

Audit and Standards Committee

Meeting held 19 October 2023

PRESENT: Councillors Mohammed Mahroof (Chair), Sue Alston, Fran Belbin, Simon Clement-Jones, Laura McClean, Henry Nottage and Alison Howard (Co-opted Independent Member)

1. APOLOGIES FOR ABSENCE

1.1 An apology for absence were received from Councillor Sioned-Mair Richards

2. EXCLUSION OF THE PRESS AND PUBLIC

2.1 No items were identified where resolutions may be moved to exclude the press and public.

3. DECLARATIONS OF INTEREST

3.1 There were no declarations of interest.

4. MINUTES OF PREVIOUS MEETING

4.1 The minutes of the meetings held on 21 September 2023 were agreed as an accurate record.

5. PUBLIC QUESTIONS AND PETITIONS

5.1 The Chair (Councillor Mohammed Mahroof) stated that the Committee had received questions from a member of the public, prior to the meeting. These questions, along with the questions submitted by the questioner at the 21 September 2023 meeting, will be responded to by the General Counsel and shared with the Committee.

Ruth Hubbard (questions from 21 September 2023)

1. I note the report of the External Auditor at agenda item 7 in relation to the annual accounts 2021/2. In relation to the Annual Governance Statement she says she has no further issues to report. However the AGS for the year in question is not written in line with the CIPFA/SOLACE requirements that I understand have statutory force. Omissions include no reference to the framework principles, and no statement of assurance in the AGS, but the whole approach taken does not really align with the requirements. Will the committee bring this rapidly to the auditor's attention?

The 21/22 Annual Governance Statement has been formally approved by this committee and meets the statutory requirements. The guidance you refer to is not statutory guidance, under the Local Government Act

2003 and relevant Statutory Guidance can only be issued by the Secretary of State. We are satisfied the relevant Annual Governance Statement meets the requirements of the legislation but the Council's Auditors are aware of your comments and views.

2. Last meeting I asked about the review of the members Code of Conduct and what would be different this time given the significant events documented in Lowcock and the failure of the members code of conduct at the time to be invoked and applied. Essentially the answer given was that the committee believed the same thing would not happen again under the new Code of Conduct, since adopted.

I feel this answer is misconceived and inaccurate. At the time of your discussions of the new Code of Conduct there was a real, live and clear bullying incident witnessed by all at a virtual full council meeting and perpetrated against a member of the public. No action appears to have been taken by anyone at all though, after considerable effort pursuing it following the incident, the then Deputy Leader wrote to me 7 months later that it was "not the council's finest hour". This incident - that was current at the time of your discussions - does not seem to have registered as being relevant or to have informed the committee's considerations of the new code of conduct - behaviours towards members of the public were simply unmentioned.

Some people may feel these kinds of incidents are all in the past now (and I hope they are). However, the failure of Audit and Standards Committee to pick up on issues through the street trees dispute, and its failure to acknowledge or pay attention to the fact of behaviours going on that we're concurrent to its consideration of the new Code of Conduct does not generate confidence for the future i.e. that inappropriate behaviours (or worse) will be swiftly picked up and dealt with. The problem seems to me not the words written in a Code of Conduct (and there was also a perfectly adequate Code of Conduct at the time of the street trees dispute too), but the reluctance or inability to apply it in practice (and perhaps in the face of other considerations regarded as more important). So I ask again, what will be different this time, in reviewing the Code of Conduct? Will this committee discuss the failure of its Code to be effective in practice in the past, and identify what needs to happen in the future to ensure that it is applied routinely, and is also seen to be so?

I think your question actually correctly identifies that the issue you have raised is not so much to do with the Code of Conduct yourself but how it is implemented via the Monitoring Officer Protocol. The Code of Conduct is based on the Local Governance Association model, and in some places goes further than that model code in expectations of behaviour. However, the law is clear that complaints of a breach of the Code of Conduct have to be dealt with by way of a written complaint and can only be dealt with the Council's protocol. This has recently been confirmed by the LGO. This committee's sub-committee determines any breach and therefore the committee as a whole cannot institute a formal complaint as that would be a conflict of interests. The General Counsel has asked to meet you to understand the experience you mention above

and to consider how we can better ensure that those matters that ought to be formally considered are understood and initiated in line with legal requirements and fair process.

