



CITY OF WESTMINSTER

MINUTES

Audit and Performance Committee

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Audit and Performance Committee** held on **Wednesday 6 September, 2023**, 18th Floor, 64 Victoria Street, London, SW1E 6QP.

Members Present: Councillors Paul Fisher, Alan Mendoza, Jessica Toale and Aziz Toki (Chair).

Also Present: Gerald Almeroth (Executive Director of Finance and Resources), Jake Bacchus (Director of Finance), Nick Byrom (Strategic Performance Manager), Heather Clarke (Divisional Head of Housing Needs), Sarah Crouch (Deputy Director of Public Health), Helen Farrell (Director of Special Projects), Bernie Flaherty (Deputy Chief Executive and Executive Director of Adult Social Care and Health), Janine Gray (Head of Revenues and Benefits), Martin Hinckley (Director of Revenues and Benefits), Ed Humphreys (Interim Director of Commercial Partnerships), Debbie Jackson (Executive Director of Regeneration, Economy and Planning), Frances Martin (Executive Director of Environment, Climate and Public Protection), Clare O'Keefe (Lead Policy and Scrutiny Advisor), Caron Smith (Head of Procurement), Phil Triggs (Tri-Borough Director of Treasury and Pensions), Sarah Warman (Strategic Director of Housing and Commercial Partnerships), Neil Wightman (Director of Housing), Lee Witham (Director of People Services) and Pedro Wrobel (Executive Director of Innovation and Change).

1 MEMBERSHIP

- 1.1 The Committee noted apologies from Mark Maidment (Independent Member) who was viewing the meeting online.

2 DECLARATIONS OF INTEREST

- 2.1 There were no declarations of interest.

3 MINUTES

- 3.1 The Committee approved the minutes of its meeting on 24 July 2023.

RESOLVED:

- 3.2 That the minutes of the meeting held on 24 July 2023 be signed by the Chair as a correct record of proceedings.

4 MATTERS ARISING AND WORK PROGRAMME 2023/24

- 4.1 There were no matters arising since the previous meeting.
- 4.2 The Committee and officers noted that that the Council calendar of meetings for the next municipal year, 2024/25, will be drawn up in the autumn. The Committee requested that officers reflect on this year's meeting schedule and whether the reporting timetable allows the Committee to be as effective as it can be. The Committee noted that the Lead Policy and Scrutiny Advisor will liaise with officers on behalf of the Committee.
- 4.3 The Committee raised that it would welcome an update on the next stage of the Mental Health Reablement Service, referred to in point 5.5 of the minutes of the Committee's last meeting on 24 July 2023.

ACTIONS:

- 4.4 That the Lead Policy and Scrutiny Advisor will liaise with officers regarding the calendar of meetings for 2024/25 to ensure the meetings are effective.
- 4.5 That the Committee will receive an update the Mental Health Reablement Service.

5 QUARTER 1 PERFORMANCE REPORT

- 5.1 The Committee received an overview from Nick Byrom (Strategic Performance Manager) and understood that the Quarter 1 Performance Report covers the period from April 2023 to June 2023. The Committee was informed that there are two Key Performance Indicators (KPIs) that are at risk of meeting the year-end target, at the time of publishing: Freedom of Information (FOI) requests responded to in line with statutory deadlines (targets based on Information Commissioners Office (ICO) guidance) and the percent of young people that were known to the Youth Offending Team and were continuing to re-offend. The Committee noted that Quarter 1 is early in the reporting cycle and officers will be able to make a more detailed assessment at the Quarter 2 mid-year position, which will be received by the Committee at its meeting on 28 November 2023.
- 5.2 The Committee queried whether officers are assured that the mitigations put in place are appropriate to manage the FOI off-track target. The Committee understood that FOI response targets are derived from ICO guidance, which broadly requires 90 percent of responses to be delivered within statutory timescales as an indicator of acceptable performance for local authorities. The Committee was informed that the Council receives a large volume of FOI requests compared to other local authorities: in Quarter 1, the Council received 493. It is recognised that there have been changes to processes, including: improved interdepartmental collaboration, which is critical where there are responses required from a number of different directorates, also, there has been an emphasis on escalation and early triaging of complex cases. The Committee was pleased to note that the FOI KPI has been on an improvement trajectory, with a 3 percent improvement from Quarter 4,

furthermore, there is a similar process around Subject Access Requests, of which there has been a significant improvement in performance in the same period.

