



Leicester
City Council

Minutes of the Meeting of the
AUDIT AND RISK COMMITTEE

Held: MONDAY, 29 SEPTEMBER 2014 at 5:30 pm

P R E S E N T:

Councillor Westley (Chair)
Councillor Dr. Moore (Vice Chair)

Councillor Alfonso

Councillor Desai

Councillor Naylor

* * * * *

1. TRAINING SESSION PRIOR TO MAIN MEETING - REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000

The City Barrister and Head of Standards and the Information Governance Manager delivered a presentation on the Regulation of Investigatory Powers Act 2000, and outlined the Council's policy and compliance with RIPA. A copy of the presentation is attached to the minutes for information.

2. APOLOGIES FOR ABSENCE

Apologies were received from Councillors Dr. Chowdhury and Grant.

3. DECLARATIONS OF INTEREST

Members were asked to declare any interests they may have in the business on the agenda.

Councillor Moore declared an interest in that she sold books to schools.

In accordance with the Council's Code of Conduct, the interest was not considered so significant that it was likely to prejudice Councillor Moore's judgement of the public interest. Councillor Moore was not therefore required to withdraw from the meeting during consideration and discussion on the items.

4. MINUTES OF THE PREVIOUS MEETING

AGREED:

that the minutes of the previous meeting of the Audit and Risk

Committee held on 30th July 2014 be confirmed as a correct record.

5. REGULATION OF INVESTIGATORY POWERS ACT (RIPA) 2000: BI-ANNUAL PERFORMANCE REPORT JANUARY 2014 - JUNE 2014

The Director of Information Services submitted a report on the performance of the Council in authorising Regulation of Investigatory Powers Act (RIPA) applications, from 1st January 2014 to 30th June 2014. The report was presented by the Information Governance Manager.

The report advised there had been one Directed Surveillance authorisation and no communications data authorisations in the period being reported upon. The Office of Surveillance Commissioners (OSC) report also showed a downward trend nationally in applications made. It had also been suggested that when future RIPA training was offered to officers, the offer would be extended to the local court, as the OSC had shown concern over the level of magistrates training which could lead to legal challenges.

It was reported there had been no recent operations within the last six months, and there had been a staff change. The report listed Authorising officers in place at the Council, and the Council would apply for an authorisation at the court if they believed they had a strong case.

It was suggested that one reason why the need for surveillance in its current form would continue to decline was the rise in social media, whereby more people were aware of what others were doing. It was reported that the team who investigated benefit fraud were busier than ever, and RIPA would be used as a last resort after using other technology.

The Chair thanked the Information Governance Manager for the report.

RESOLVED:

1. that the report and its contents be noted.
2. that the Committee make any recommendations or comments it sees fit either to the Executive or Director of Information Services.

6. PROPOSED CHANGES TO THE CONTRACT PROCEDURE RULES AND FINANCE PROCEDURE RULES

The Director of Finance submitted a report to inform the Audit and Risk Committee of proposed changes to the Contract Procedure Rules (CPR) and Finance Procedure Rules (FPR). The report was presented by the Head of Procurement.

The changes to the CPR and FPR as outlined in the document had been drafted to ensure the Council complied with current and forthcoming legislation in terms of procurement and to protect the Council from any potential legal challenge when conducting procurement activity.

In response to queries, the Head of Procurement defined local companies as those organisations which had an LE post code. He said there was a separate documented food procurement plan, and the strategy was to source more food locally, and was work in progress. He also informed the meeting that the Procurement Services team would be a point of contact with regards to schools and governing bodies, whereby training could be offered if required allowing schools to better interpret the contract procedure rules.

Members asked what checks and balances were in place when extending contracts. The Head of Procurement said there were clearer rules introduced on extending contracts; there were new systems and processes to manage changes to contracts, for new approvals, and a monitoring process. He added training would be developed for contract managers on contract monitoring, and the Procurement Services team would maintain an overview.

The Chair thanked the Head of Procurement for the report.

RESOLVED:

1. that the report and its contents be noted.
2. that the Committee make any recommendations or comments it sees fit either to Officers and/or Full Council.