3. I have received no answer to my question from the July meeting about the numbers of outstanding complaints relating to the street trees dispute (at that July date). The guidance is that answers are normally provided within ten days (and I did not think this was a difficult or complex question to warrant such delay).

We are sorry for the delay in responding to this question. However, the position was not straight forward and as a matter of courtesy to those directly involved it would not have been right to make a public answer before the issues had been agreed with them. That has now been done and the answer can be given, which is that there are five complaints in relation to the handling of the Streets Ahead contract that are proceeding for consideration following the publication of the Sheffield Street Tree Inquiry Report.

4. I note the review of the 2022/23 Annual Governance Statement in the committee's workplan (and that I raised last meeting for being approximately 90% of the exact same words from the previous years AGS, and for being almost entirely unaligned with the requirements of CIPFA/SOLACE framework). Given I think the AGS will essentially need to be rewritten almost in its entirety, and that it forms part of the annual accounts, will the committee reopen the statutory public inspection window once the AGS is re-done?

We do not accept that the 2022/2023 Annual Governance Statement will need to be rewritten in its entirety. Whilst we agree that the findings can be better presented the process to getting to the matters identified in the statement was a proper and full one and is undertaken each year. With regard to the presentation, we have engaged CIPFA to undertake a review on our behalf to consider how it can allow easier understanding by the public, so I hope you will see those improvements when it is presented to us for consideration. That does not undermine the validity of the draft AGS that was published as the revised presentation will be based on the findings from that proper process. It is not possible to open the public inspection window. Under the Accounts and Audit Regulations that period has to follow publication of specified documents in the first 10 days of June. One of those documents is 'the annual governance statement prepared in accordance with regulation 6(1)(b), whether or not that statement has been approved.'. Therefore as a draft AGS has been published the period has by law concluded and the Council cannot reopen it.

Ruth Hubbard (questions from 19 October 2023)

1. I have not received answers to my questions submitted for the last meeting on 21st September (questions below this email). These were submitted a little late and I was not present so my questions were not taken, but it was stated I

would receive written answers. The minutes are late so I cannot check if answers might be recorded there. Is there a reason for the delay to written answers beyond the 10 day guideline?

We apologise for the delay in responding to those questions. Whilst we should try to answer in the 10 days sometimes other pressures can delay the response.

2. My question 1 for the last meeting related specifically to the main agenda item. With the auditor in attendance at that meeting it is disappointing that no one chose to raise this particular question with the auditor in the meeting. I accept this may be because Members thought my comment/question here was of no concern, but I beg to differ. I followed up on this specific matter as part of a letter to the General Counsel on 26th September. I stated that:

"I have now been advised to, in the first instance, ensure that the Independent Member of A and S is aware of the concern I raised - please could you let me know how I contact her as obviously her contact details are not listed by the council. Secondly I have been advised to contact the External Auditor directly on this matter. Thirdly I have been advised that without the CIPFA/SOLACE framework being complied with, my expectation should be that the External Auditor would issue a statutory recommendation or otherwise qualify their opinion. I also said I was inclined to put my concerns in the public domain but thought I should wait for written answers first, at least. I said I would need to take the actions above if I did not receive an answer by 6th October. I was actually too busy last week to do these so, again, I thought I would hang on to come back again to this committee in the first instance.

Thank you for raising your concerns and bringing them to this committee. It is good that people are engaged and interested in our governance and provide challenge. We should also seek continuous improvement in what we do which is while we think our AGS meets the legal requirements we have asked CIPFA to also consider how we undertake the review for the 2023/2024 accounts as well as reviewing the presentation for last years AGS. The Independent Co-opted member is aware of the matters you have raised but the General Counsel will let you know how you can relay any specific concerns to her.

