

Minutes of the Meeting of the Standards and Audit Committee held on 25 November 2021 at 7.00 pm

Present: Councillors Cathy Kent (Chair), Graham Snell (Vice-Chair), Adam Carter, Augustine Ononaji, Kairen Raper and Shane Ralph (Substitute) (substitute for Gary Collins)

Charles Clarke, Co-Opted Member

Apologies: Councillor Collins
Lisa Laybourn, Co-Opted Member

In attendance: Sean Clark, Corporate Director Resources and Place Delivery
Gary Clifford, Chief Internal Auditor
David Kleinberg, Assistant Director for Counter Fraud & Investigations
Rachel Brittain, Binder Dijke Otte (BDO)
Matthew Weller, Binder Dijke Otte (BDO)
Jenny Shade, Senior Democratic Services Officer

Before the start of the Meeting, all present were advised that the meeting was being recorded, with the audio recording to be made available on the Council's website.

21. Minutes

Minutes of the Standard and Audit Committee held on the 9 September 2021 where approved as a correct record.

Councillor Ononaji referred to page 8, paragraph 8 of the agenda:

“Councillor Ononaji referred to the 57 reports of suspected fraud that had been received and questioned whether these were internal or external frauds to which David Kleinberg stated he did not have those figures to hand but would include those statistics in the next committee report.”

He asked whether these figures were available this evening to which David Kleinberg stated these would be included as an addendum in the next report.

22. Items of Urgent Business

There were no items of urgent business.

23. Declaration of Interests

There were no declarations of interest.

24. Regulation of Investigatory Powers Act (RIPA) - Activity Report 2021/22 (April to September)

Sean Clark stated it had been considered best practice to bring this report to committee on a regular basis due to there being some concerns around the misuse of the Regulation of Investigatory Powers Act (RIPA) in the past. The report had set out the amount of activity there was under RIPA and National Anti-Fraud Network (NAFN). There were no RIPA surveillance authorisations processed during this period and six requests made to the NAFN. Sean Clark stated that reporting no RIPA surveillance was just as important and clarified that low numbers of RIPA authorisations were a result of the Council utilising other forms of investigation. Members were reminded that outcomes from the RIPA surveillance authorisations could not be summarised in detail to members.

Councillor Ononaji stated that the report was not very detailed and questioned whether the low numbers had indicated no activities in the borough or whether the department were doing enough. David Kleinberg stated the Council had a wide range of powers available and some of those, such as RIPA, were intrusive. For example in trading standards it may be taking action against a consumer crime using a separate power rather than an intrusive option. Some cases would continue by simply using a different route rather than the intrusive powers of RIPA. David Kleinberg reassured members that the team were very busy and based on how a particular case was approached to make sure it was the least intrusive way of impacting members of the public.

Councillor Ononaji stated that committee members should be entitled to more information to which David Kleinberg stated this was due to data protection requirements and to ensure that an on-going investigations would not be compromised as a result of any disclosure of information. This would depend on the conclusion of investigations and how long these may take and also those being investigated having the right to privacy. That the Council followed the law and this was an ultimate intrusive power and used sparingly. Sean Clark stated that these requests were not just signed off by himself, they would need to go in front of the courts to be signed off, that regular audits would be undertaken by the Investigatory Powers Commissioners Officer and results of those audits would be reported back to this committee.

Councillor Ralph questioned what the criteria was for this action to be undertaken to which David Kleinberg stated there needed to have been a serious crime in law, defined as any offence where the starting point for this custody had been six months or more – fraud, theft, corruption. That there was a very high threshold which must be met and would be seen as an investigation phase. Sean Clark clarified also that there would be review dates to ensure that it was actually doing what it said it was going to do and not being too intrusive for example for in cases affecting minors.

Councillor Snell questioned whether in the different types of fraud and trading standards were other law enforcement agencies referred to such as Border Force. David Kleinberg stated they were collaborative, joint working and

shared intelligence as those committing offences tended to be targeting areas dealt with by multiple agencies with multiple victims. There would be a joint enterprise between the Council and other agencies, such as Essex Police, Border Force. At the two ports in the borough there were Council staff working side by side with Border force.

Councillor Snell questioned whether the Council had the final say as to whether the RIPA request would be used to which David Kleinberg stated that if the Council had a statutory duty to investigate then it would be the Council's decision. If it was a Border Force responsibility the onus would be on them to approve the activity. This would fall down to who would be responsible for the investigation rather than surveillance action.

RESOLVED

That the statistical information relating to the use of RIPA for the period April 2021 to September 2021 were noted.

25. Internal Audit Progress Report 2021/22

Gary Clifford stated that the Internal Audit Plan 2021/22 was discussed by the Standards and Audit Committee on the 11 March 2021. This progress report covered final reports issued since that report to the Standards and Audit Committee, the draft reports issued and the work in progress.

Councillor C Kent asked for clarification on the number of auditors in the team to which Gary Clifford stated there were two full time and one term time members of the staff in the team. Two auditors had left during the pandemic and would be looking to recruit two internal auditors. Councillor C Kent questioned when these would be recruited and how long the recruitment process would take to which Gary Clifford stated this would take two to three months, this would be longer than a normal recruitment exercise based on the skills set of internal auditors.

