

Audit Committee

31 May 2018



Report of: Shahzia Daya, Director - Legal and Democratic Services

Title: Councillor Referral to the Audit committee

Ward: City Wide

Officer Presenting Report: Nancy Rollason, Head of Legal Service

Recommendation

That the committee consider the report in relation to the request received and the Committee's terms of reference and remit.

Summary

The report sets out the remit of the Audit Committee in relation to a request received by Cllrs Hopkins, Eddy and O'Rourke to undertake an enquiry into various issues.

The significant issues in the report are:

A request has been made to the Audit Committee to consider an inquiry into various issues. This report considers the Committee's terms of reference and remit and concludes that it is not part of the terms of reference and therefore the role or remit of the Audit Committee to commission enquiries into the recruitment of individual members of staff or into their performance or into particular termination agreements.

The Committee's terms of reference include seeking assurance in relation to Governance issues. The External Auditors will provide a progress report to the Committee in relation to the recommendations they made in their review that will enable any relevant governance issues to be considered.



Policy

Not applicable, the paper is based on the Committee terms of reference and relevant guidance and legislation.

Consultation

1. **Internal** – Not applicable
2. **External** - Not applicable
3. **Context**

Background

1. A request by three councillors was made in writing to the chair of the Audit Committee on the 16th April 2018 to establish an enquiry into:

- The payment made to Nicola Yates on her departure
- The recruitment of Anna Klonowski
- The performance of Anna Klonowski
- The departure and termination payment to Anna Klonowski
- Complaints against 3 members of the BCC Human Resources Committee

2. The letter suggested various issues that the Committee might want to consider in establishing an enquiry. This follows a referral to the External Auditors by the same Councillors, the review that the External Auditors undertook and the response received from the External Auditors following the review.

3. As part of its various powers and duties the Council has established an Audit Committee in line with many other Authorities.

4. Local Authorities and their committees must act within their powers. Decision-makers in councils are required to follow set procedures for making decisions. This may take the form of procedural requirements set out in statute, statutory instrument, guidance (whether statutory or non-statutory) or the Council's Constitution. Any such procedures are usually drafted with the purpose not only of guaranteeing that the decision-maker takes into account all relevant considerations, but also to ensure lawful compliance by the decision maker and procedural fairness for those affected by the decision.

5. The role and remit of the Audit Committee is set out in the Terms of Reference and are consistent with the good practice guidance provided by CIPFA.

The relevant parts of the terms of reference are as follows:

"The purpose [of the committee] is to provide independent assurance to the council in relation to:-

- The effectiveness of the council’s governance arrangements, risk management framework and internal control environment including overseeing:
 - risk management strategies
 - Anti-fraud arrangements
 - Whistle-blowing strategies
 - Internal and external audit activity;
- The effectiveness of the council’s financial and non-financial performance to the extent it affects exposure to risk and poor internal control.

6. Good practice guidance provided by Cipfa states: “The purpose of an audit committee is to provide to those charged with governance independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes” (“Audit Committees -Practical Guidance for Local Authorities Chapter Two p3 2013 edition)

7. It is not part of the terms of reference and therefore the role or remit of the Audit Committee to commission enquiries into the recruitment of individual members of staff or into their performance or into particular termination agreements.

8. The Monitoring Officer is responsible for dealing with and resolving Complaints made in relation to Councillors. The role of the Audit Committee is as set out in the procedure for complaints about breaches of the member Code of Conduct:

“If there is no finding of a breach of the Code of Conduct then that will be an end to the matter. If there is a finding of a breach and the Monitoring Officer is unable to negotiate an informal resolution between the parties then the matter will be referred to the Audit Committee for consideration.”

In this case, no finding has been made and therefore the Audit committee have no role in looking in to the complaints as requested.

9. The letter to the Chair refers to a previous referral to the External Auditors who undertook a review of the issues raised by the three Councillors. The response from the External Auditors dated 29 January 2018 states:

"..our findings and recommendations in relation to the severance payment to the former City Director, set out in our Audit Completion Report for the year ended 31 March 2017, have not been adhered to fully in this instance. In our Report we stated that 'it would have been good practice to present a fuller report to Members of the HR Committee on the costs of the package and any other options available'

We recommended that ‘when presenting information on severance arrangements of senior staff, the Council should ensure that the appropriate Committee is given sufficient detail on the costs and alternative options, while taking into account confidentiality requirements”

Officers have provided us with assurances that this will be reviewed and new processes put in place to cover future situations of this kind. We will report progress on this in our

Audit completion report for the year ended 31st March 2018, which will be presented to the Audit committee in due course

10. The Committee's terms of reference include seeking assurance in relation to the adequacy of Governance arrangements. The External Auditors will provide a progress report to the Committee in relation to the recommendations they made in their review that will enable any relevant governance arrangements to be considered.

Proposal

That the committee consider the report in relation to the request received, and the Committee's terms of reference and remit

Public Sector Equality Duties

Not applicable

Legal and Resource Implications

Legal

As set out in the report

Legal advice provided by Nancy Rollason, Head of Legal services

Financial

(a) Revenue

There are no financial implications arising from the recommendation

Finance Advice provided by Chris Holme, Acting Director, Finance

(b) Capital

Not applicable

Land/Property

Not applicable

Land/property advice provided by

Not applicable

Appendices:

None

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

Background Papers:

- CIPFA - Audit Committees - Practical Guidance for Local Authorities
- Procedure for Complaints about Breaches of the Code of Conduct.