- 5.3 The Committee questioned whether the Council has effective arrangements in place with partners for managing the reoffending of young people known to the Council's Youth Offending Team. The Committee noted that the data is released by the Ministry of Justice and reflects the 2021 status; the young people are tracked over an 18-month period to monitor reoffending. The Committee was pleased to learn that in real terms there has been a reduction in reoffending, that this relates to a very small cohort of children and the new offences committed are not an escalation to the previous offences. The Youth Offending Team work closely with several partner agencies which include schools, the police, services within the Council, as well as families and provide a range of interventions to address any reoffending risks. The Committee requested information on the range of offences committed by the cohort of young re-offenders, including how many, if any, of the cohort were involved in the "Oxford Circus JD robbery" incident in August 2023.
- 5.4 The Committee noted the prediction that serious youth violence is likely to return to pre-COVID-19 levels and queried how the Council is planning for this. The Committee was informed that a full paper on this specific query is going to a meeting of the Cabinet on Monday 11 September 2023 which outlines the range of services and interventions in place, that serious youth violence levels remain lower than pre-pandemic levels and that a number of incidents are committed by non-residents coming to the West End. The Committee also asked what preventative activities are undertaken to prevent serious youth violence. The Committee understood that the Integrated Gangs and Exploitation Unit and Youth Justice Team work with schools, children and families using trauma-informed approaches with those children at risk of being excluded from school since this is known to be a factor that can impact on youth offending. The Committee also noted recent Ministry of Justice funding which has gone towards the Turnaround Project to work directly with young people when they first come into contact with the police to seek to prevent escalation.
- 5.5 The Committee recognised that the uncertainties regarding future government funding are noted as 'great' in the report and requested more information on the mitigations against this risk. The Committee noted that the risk level reflects the degree of uncertainty. Whilst the assumptions are reviewed closely when the Medium-Term Financial Plan (MTFP) is drawn up, it is difficult to determine due to the number of changes to core funding and the ambiguity around timing and implementation of these; it remains a high risk nationally.
- 5.6 The Committee referred to support for rough sleepers and requested an update on this. The Committee was pleased to note that additional funding had been secured from the Department for Levelling Up, Housing and Communities for two projects to extend and enhance services or those who are sleeping on the streets. The first project is a continuation of a successful partnership with Camden Council with assessment and triage beds at St

Giles. The second is an enhanced joint Severe Weather Emergency Protocol offer from Winter 2023, to provide around 60-100 placements.

- 5.7 The Committee queried how often officers assess the inclusion of risks presented in the Quarterly Performance reports and whether directorates are confident that they are an appropriate reflection of the risks facing the Council. The Committee was informed that there are always inherent risks in what the Council undertakes and there is a corporate framework to reflect these risks. Where the risks that score higher than 12 points report to the Audit and Performance Committee, there are also additional mechanisms to deal with top areas of risk, which include a Performance Board, a Change Board and internal audit processes which looks at how the Council handles risk. The Committee was pleased to note that the Risk Management Strategy is currently undergoing a review and requested to be kept updated on this.
- 5.8 The Committee also expressed concern that some of the risks set out in the risk register of the Performance Report may be too conservative and stressed the balance of being cautious without being alarmist. The Committee queried why there were well-established risks included in the Report and reported as being the highest risks despite not featuring previously. The Committee noted that they had been included in the Finance Monitors received by the Committee and the Strategy and Intelligence Team are building a better connection between various data sets to construct a more wholistic picture (Performance Reports primarily report on operational risk and Finance Monitors report on financial risks). The Committee noted that proportionate responses to risks will be built into future Performance Reports and also feed into the Risk Management Strategy review, including the matrix of criteria used to determine risk levels.
- 5.9 The Committee queried the Public Health KPI which failed to meet its target level (percent of opiate drug users that left drug treatment successfully who do not re-present to treatment within six months) and requested an explanation of the commercial provider's response to this. The Committee noted that there are fewer uses overall and that measures have been undertaken to ensure that the issues are being rectified. These include: a new Marketing and Engagement lead who has been appointed to work with partners and will be based one day a week at the local probation office, there are weekly visits to managed hostels and surgeries, and further engagement with Wandsworth His Majesties Prison to ensure continuity of the case post-release.
- 5.10 The Committee referred to the percentage increase in number of volunteers involved in the Night Stars Programme KPI being at risk of failing to meet its target levels. The Committee understood that there is a recruitment drive planned in the autumn, that lessons have been learned from the arrest incident in May 2023, the KPI has recently been re-worded and there has been a six percent increase against the baseline already at the end of Quarter 1, and before the recruitment drive. The Committee requested a breakdown of the demographic of Night Stars volunteers.