7. COUNTER FRAUD ANNUAL REPORT 2013-14

The Director of Finance, the Director of Local Services and the Director of Housing submitted a joint report, which provided information to the Audit and Risk Committee on counter-fraud activities during the financial year 2013-14 and 1 April 2014 to 30 June 2014. The Principal Investigations Officer presented the report.

The report outlined key issues and threats, briefly outlined the review of fraud services being undertaken by the Head of Revenues and Benefits and informed the Committee of the submission of two regional funding bids to the Department for Communities and Local Government's £16million Fighting Fraud fund for the years 2014/15 and 2015/16, which was intended to assist local authorities to adjust to changes resulting from the introduction of the Single Fraud Investigation Service.

The meeting was informed the Council continued to benefit from having teams of fully qualified and experienced Accredited Counter-Fraud Specialists whose skill and ability continued to protect the Council and its residents from fraud and loss.

The Director of Finance informed the meeting that fraud cases were taken through to prosecution, and that people who were successfully prosecuted would often have court costs attached to earnings. Members were asked to note that non-working people could be placed in crisis if costs were attached to benefits, therefore all circumstances were taken into account, and often an agreement is reached to repay the council without the need for prosecution.

She added that media publication of prosecutions also acted as a deterrent.

The Chair asked that financial information be included in the Counter Fraud Annual Report, and that additional information from the Revenues and Benefits section be brought to the next meeting of the Audit and Risk Committee.

The Chair thanked the Principal Investigations Officer for the report. He also thanked the departments for the hard work they did.

RESOLVED:

1. that the report and its contents be noted.
2. that the Committee make any recommendations or comments it sees fit either to the Executive, the Director of Finance, the Director of Local Services or the Director of Housing.
3. that financial statements, as requested, be brought to the next meeting.

8. REVIEW OF THE ANTI-FRAUD, BRIBERY AND CORRUPTION POLICY AND STRATEGY

The Director of Finance submitted a report, that provided information to the Audit and Risk Committee on the revised Anti-Fraud and Corruption Policy and Strategy. The purpose of the policy was to ensure that Members and Officers took the necessary steps to prevent, deter, detect and investigate fraud, and that the Council had in place proper procedures to prevent corruption including bribery. The Principal Investigations Officer presented the report.

The report focussed on measures in place to identify key, high risk areas, and contained information on the levels of fraud against authorities, including procurement fraud and fraud committed against schools. Members were asked to note the summary and recommendations at Appendix 2 to the report following the publication in November 2013 of the annual document of the Audit Commission 'Protecting the Public Purse' and the Audit Commission checklist for fighting fraud at Appendix 3. It was reported that figures provided by the National Fraud Authority indicated that fraud against local government cost more than £2 billion annually.

The Director of Finance confirmed the Council had a formal whistleblowing policy which offered whistleblowers a degree of protection, and complied with the law.

RESOLVED:

1. that the report be received
2. the Anti-Fraud, Bribery and Corruption Policy as set out at Appendix 1 of the report be approved
3. the Committee make any recommendations or comments it sees fit either to the Executive or Director of Finance.

9. ANNUAL GOVERNANCE REPORT 2013/14 AND LETTER OF REPRESENTATION

KPMG, the External Auditors, presented a report that summarised the key findings arising from the audit of Leicester City Council's financial statements for the year ended 31st March 2014, and the auditor's assessment of the Council's arrangements to secure value for money (VFM) in its use of resources.

Members' attention was drawn to the headlines in the report and the proposed unqualified audit opinion on the accounts. The external auditors said the covering report with the accounts provided an update on changes to the accounts, none of which made an impact on or changed the position of the accounts.

The External Auditors had reviewed the Annual Governance Statement and confirmed that it complied with 'Delivering Good Governance in Local Government: A Framework' published by CIPFA/SOLACE, and was not misleading or inconsistent with other information they were aware of from the audit of the financial statements.

External Auditors had worked with officers and had identified risks around changes to the Local Government Pension Scheme, and accounting for the business rates retention scheme, but there were no issues to report to the Audit and Risk Committee.

