

Agenda Item 3

GENERAL PURPOSES COMMITTEE 12 MARCH 2014

(19.15 - 22.07)

PRESENT Councillors Peter McCabe (in the Chair), Agatha Mary Akyigyina, Laxmi Attawar, John Dehaney, Janice Howard, Gilli Lewis-Lavender, Ian Munn BSc, MRTPI(Rtd), Rod Scott, Debbie Shears and David Williams

Officers in attendance: Ged Curran (Chief Executive), Paul Evans (Assistant Director, Corporate Governance), Dean Shoemith (Joint Head of Human Resources), Simon Williams (Director of Community and Housing), Margaret Culleton (Head of Audit and Investigations), David Keppler (Head of Revenues and Benefits), Tim Revell (Interim Head of Electoral Services) and Lynne Hartley (Democratic Services Officer).

Ernst&Young: David Wilkinson, Rob Hampson, Julian Stanford, Michael Yeats and Paul King.

ALSO PRESENT Councillors Mark Allison (Deputy Leader and Cabinet Member for Finance) and Peter Southgate.

1. DECLARATIONS OF INTEREST (Agenda Item 1)

No declarations were made.

2. APOLOGIES FOR ABSENCE (Agenda Item 2)

None.

3. MINUTES OF THE MEETING HELD ON 5 NOVEMBER 2013 (Agenda Item 3)

RESOLVED: That the minutes of the meeting held on 5 November 2013 are agreed as a correct record.

4. EXTERNAL AUDITOR: REVIEW OF ANONYMOUS WHISTLEBLOWING STATEMENT (Agenda Item 4)

The Chair invited David Wilkinson of Ernst & Young to introduce the report before giving Members the opportunity to comment and ask questions.

Asked why there was no report from officers Paul Evans explained that the report was independent of the Council. He also confirmed that this was the first Committee at which the report had been considered as it was felt appropriate for the matter to be dealt with by the Council's audit committee. The Chair added that he had not wished it to appear that the Committee was steered by officers in any way. Ged Curran explained that he was present in place of the Director of Corporate Services to avoid any suggestion of influencing Members.

Rob Hampson and Julian Stanford, who had conducted the review, were then introduced and gave details of their backgrounds in fraud investigation. David Wilkinson gave an overview of the review and its findings, drawing attention to the fact that it had not identified any corruption, malpractice or unlawful expenditure but that there were a number of issues to be addressed and these were reflected in the recommendations.

The Chair then opened the meeting to questions.

Councillor Janice Howard asked why the review took so long to complete and was advised that the first six steps were largely finished by mid December. The decision was then taken to conduct interviews which took place in January. The interviewees were given an opportunity to comment and responses were received by 5 February. The draft review was produced and a further right of reply given. Responses to this were received by 24 February and the letter issued on 27 February.

Councillor Rod Scott asked whether Human Resources had not addressed this situation because of lack of resources, whether payment through service companies was lawful in terms of National Insurance and tax payments, whether the external auditors had a role in looking at such appointments and had the Audit Commission done so previously and whether disciplinary action would follow.

Ged Curran stated that the significant weakness identified by the review was the absence of a system to trigger action in respect of long term interim and consultant appointments. Dean Shoesmith added that currently HR monitor interim and agency staff appointments. He was happy to include consultants and to have a formal process to demonstrate a business case for a continued placement, as is the case for agency workers. He confirmed that HR would flag up any anomalies if aware of them whether or not there was a procedure in place.

Paul Evans advised that payment through service companies was the industry standard at one time; he did not consider them to be unlawful.

David Wilkinson said that EY's approach was driven by key areas of risk and materiality; the appointment of contractors and interims was unlikely to fall within these areas. He was not aware of any concerns being flagged up by the previous external auditor.

The Chair asked the Committee to consider at a later stage whether it wished to exclude the public from the meeting in order to discuss possible disciplinary issues. Councillor Gilli Lewis-Lavender asked about the status of the 2001 Code referred to in the review and queried the statement that the rates paid were comparable to the market rates.

Paul Evans advised that the 2001 Code was the one referred to in the whistleblowing report and was the Code in use at the time. It was not a legal requirement but provided to assist managers in best practice. The Council's current Standing Orders gave a link to a revised protocol.

David Wilkinson clarified that the market rates for interim appointments do not compare directly with the full time equivalent rates which were shown on page 10. In response to a question from Councillor John Dehaney about whether the review should have gone further Rob Hampson advised that having reached the point where they had answers to the questions that needed to be answered further enquiries would have been disproportionate, unnecessarily intrusive and expensive.