- 5.11 The Committee enquired about the engagement activity running from June to August 2023 on the High Streets Programme. The Committee noted that there has been a positive response and the consultation has been extended to ensure that certain stakeholder groups have been targeted. The Committee was informed that the outcome of the consultation will be shared when it has closed, and the analysis has been completed.
- 5.12 The Committee noted that whilst the percentage of Stage 2 Complaint responses despatched within 20 working days has improved, it is still at risk of failing to meet its target levels and questioned whether this was a trend experienced across the Council. The Committee was informed that complaints remain a key priority area across the Council, especially in the Housing Service, and there is a programme of work to ensure that the backlog is cleared, the quality of responses remains at a good standard and learning of complaints is embedded. The Committee was pleased to note that the trajectory of improvement is positive.

RESOLVED:

- 5.13 That the Committee noted the performance updates at Quarter 1.
- 5.14 That the Committee indicated areas where it required more information or clarification.

ACTIONS:

- 5.15 That the Committee will receive data on the range of offences committed by the children known to the Youth Justice Team.
- 5.16 That the Committee will receive information on how many, if any, of the children known to the Youth Justice Team were involved in the "Oxford Circus JD robbery" incident in August 2023.
- 5.17 That the Committee will be kept updated on the review into the Council's Risk Management Strategy at relevant stages.
- 5.18 That the risks presented in future Performance Reports will be proportionate and that the Risk Management Strategy review will also consider this.
- 5.19 That the Committee will receive a breakdown of the demographic of Night Stars volunteers.
- 5.20 That the outcome of the High Streets Programme consultation will be shared with the Committee when appropriate.

6 QUARTER 1 FINANCE MONITOR

- 6.1 The Committee received a summary of the first Finance Monitor for 2023/24 from Jake Bacchus (Director of Finance) which outlines the position for the General Fund (GF) and Housing Revenue Account (HRA). The Committee noted the current position of the GF, including on-track delivery of savings achievements, overspend, favourable variance as interest rates continue to increase incrementally and effects of inflation. The Committee also understood that the HRA position is on budget and the Capital programme's variance and factors contributing to this. Key subsidiaries were outlined as well as the school plans to reduce deficits to a balanced position.

- 6.2 The Committee raised a query regarding school deficits and how more are now in deficit in comparison to last year, and what the effect of this is. The Committee noted that falling school rolls, especially following the COVID-19 pandemic, have contributed to more schools being in deficit and work is being undertaken with schools to help compile deficit reduction plans and ensure they are reasonable and realistic. The Committee was also informed that this work schools to balance their Dedicated Schools Grants is starting to take hold.
- 6.3 The Committee noted that the Local Authority pay awards are still pending and was informed that, as part of the Council's MTFP, there is a budget set aside for an average five percent pay increase which was put forward to the unions. The negotiations are ongoing and anything above an average pay increase of 5 percent will have an impact on the MTFP assumptions and the financial planning will need to reflect this.
- 6.4 The Committee questioned the rising numbers of looked-after children and how the challenge is being met. The Committee noted that looked-after children has been an increasing national challenge since the COVID-19 pandemic, in particular adolescents whilst numbers of younger children in care proceedings have not increased significantly within Westminster. Parental conflict, child-parent conflict, a notable increase in mental health amongst adolescents and the Cost-of-Living Crisis have all had an impact on how families function day-to-day. The Committee was informed that measures to address this issue include: successfully working with families in addressing the causes of children entering care to enable them to return home, family therapists working with families to help address issues of conflict, providing schools with mental health practitioners to increase availability for children, and there is a dedicated Intensive Support Team who works intensively with families to address and mitigate the issues to try to prevent children from coming into care. Pressure on the availability and high cost of residential placements nationally and a national shortage of foster carers especially for teenagers contributes to this issue. The Committee was pleased to note however that the Council has a stable workforce with a low turnover of staff, in relative terms of other London boroughs, and low agency staff which means that strong relationships can develop with families to address the issues families are facing.
- 6.5 The Committee raised concern about the increasing pressure of Temporary Accommodation and asked what had been done since the last meeting of the Committee. The Committee noted that Temporary Accommodation continues to be on an upwards trajectory, and therefore a priority for the Council. There is a careful balance between managing the financial risks (demand, reduced supply and decreasing market, and cost inflations) and providing wraparound support for those vulnerable people who face homelessness. The Committee noted that £85m of investment had been added to the acquisition programme to increase the Council's own supply, which could meet 10 percent of overall demand pressures. There has been extra resource dedicated towards intervention, targeting complex families, providing earlier support as well as understanding demands, and the Council is also increasing robustness around voids and managing these in the most efficient way, and reviewing

opportunities in the private sector which have not yet been explored. The Committee queried the Council's use of corporate hotels for Temporary Accommodation, which has increased across London by 800 percent, and noted the volume and scale of the issue the Council, and many other local authorities, face.