Councillor Ononaji referred to the impacted upon delivery of the audit plan due to those two auditors leaving the team and questioned whether agency staff should now be used. Gary Clifford stated that the Council had a framework agreement with Croydon Council, using Mazars, who could be pulled in to pick up work and had been used in the past on the IT Audits. Sean Clark agreed to pick this up outside the meeting.

Councillor Raper referred to the Planned Maintenance (Housing) review and questioned whether 30% of stock would be a big enough sample. Gary Clifford stated this figure was the response from the service and stated he was happy with this figure as local authorities could not undertake a check of 100% of the housing stock over a single year.

Councillor Raper questioned whether the tracking of training was now being recorded to which Gary Clifford stated training was now being recorded on Oracle.

Councillor Carter questioned how the 30% sample of housing stock was selected to which Gary Clifford stated this was undertaken randomly.

RESOLVED

That the Standards and Audit Committee considered the reports issued and the work being carried out by Internal Audit in relation to the 2021/22 audit plan.

26. Counter Fraud & Investigation Performance Report Q2

David Kleinberg presented the report that outlined the performance of the Counter Fraud and Investigation team over the last quarter for Thurrock Council as well as the work the team had delivered nationally for other public bodies. Members were referred to the performances of the department and the proactive work plan for 2020/21. That the COVID systems put in place to test the information against credit references data had been very positive and would be looking to roll this out in other services in teams such as social care who also accessed for peoples eligibility to services.

Councillor Ralph referred to the COVID grant funding and questioned whether the investigations would be ongoing to which David Kleinberg stated these would continue with the grant programme and would be reported back to the committee.

Councillor Snell referred to housing fraud and the patterns of the type of frauds being committed and questioned whether there was anything that could be done pro-actively at the start of the process. David Kleinberg stated that Thurrock was unique in that it had a lot of front line staff working side by side with our teams working on the estates and working with residents that has proved the easiest way to spot a potential fraud. That a lot of work and training had been undertaken with the estates care takers and housing officers who go out into the estates and support our tenants.

Councillor Carter questioned how Thurrock compared to their statistical neighbours to which David Kleinberg stated that a lot of authorities did not have a counter fraud team, this activity would sit in their internal audit function. That Thurrock had invested heavily in protecting the council and the results had proved that it was worthwhile, a testament to the work undertaken in Thurrock.

Charles Clarke referred to the 90 reports of suspected fraud and the 144 active investigations that were currently being investigated and questioned whether there were some cases from previous quarters still going through. David Kleinberg stated that yes some cases would cross over financial quarters. Charles Clarke stated the trend was that housing had the highest number of cases and questioned what could be done to reduce and prevent those figures from growing. David Kleinberg stated this was a very difficult area particularly with COVID and housing fraud especially difficult when trying

to prove that a resident was sub-letting but living elsewhere when people were being told to stay at home. That tactics were changed and that piece of work had been reactivated now that restrictions had eased.

Charles Clarke referred to the COVID grant fund cases and questioned whether this was a reflection on what came back into the Council and whether there was motive to do more investigations to recover more money. David Kleinberg stated that a different focus has been undertaken with some good successes. Referred to an organised crime attack on the grant scheme during COVID with Thurrock now leading on the national response on that organised crime in those schemes.

Councillor Ralph questioned whether the Council shouted about the successes in providing its services to others to which David Kleinberg stated this was quite difficult as the Council provided investigation services to government agencies who owned an activity. So as the Council did not own the activity, only provided the service, it was quite hard to shout about it as this was not the Council's work or responsibility. David Kleinberg reported to the committee that Thurrock's national counter fraud function had been nominated and were finalists for the Tackling Economic Crime Awards for its collaboration with Government with the winners being notified next month and would let the committee know at the next committee.

RESOLVED

That Standard and Audit Committee commented on the performance of the Counter Fraud & Investigation Department.

27. Work Programme

Sean Clark stated that Members were provided with an update at the last meeting on the pressures that were being faced with external audits across the country. That the Audit Completion Report and the Financial Statements and Annual Governance Statement 2020/21 Report should have been brought to this committee this evening but this had not been possible due to the timescales and the level of work still to be undertaken to complete and the review process that external auditors needed to carry out. That an extraordinary meeting would be requested and would work with BDO on a date as the work progressed but they were near to conclusion. Rachel Brittain reassured the committee the work was progressing well and had made good tracks into the amount of testing that had to be done but just not at the stage to complete the report and present those conclusions to this committee at this stage.

Members agreed to an extraordinary meeting of the committee to be held in February 2022 to which the Chair asked for a Hold Meeting to be added to the work programme and calendar invites to be sent out to all committee members.

Members agreed the statutory items on the work programme for the next meeting.

The meeting finished at 7.45 pm

Approved as a true and correct record

CHAIR

DATE

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Democratic Services at Direct.Democracy@thurrock.gov.uk**