The External Auditors also concluded that the Council had made proper arrangements to secure economy, efficiency and effectiveness in its use of resources and thereby secured value for money.

Members' attention was drawn to Appendix 1, and they were asked to note that three of the five recommendations made last year, all relating to procedures around bank reconciliations, had been fully implemented. The following two recommendations were in progress, and no new recommendations were identified:

- Publish the names of members who fail to return related party declarations. The Chair of the Audit and Risk Committee may wish to consider what further actions are available.
- Produce a report on non-routine journals raised by finance staff, and provide evidence that journals were authorised by a senior member of the finance team.

The External Auditor reported that overall the report was one that most organisations would aspire to, and thanked Officers at the Council for their assistance and cooperation over the course of the year.

The Chair thanked the External Auditors for the report.

RESOLVED:

that:

1. the Committee note the Annual Governance Report and the recommendations contained within the report.
2. the letter of representation be approved.
3. the issues arising from the accounts, and the responses given, be noted.
4. the two outstanding issues and recommendations be considered.

10. ANNUAL GOVERNANCE STATEMENT 2013 - 2014

The Director of Finance submitted a report which sought the approval of the Audit and Risk Committee for the Council's Annual Governance Statement 2013 – 2014, which the Council was required to publish as part of its financial accounts reporting. The report was presented by the Head of Internal Audit and Risk Management.

The Committee was informed the statement should assure the people of Leicester that the Council operated in accordance with the law and had due regard to proper standards of behaviour and that it safeguarded the public purse.

The Chair thanked officers for the report.

RESOLVED:

1. That the Council's Annual Governance Statement for 2013-2014 be approved.

11. STATUTORY STATEMENT OF ACCOUNTS 2013-14

The Director of Finance presented the statement of accounts to the Audit and Risk Committee, which presented the City Council's financial performance for the financial year 2013/14. The accounts had been prepared in accordance with the Code of Practice on Local Authority Accounting in the UK. The Committee was informed that separate management accounts were presented to the Executive and to the Overview Select Committee, which set out the revenue and capital outturn for the authority.

Members were asked to note there had been no substantial changes in the accounting standards or the Council's accounting policies during the 2013/14 financial year, although it was noted there were some changes to the requirements for accounting for defined benefit pensions schemes which required restating some comparative 2012/13 figures.

Discussion took place and questions were asked of officers.

RESOLVED:

that the Audit and Risk Committee:

1. note the accounts for the year ended 31st March 2014
2. adopt the audited accounts for the year ended 31st March

2014.

12. ANNUAL REPORT OF THE AUDIT AND RISK COMMITTEE TO COUNCIL FOR THE MUNICIPAL YEAR 2013-14

The Director of Finance submitted a report for submission to Council setting out what the Audit and Risk Committee had achieved over the Municipal Year 2013-14. The report was presented by the Head of Internal Audit and Risk Management. The Committee noted that there was no specific requirement for such a report, but it was considered best practice for the Committee to be able to demonstrate its effectiveness in overseeing the City Council's control environment, and was reflected in the Committee's terms of reference.

The Head of Internal Audit and Risk Management advised that the Committee's terms of reference had been reviewed and updated prior to the beginning of the Municipal Year and the Committee had approved them at its meeting on 8th May 2013, and the Council had approved them on 23rd May 2013. A further update of the terms of reference was approved by the Committee at its final meeting of the Municipal Year on 15th April 2014.

It was reported the Committee was well established and had continued to make an important contribution to the effectiveness of the City Council's internal control and corporate governance frameworks, and was a central component of the Council's system of audit. It was also noted that during the Municipal Year for 2013-14, the Committee had met on seven occasions, all of which were properly constituted and quorate.

The Chair thanked officers for the report, and agreed to take the report to Full Council

RESOLVED:


1. that the Annual Report of the Committee to Council for the Municipal Year 2013/14 be approved and presented to Council as submitted by the Director of Finance.
2. that the Council be recommended to receive the report.

13. CLOSE OF MEETING



The meeting closed at 7.14pm.