Councillor David Williams posed questions about the auditor's fee, the reasons given to justify the appointments and the extent of involvement by Members and the Chief Executive.

David Wilkinson advised that, subject to the approval of the Audit Commission, the fee for the review would be £34k.

Rob Hampson said that the reasons given for the continued appointments were not accepted as adequate evidence of achieving value for money and therefore had not been tested.

Paul Evans and Ged Curran explained that previously the Cabinet Member had responsibility for signing off a vacancy to appoint to an interim post. This system would not have impacted on the current position. Currently the sign off is done by a director in a different department. There had not been a specific Member level decision to effect this change. The Chair stated that such decisions to change processes should be reported to Cabinet.

Councillor Mark Allison clarified that two of the posts had been signed off by a Cabinet Member. He did not accept the need for the sign off to be returned to Cabinet Members felt that member level involvement in the renewal of interim posts should be considered. The finance department had been a key driver in the improvements achieved by the Council and as Cabinet Member he saw his role as being to achieve value for money and implement the Council's aims and objectives; not to be involved in the terms and conditions of officer appointments.

Ged Curran said that he was aware of the status and length of time of the appointment of I1. He was content with the situation because he knew of the difficulties of appointing to such posts and because of the contribution made by the postholder which has included structural changes which have improved service delivery.

Councillor Ian Munn questioned who had made the appointments and what process had been followed.

Rob Hampson responded that the Director of Corporate Services had interviewed for and appointed to the two posts. David Wilkinson added that the payments agreed were comparable to the market rates for interim appointments. He referred to the comment in the review that the appointment process gave rise to a lack of transparency and insufficient oversight.

Councillor Debbie Shears queried whether staff had been reassured that it is still safe to make whistleblowing allegations and whether all departments were now looking at current consultants appointments together with HR.

Ged Curran advised that the Council has a highly developed system for whistleblowing and regular reports are considered by the Committee. He agreed to look at ways to further promote and give reassurance about the scheme. He also confirmed that a review of similar appointments is being conducted across the Council but advised that in some areas of work, including social services, finance and procurement, it was virtually impossible to recruit on a permanent basis.

With the agreement of the Chair Keir Greenaway, GMB Branch Secretary, addressed the Committee and referred to concerns raised by staffside with the Chief Executive in January 2013 about interim appointments and asked whether there would be an assessment of whether the Code of Conduct had been broken and whether the CE had any previous involvement in interim appointments in the directorate of Corporate Services.

Ged Curran confirmed that there would be an assessment and that he had counter signed a single price quotation. Dean Shoesmith said that HR are looking into the concerns raised and are drawing together a register of consultant and interim appointments across the Council which will be reviewed. Ged Curran reiterated that

there would be some areas where transfer to the permanent workforce would not be an option and agreed that these issues should be reported to Members. The introduction of a time trigger point to prompt action on interim appointments would also aid reporting to Members.

In view of the assurances given that there would be a review of whether the Code of Conduct had been breached it was agreed that the Committee would not consider at this stage whether disciplinary action was called for.

The Committee then considered each of the recommendations in turn.

Ged Curran confirmed that the review referred to in the first recommendation would be carried out and reported back to the Committee. The single price quotation form would be applicable to all procurement purposes.

It was agreed to add to the second recommendation the inclusion of a mechanism to allow Members to monitor and be involved in the review.

The second and third recommendations were amended to include reference to consultants.

The Chair asked officers to include clear definitions of “interim” and “consultant” in the review to remove any possible ambivalence.

In respect of the fourth and fifth recommendations Dean Shoesmith clarified that HR could advise and ensure appointments are made on a proper contractual footing but did not have the resources to sit on all interview panels.

Councillor Rod Scott proposed additional recommendations to proceed immediately to recruit to the five posts concerned and any other interim appointments proposed or in place for more than six months and to cease payments through service companies. These motions fell as they were not supported.

The Chair asked officers to include guidance from HMRC on payments through service companies in the review.