3. Can I also draw your attention to my question 3 from 21st September that refers to (what I thought was a quick and simple) question I asked this committee in July and to which I was promised a written answer. Despite following up I still have no answer. Can I please now be given a full account of why this question appears to have been so difficult to answer.

This has been answered above.

6. INFORMATION MANAGEMENT ANNUAL REPORT

6.1 The Senior Information Management Officer and Data Protection Officer

(Srah Green) stated that the report gave an overview of the information governance arrangements and performance at Sheffield City Council for the financial year 2022/23.

- 6.2 2022/23 was the fifth financial year in which the General Data Protection Regulation (GDPR) and the Data Protection Act (DPA) 2018 have been in force. The Council has continued to work to ensure compliance with the law and an ongoing GDPR Action Plan is in place.
- 6.3 Subject Access Requests (SARs) were when citizens made a request, to be provided with personal information which the Council held on that individual. In 2022/23, the Council handled 809 SARs. 294 were withdrawn or abandoned by the customer and 515 were actioned. 338 of these were answered in time. The overall SAR performance figure for 2022/23 was 65.6%. The Information Commissioner's Office (ICO) contacted the Council concerning 14 separate complaints by data subjects about their SARs in 2022/23. The majority of these cases concerned situations where individuals had complained to the ICO because they had not been provided with the information they had requested within the statutory timeframe.
- 6.4 The Council was legally required to respond to requests for information under the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). Responses must be made within 20 working days, subject to some exceptions. Each response must confirm if the information was held and then either provide the information or explain the reasons why it cannot be disclosed (exemptions/exceptions). In 2022/23, the Council received 1586 requests and answered 82.12% in time. This was a decrease on the number of information requests received in 2021/22, of 112 requests. The response rate is an improvement on the 76.22% achieved in 2020/21 but fails to meet the Information Governance Board's target of 95% of requests answered in time. The ICO sets the acceptable compliance rate at 90%.
- 6.5 The Council was required to publish certain information on its website or open data sites. The Council was committed to open data to support its transparency agenda and routinely published information about its services, key decisions, and expenditure.
- 6.6 In 2022/23, 442 incidents were logged through the Council's information security incident process, 352 of these incidents were classed as personal data breaches. Most of these breaches involved customer personal data and were caused by human error with emails or post being delivered to the wrong person. Of these breaches, three were considered to meet the risk threshold and were reported to the Information Commissioner's Office.
- 6.7 Information security was about the protection of information or, more specifically, its confidentiality, integrity, and availability. The Council was

required to take appropriate security measures to protect information, particularly personal data, from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to information transmitted, stored, or otherwise processed. This was increasingly including the protection of critical infrastructure, which is connected to the internet, or other networks, such as 4G or 5G.

- 6.8 The Council continued to provide guidance, training, and awareness, explore better use of information technology to automate records management processes (especially retention and disposal), and gain a better understanding of management responsibility to own the information processed within their service area.
- 6.9 Information security training was mandatory. For the Council's desk-based staff 96.1% had completed the learning and 38.6% of deskless staff had completed the learning. 95.35% of Social Care staff completed the training in time for the 2022/23. Additionally, there had been training of discrete groups such as Foster Carers, student Social Workers, elected Members, Children and Families staff, ICT, communication and information governance for cyberattacks, and intelligence sharing with the police.
- 6.10 Members of the Committee asked questions and the following responses were provided: -
- 6.11 The Senior Information Management Officer and Data Protection Officer explained that in regard to Directed Surveillance, an application would be made to the Magistrates for any surveillance work carried out within the organisation. She added that the Council made 4 requests in the calendar year 2022.
- 6.12 The Senior Information Management Officer and Data Protection Officer stated that Officers did not follow up with customers as to why they had withdrawn their SAR.
- 6.13 The Senior Information Management Officer and Data Protection Officer explained that as the Council was required to publish certain information online, the Council did this via its website or on Data Mill North and ArcGIS.
- 6.14 The Senior Information Management Officer and Data Protection Officer explained that following the ICO Audit, the Council will focus on supporting different services to ensure as much information as possible was published.
- 6.15 The Senior Information Management Officer and Data Protection Officer stated that the Council met its compliance rate in 2019 in relation to FOIAs and were progressing each year. The Council was committed to reach its compliance as soon as possible.