Regulation of Investigatory Powers Act 2000

Audit Committee
September 2014



What is surveillance?




National Picture

Interception warrants – Your ISP can pass data to the Government and not be allowed to tell you.

Mass Surveillance – Possible if the UK Secretary of State deems it necessary. Recent Snowden/NSA revelations


ISPs - can be forced to install interception technology on their systems.

Encrypton keys – Government has the power to demand encryption keys.




RIPA

Potential to increase privacy as it spells out how everything must comply with the Human Rights Act



Article 8 – Right to respect for private and family life

1. Everyone has the right to respect for his private and family life, his home and his correspondence.
2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.




RIPA

In practice, the increased number of situations in which interception is allowed can reduce privacy

Controversial - "A widespread extension of the powers of the state to snoop on its citizens ..." *Daily Telegraph, June 2002*

Benefits example – Convicted Ian Huntley (Soham murders)

DRIPA – New emergency legislation extends powers of RIPA to outside UK




RIPA

Exists to ensure that surveillance activities are in line with the Human Rights Act and includes:

- Monitoring, observing or listening to persons, their movements, conversations, activities or communications
- Recording anything monitored, observed or listened to in the course of surveillance
- Surveillance by or with the assistance of a surveillance device

e.g. Bugging, hidden cameras, intercepting calls or emails





RIPA Oversight?



RIPA Oversight

Two national regulators who carry out inspection regimes and produce reports to parliament

OSC – Office of the Surveillance Commissioner (website: <http://osc.independent.gov.uk/>)


IOCCO – Interceptions of communications Commissioner's Office (Website: <http://www.iocco-uk.info>, Twitter @iocco_oversight)






The Grim RIPA

Cataloguing the ways in which local authorities have abused their covert surveillance powers




RIPA



Snoopers Charter?

- Dog fouling
- Monitoring employees
- Breaking smoking ban
- Cameras in recycling bins
- School admissions complaints



RIPA


After pressure from organisations such as Big Brother Watch...

Further Safeguards introduced, The “Double Lock”, for Local Authorities

Serious crimes only punishable by minimum 6 months in jail

+


Judicial authorisation by a Magistrate



RIPA FORMS

Three key issues

- Necessity
- Proportionality
- Collateral Damage



Leicester's Process for Directed Surveillance



- Unique reference number generated on Intranet form
- Emails notice to IG Team
- Officer completes RIPA form
- Authorising Officer signs off, commenting on necessity and proportionality (Authorising Officers: Alison Greenhill, Jill Craig, Ann Branson, Kamal Adatia)
- Officer is permitted to represent Council in court
- Officer presents form to Judge
- Judge signs the RIPA form
- Forms held by central IG team
- RIPAs reviewed or closed after 3 months.
- Data is supplied by officers
- OSC inspects Council forms every 2-3 years

Leicester's Process for Comms Data



- Managed by NAFN on our behalf
- Unique reference number generated on Intranet form
- Emails notice to IG Team
- Officer completes NAFN online application
- NAFN Authorising Officer signs off, commenting on necessity and proportionality
- Officer is permitted to represent Council in court
- Officer presents form to Judge
- Judge signs the RIPA form
- Forms held by central IG team
- Data is supplied by NAFN
- RIPAs reviewed or closed after 3 months.
- IOCCO inspects NAFN every year

Monitoring



- IG Team monitor all request for review and closure
- IG Manager manages any inspection processes
- IG managers completes annual returns to OSC and IOCCO
- Code of Practice expects data to be presented to elected members: Leicester agreed to do this through the audit committee
- Previous inspections have all been very good, with 100% compliance

Contact Details



Information Governance

Lynn Wyeth, Information Governance Manager
Ground Floor, Bosworth House, 9-15 Princess Road West,
Leicester, LE1 6TH
Tel. 0116 4541300 Email: info.requests@leicester.gov.uk

Legal Services

Kamal Adatia, City Barrister & Head of Standards
16 New Walk, Leicester, LE1 6UB
Tel. 0116 4541401 Email: Kamal.Adatia@leicester.gov.uk