- 6.6 The Committee queried the slippage amount on the Capital forecast and the activity at a corporate level to mitigate this. The Committee was informed that in the £56m of variance, there was £40m of slippage, and, in contrast the year-end variance 2022/23 was £70m, in 2021/2022 it was £84m and in 2020/21 it was £120m. The Committee was pleased to note the positive trajectory and that there is additional scrutiny at an officer level applied through the budget setting process to ensure figures are as realistic as they can be. The Committee understood that it is difficult to predict target percentages of variance and slippage too far in the future as external factors play a large role in this and the Council's Capital programme is unique. The Committee requested officers to consider a realistic target percentage for variance and slippage on Capital programmes.
- 6.7 The Committee considered how aware the Council workforce is of the importance of risk management and the Council's risk priorities. The Committee welcomed the fact that financial risk is embedded in the culture of the Council. There is a well-established budget setting process, including scrutiny by the Budget Scrutiny Task Group which has recently renewed its framework. Furthermore, there are monthly meetings on financial risk, reports on risks of planned and current activity, and how this manifests, which are well-known by officers and reports are discussed at length to keep the financial risks as close to balanced as possible.
- 6.8 The Committee queried the savings set out in the report, particularly the £10m relating to the Environment, Climate and Public Protection directorate. The Committee noted that they are largely income-related and include commercial waste and parking. The Committee was also informed that the £3.7m savings in the Finance and Resources directorate include the rent negotiations for City Hall leading to a reduction in rent as well as acquisition of commercial property.
- 6.9 The Committee asked for more detail on the increasing demand in relation to families with no recourse to public funds (NRPF), and whether there was a general trend, or families were presenting to different areas. The Committee understood that the Council is often at the mercy of the Home Office in terms of the timeline for those with NRPF and immigration decisions being made when there is a legal duty to support otherwise destitute families. The three main groups of those with NRPF that the Council is supporting include women fleeing domestic abuse who have spousal visas, families where one parent is a British national and the other parent is awaiting the outcome of their immigration application, and the impact of Brexit and those applying for pre-settled status who have no access to public funds whilst this is being processed. The Committee also understood that numbers of those with NRPF have increased across London and, as there is a challenge around how long some of those decisions are taking within the Home Office. The Council is

doing everything it can to expedite the process and be as proactive as it can, whilst recognising there's a legal duty to the family which cannot end until the Home Office has reached a decision.

RESOLVED:

- 6.10 That the Committee noted the current monitoring and forecast position at Quarter 1 for 2023/24.

ACTION:

- 6.11 That officers will consider a target percentage for variance and slippage on Capital programmes.

7 GENERAL PROCUREMENT UPDATE

- 7.1 The Committee received a summary of the General Procurement Update from Sarah Warman (Strategic Director of Housing and Commercial Partnerships) who informed the Committee that the update has several purposes: updates on continued developments and improvements of the function, updates on compliance and performance in relation to procurement and it also sets out priorities and the pipeline of commissioning and contracting in the coming year.
- 7.2 The Committee asked for the number of contracts the Council has which do not obligate suppliers to pay the London Living Wage. The Committee understood that, in terms of contracts valued at over £100k, there is one contract which does not have London Living Wage at present, which is a historic contract with a care home provider and has been in place since 1999. The Committee was pleased to note that this contract is coming up for renewal in July 2024 and the Adults Commissioning team are working on plans to ensure London Living Wage in the contract at the renewal date as Living Wage is a key commitment of the Council. The Committee heard that that the Council has detailed information on long-term contracts, currently around 370 over £100k.
- 7.3 The Committee queried whether there is a timeframe for when the Council can declare that it has mandated Living Wage across all of its contracts. The Committee noted that, aside from the one £100k+ contract which is up for renewal in 2024, it is difficult to give a date to the smaller contracts. However, the Committee welcomed that the centralised buying team are working on contracts between £25k and £100k to build the London Living Wage into these. The Committee also understood that the Responsible Procurement and Commissioning Strategy is going well above London Living Wage in terms of a wholistic approach to procurement.
- 7.4 The Committee was informed that risks presented regarding waivers from the Procurement Code depends on the type of waiver and varies across the market. There is a clear pathway through the procurement process for waivers and the Council is not seeing many challenges coming back from the market. The Committee noted that the majority of cases where suppliers are

undertaking work without a signed contract in place relates to long-established services for residents, with pre-existing contracts which have expired, and complex negotiations over urgent delivery. The Committee was pleased to note that there are appropriate checks and balances, as well as mitigations, in cases where there may not be a formal, signed, contract in place. The ongoing discussions and negotiations for those more complex cases are actively managed in-house by the service.

