging.</p> <p>The report indicated the council had made savings on salaries due to vacant posts. Councillor Bennett commented that an organisation such as this council would never have all its posts filled all the time. This council had now for some time not simply automatically filled posts if and when they became vacant. The council was always looking at its services and how they might be delivered.</p> <p>The committee picked up on the current level of underspend in the council's Capital Programme with large sums re-phased to future years. As with the discussion above under min. no.25 (Capital Programme – Parks & Open Spaces 2014/15) items were included in the programme and circumstances changed, such as a change in technology which enable a possible different way of working that might provide efficiencies/savings or the council had been able to retain some equipment longer than originally planned. The council needed to make provisions in the budget because there were certain items such as IT servers which would not give a warning if and when they failed, but would then require replacements. It was felt the Cabinet member would appreciate and understand the committee's reasons for its enquiries as he had been in their position a couple of years ago.</p> <p>The Cabinet member was not unduly concerned with the reported drop in planning application income as he knew that a significant application was anticipated in December. There was no perceived downward trend and some budgets had movement during the year.</p> <p>It was confirmed to the committee that the council had received an additional £18,000 income from interest on its investments partly due to the increased flexibility introduced following the Review of Counterparties 2015/16. Also that the Heritable Bank had paid the council £80,000 in relation to interest owed following the Icelandic banking crisis in 2008. This bank had now almost repaid all the monies owed to the council (almost 98% returned to date).</p> <p>Overall whilst still early in 2015/16, the committee acknowledged the council faced some challenges but it was an encouraging picture of its position which would be revisited at a later date.</p> <p>RESOLVED (unanimously): That the report be noted.</p>
28	<p>Forward Plan</p> <p>In noting the presented Forward Plan, Councillor Foster referred to the recent Call-in by the Scrutiny Committee. He felt that many members of the council had not been aware of the Call-in. During the discussion the committee was unclear whether or not all appropriate procedures had been followed or if there was an omission in those procedures. It was agreed to look at the arrangements/procedure for a decision to be called-in.</p> <p>RESOLVED (unanimously) that:</p> <ol style="list-style-type: none"> 1) the Forward Plan be noted; 2) Councillors Clark, Foster and Ogilvie meet with officers to discuss procedures regarding Call-in; and 3) a report on the council's Call-in procedures be presented to the next meeting of the committee.
29	<p>Changes To Statutory Dismissal Procedure For Protected Officers (The Chief Executive (Head of Paid Service / Section 151 Officer) and Director Governance and Business Transformation (Monitoring Officer) declared personal interests in this item and left the meeting.)</p> <p>The Head of Human Resources (Steve Nugent) and David Whelan (Legal Services Manager) were present and addressed the committee. The report set out proposed changes to the statutory dismissal procedure for three posts within the council's</p>

establishment, namely the Head of Paid Service, Monitoring Officer and Section 151 Officer.

This was because the Local Authorities (Standing Orders) (England) (Amendment) Regulations 2015 required councils to agree a new process for the dismissal of those post holders. As part of this the council would also need to establish a Disciplinary Panel that would have responsibility to recommend to a meeting of the council the dismissal of such post holders should evidence lead to such a conclusion. The Leader of the Council had been approached about the membership of the panel. Subsequently this had been informally discussed with members of Cabinet which had collectively felt the panel's membership be entirely of independent persons. The report included in the event of an allegation, an outline of the proposed process to be followed.

The committee was informed that there had been a delay in presenting this report as government guidance on the regulations had been inconclusive and the council had also contacted the North West Employers Organisation (NWEO).

Following tonight a report would subsequently be presented to Cabinet on 10 February 2016 and then be subject to approval by the Council at its meeting on 2 March 2016.

The committee's initial view was the report lacked detail for what would be a serious matter. It wondered how the proposed panel would be chosen and on what basis, ad hoc? The committee also questioned the need for separate panel, in addition to the council's existing standards arrangements which included the Standards Committee with an independent person. This could be amended instead of creating a new body. There was significant debate with different views being expressed as to whether the Disciplinary Panel should consist entirely of independent persons, independent persons plus councillors such as the Chairman of the Standards Committee or be made up mainly of councillors. The committee was informed that the council had requested any examples of such dismissals at other authorities but information was very scarce. The government had wanted the process to be transparent and not be time consuming.

In view of the committee's overall concerns regarding the changes proposed in the report, the chairman suggested that this matter be further considered by the committee's Constitution Task Group, following which, a more detailed report be presented to the committee at its next meeting.

RESOLVED (unanimously) that:

- 1) consideration of this the item be deferred;
- 2) a meeting of the Constitution Task Group (consisting of the members of the committee) be convened to discuss the council's proposed procedures to cater for the changes to Statutory Dismissal Procedure for Protected Officers; and
- 3) a further report on Changes To Statutory Dismissal Procedure For Protected Officers be subsequently presented to the next meeting of the committee.

(The meeting finished at 8.35pm)

..... Chairman