RESOLVED: That the Committee agrees –

- (1) that the Council should review the use of single price quotation forms, particularly in respect of the justifications required to be documented and the approval process for their use, and report back to the Committee in June;
- (2) that officers should report all prospective interim and consultancy positions to HR and that HR should be responsible for maintaining a central database of all prospective and live roles filled by interim and consultancy appointments; and that a mechanism is built in to allow monitoring of this register at Member level;
- (3) that HR should challenge departments on their use of long term interim and consultancy appointments (over six months), the rates which are being paid and ensure that external recruitment is considered;
- (4) that HR should be involved in any recruitment process, including the recruitment of interim managers;
- (5) that Council should review its interview process and the policy on the number of interviewers required, including in relation to the appointment of interim managers;
- (6) that the Council should review its policy on declarations of interest to include personal friendships; and
- (7) that the Council should communicate to all Council officers any revisions it makes to its procurement policies.

5. EXTERNAL AUDITOR: CERTIFICATION OF CLAIMS AND RETURNS ANNUAL REPORT 2012/13 (Agenda Item 5)

Following an introduction from Paul King Dean Shoesmith confirmed that the causes for the delay in the teachers' superannuation return had been identified and contact details amended to ensure there was no repetition.
The report was NOTED.

6. EXTERNAL AUDITOR: MERTON COUNCIL AUDIT PLAN (Agenda Item 6)

Introducing the report Paul King draw attention to the arrangements for the Constructors Health and Safety Assessment Scheme (CHAS) on page 35 and the risks on page 36.

In response to questions from Members officers undertook to provide written details about CHAS and the changes to the valuation, classification and completeness of disclosures of the Council's property, plant and equipment.
The report was NOTED.

7. EXTERNAL AUDITOR: PENSION FUND AUDIT PLAN (Agenda Item 7)

Michael Yeats advised that the report would also be considered by the Pension Fund Advisory Committee the following week.
The report was NOTED.

8. EXTERNAL AUDITOR: PROGRESS REPORT (Agenda Item 8)

The report was NOTED.

9. PROCUREMENT: REPORT OF THE CHAIR OF THE PROCUREMENT BOARD (Agenda Item 9)

Simon Williams introduced the report and in response to questions advised that it was anticipated that the guidelines would be ready by September and that the Head of Commercial Services was responsible for overseeing the strategy. Most activity was undertaken by departments with the HCS's team offering support where necessary.

Simon Williams undertook to arrange for an appendix showing the structure to be sent to Members.
The report was NOTED.

10. INTERNAL AUDIT: PLAN, STRATEGY AND CHARTER 2014/15 (Agenda Item 10)

The report was NOTED.

11. INTERNAL AUDIT: PROGRESS AND WHISTLEBLOWING UPDATE (Agenda Item 11)

Introducing the report Margaret Culleton drew attention to the increase in whistleblowing allegations and the achievement of the sanctions target.

RESOLVED: That the Committee notes –

(1) the Internal Audit Progress Report;

- (2) the whistleblowing update; and
- (3) the independent review being carried out on a proposed share internal audit and investigation service.

12. REVIEW OF POLLING PLACES (Agenda Item 12)

Tim Revell introduced the report.

Councillor John Dehaney opposed the proposed use of St Barnabas Church in Graveney Ward as he did not consider it to be appropriate use of a church and rejected the statement in paragraph 4.2 that he had no objection to the proposal. Officers were asked to investigate potential alternatives, such as the North East Mitcham Community Centre, but agreed to recommend the church if no suitable alternative could be found, noting that other churches are used as polling stations. Councillor Ian Munn MOVED that the proposed Cricket Green ward change should be rejected and stated that the scout hall does not have proper disabled access and that there would be parking and traffic congestion at the school's opening and closing times. On being put to the vote the motion was lost with 2 in favour, 3 against and the Chair not voting.

RESOLVED: That the Committee

- (1) asks officers to seek an alternative site for the Graveney ward polling place but in the absence of a suitable location agrees to recommend to Council the site proposed in the report; and
- (2) recommends that Council approve the replacement polling places in Graveney, Merton Park and St Helier wards as detailed in the report.

13. FREEDOM OF THE BOROUGH - PROPOSED CRITERIA AND PROCEDURES (Agenda Item 13)

Councillor Rod Scott queried the need for Members to raise nominations with their political group and was advised that this was to reduce the potential risk for embarrassment if a nomination was rejected.

Councillor Scott moved that the requirement be removed but the motion was not supported.

RESOLVED: That the Committee recommend that Council adopt criteria and procedures in relation to nominations for the award of the freedom of the borough as set out in paragraphs 2.7 to 2.10 and paragraphs 2.12 and 2.16 of the report.

14. WORK PROGRAMME (Agenda Item 14)

The Committee noted the outline work programme and agreed to add the report requested at agenda item 4 to the June meeting.