- 7.5 The Committee queried the weaknesses with the eSourcing procurement and contract management system and the decision not to progress with this tender. The Committee noted that there is new procurement legislation due to come into effect which will change the Council's procurement processes to ensure it is compliant and continues to be a strategic function; eSourcing would not have been the correct fit for this. The team are undergoing a market appraisal and applying lessons learned to the new tender with officers who use the system frequently being consulted. The Committee was pleased to note that there have been no significant financial implications from this process and a new system is hoped to go live at the beginning of next year.
- 7.6 The Committee held a detailed discussion on the disaggregation of contracts. The Committee noted that the disaggregation of contracts is not a general trend as having economies of scale usually gives value, however, disaggregation is needed in certain cases: the aggregation of services may narrow the market too much, but can also give opportunities for different smaller providers. It can also be difficult to enable change with long-term contracts and assurance should be built into contracts for the Council to have an element of control with the arrangement. Furthermore, the Committee understood that this process is often driven by markets and each case is examined on an individual basis.

RESOLVED:

- 7.7 That the Committee noted the report.

8 EXTERNAL AUDIT CERTIFICATION OF CLAIMS AND RETURNS ANNUAL AUDIT 2021/22

- 8.1 The Committee received a brief overview from Janine Gray (Head of Revenues and Benefits) who informed the Committee that the annual report of the Housing Benefit Subsidy claim for 2021/22 was a successful audit with no significant changes to the claim.
- 8.2 The Committee noted that it is positive only a small number of minor issues had been identified regarding the review and queried the procedures in place to maintain this standard. The Committee was informed that there are various procedures in place which include carrying out 100 percent checks on manual adjustments, where performance has fallen in previous years. Following this, disregards are also now adjusted manually which can be complex, but the team does their utmost to keep issues at a minimum.

- 8.3 The Committee put on record its congratulations for the work undertaken which has produced so few errors.

RESOLVED:

- 8.4 That the Committee noted the report.

9 EXEMPT REPORTS UNDER THE LOCAL GOVERNMENT ACT 1972

- 9.1 The Chair requested Members to share if they had any questions relating to the confidential appendix attached to Item 10 (Contract and Supplier Performance Report).

- 9.2 The Chair understood that no Members had questions, so the Committee did not go into a closed session.

10 CONTRACT AND SUPPLIER PERFORMANCE REPORT

- 10.1 The Committee received a summary from Ed Humphreys (Interim Director of Commercial Partnerships) and understood that the report is part of the annual review of contracts. The Committee noted that the two main elements of the report include measuring the performance of contracts and their contract managers, and developing and managing the contract management framework to ensure that contract managers are adequately and consistently supported in this approach.

- 10.2 The Committee queried whether the six months before the procurement legislation comes into effect in October 2024 is long enough to prepare, and what the Council is doing to assure it is ready. The Committee was informed that the Bill has taken a long time to process through Parliament and the Council has known the general direction of travel for some time and has been preparing already. However, six months is the definitive point when the legislation will come into effect and all elements are formally decided; that will be a key task for the Council over the next year. Specifically, there is work to be done around updating the Council's procurement codes and regulations, increasing transparency obligations including more contract and procurement notices, publishing pipelines when the threshold is made clear, and keeping them up to date and as accessible as possible.

- 10.3 The Committee asked whether, relating to Clause 52 of the Procurement Bill, the KPIs for each contract over £5m will be reported to Audit and Performance. The Committee was informed that there will be a new system in place for suppliers, which they will need to sign up to, and it will either be a national or local system. The Council as a whole will need to have oversight of what is being published and can consider taking that information to the Audit and Performance Committee when appropriate.

RESOLVED:

- 10.4 That the Committee noted the report.

ACTION:

- 10.5 That officers will consider taking the information relating to Clause 52 of the Procurement Bill (the KPIs for each contract over £5m) to Audit and Performance when appropriate.

The meeting ended at 20:27.

CHAIR: _____

DATE _____

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