- 6.16 The Senior Information Management Officer and Data Protection Officer confirmed she had not benchmarked against other authorities therefore was unable to say whether 352 security incidents were a high or low figure for an authority this size.
- 6.17 The Senior Information Management Officer and Data Protection Officer stated that the pandemic affected the response time for dealing with SARs as employees were re-directed to other services during that period.
- 6.18 The Senior Information Management Officer and Data Protection Officer explained that when there was a data breach, a risk assessment was immediately undertaken to determine the level of severity. If the severity level was reached, then the Council had 72 hours to report the breach to the ICO.
- 6.19 The Senior Information Management Officer and Data Protection Officer confirmed the Council had not been a victim of a major cyber security breach although we had to be prepared for one. She added there was an IT security team that was focused on this particular risk.
- 6.20 The Senior Information Management Officer and Data Protection Officer believed there will be a reduction in the number of FOI requests due to the Council publishing as much data online as possible. Customers can be signposted to the relevant pages online. She mentioned that the Council usually received larger number of requests when there was either a change in policy or something in the news which interested or concerned people of Sheffield.
- 6.21 The Senior Information Management Officer and Data Protection Officer explained the process of dealing with an FOI request. A request from a member of the public could be sent to any officer within the Council, it was their duty to understand that was a request for information and therefore forward the request onto the FOI team. The FOI team would then review that request and then send that on to the relevant services which hold that information which had been requested. Those services will have an internal deadline for gathering that information and providing it to the FOI team. The FOI team have 20 days to respond to the member of public, they can extend that if necessary although it can not be extended beyond 40 days.
- 6.22 RESOLVED: That the Audit and Standards Committee noted the annual information governance update.

7. INFORMATION COMMISSIONER'S OFFICE (ICO) FOI AUDIT REPORT

- 7.1 The Senior Information Management Officer and Data Protection Officer explained that In May 2023, the ICO carried out a consensual audit of the Freedom of Information (FOI) practices at Sheffield City Council. This took place over two days in May 2023. Sheffield City Council received a set of

recommendations from the ICO following the audit.

- 7.2 The Senior Information Management Officer and Data Protection Officer stated the ICO virtually interviewed many Council employees such as key workers part of the FOI team, the Monitoring Officer, and the Chief Executive. Following the Audit, the Council received 13 recommendations from the ICO. The ICO also published their executive summary on the ICO website.
- 7.3 The Council received the assurance rating of 'reasonable'. The 13 recommendations were welcomed by the Council and now part of a key priority list for the Council to work towards.
- 7.4 Members of the Committee asked questions and the following responses were provided: -
- 7.5 The Senior Information Management Officer and Data Protection Officer explained that the Council had commissioned PwC to support the review and to provide independent advice on implementing the recommendations.
- 7.6 The Senior Information Management Officer and Data Protection Officer confirmed the size of the FOI team needed to be bigger.
- 7.7 Councillor Laura McClean thanked the FOI team for all their hard work.
- 7.8 **RESOLVED:** That the Audit and Standards Committee noted the Audit update.

8. WORK PROGRAMME

- 8.1 The Committee considered a report of the General Counsel that outlined the work programme for the remainder of the municipal year. Members were asked to identify any further items for inclusion.
- 8.2 That an update report based on the progress of the ICO's recommendations be brought next year to a meeting of the Committee.
- 8.3 The Chair asked officers to re-order the items so that the length of future meetings was more balanced for the remainder of the municipal year.
- 8.4 **RESOLVED:** That (1) the work programme be re-ordered and (2) an ICO recommendations progress update report be added to the work programme.

9. DATES OF FUTURE MEETINGS

- 9.1 It was noted that the next meeting of the Committee would be held on 23 November, 2023.

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