

## AUDIT COMMITTEE

Minutes of a meeting held on 19<sup>th</sup> November, 2018.

Present: Councillor M.R. Wilson (Chairman); Councillor Mrs. P. Drake (Vice-Chairman); Councillors G.D.D. Carroll, V.P. Driscoll, K.F. McCaffer, L.O. Rowlands and Mr. P. Lewis (Lay Member).

Also present: Mr. S. Wyndham (Wales Audit Office).

### 494 MINUTES -

RESOLVED - T H A T the minutes of the meeting held on 19<sup>th</sup> September, 2018 be approved as a correct record.

### 495 DECLARATIONS OF INTEREST -

No declarations were received.

### 496 DEPRIVATION OF LIBERTY SAFEGUARDS AUDIT (REF) -

The Director of Social Services presented the reference, the purpose of which was to highlight the implications that case law had in relation to the Deprivation of Liberty Safeguards (DoLS) 2009, and the impact upon the Social Service Directorate's capacity to meet statutory obligations under DoLS.

The Director introduced the Operational Manager for Safeguarding and Service Outcomes who advised that DoLS ensured people who could not consent to their care arrangements in a care home or hospital were protected if those arrangements deprived them of their liberty. It applied to all persons who (a) lacked capacity; (b) who were under continuous supervision and control and (c) who were not free to leave. The person's care arrangements, and the restrictions upon their liberty, were assessed to check that they were necessary, proportionate and in the person's best interest. As an aside point, the Officer also added that representation and the right to challenge a deprivation were other safeguards that were part of the DoLS regime.

Further case law had impacted on the financial resource of the Safeguarding and Service Outcomes team with the AJ v A Local Authority (2015) changing the guidance in terms of who could be appointed as the relevant person's representative (RPR) for the person being deprived of their liberty. The Officer added that historically, the role could be undertaken by a friend or family member who had been identified as wanting and being able to challenge when a person's liberty was being removed as per Article 5 of the Human Rights Act 1998. However, following the case it had been determined that there may be a conflict of interest if the person was involved in the best interest decision to place the person within the current setting. In essence this meant that for the person undertaking the RPR role it would be challenging, if required, questioning their own previous decision. Therefore, the

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Safeguarding Team now sought to appoint an independent paid RPR in these circumstances, which had resulted in a significant rise in costs for the service.

The issues being faced in terms of an increase in referral numbers and a backlog of relevant assessments were not unique to the Vale of Glamorgan or to the DoLS team. These matters reflected the picture nationally and all supervisory bodies reported the same challenges relating to capacity, both in terms of the numbers of assessments being requested and the financial implications.

At this point in the presentation, the Chairman highlighted that the total figures provided to the Committee as part of the reference to demonstrate the number of referrals from 2013/14 in comparison to the figures for 2017/18 were not accurate and that this was the same for table B within the reference relating to the number of assessments. The Officer thanked the Chairman for highlighting the error and advised that a corrected set of figures would be distributed to Committee Members following the meeting.

The Officer then went on to advise that in April 2018 Care Inspectorate Wales published the following report: Deprivation of Liberty Safeguards, Annual Monitoring Report for Health and Social Care 2016-17. The report examined the key findings for the year 2016/17 across all Welsh local authorities and Health Boards, providing an analysis of the information and a description of trends, concerns and achievements. The report recognised that the Supreme Court Ruling in the Cheshire West case had resulted in a very large increase in the number of applications for DoLS authorisations resulting in a backlog for Health Boards and Local Authorities. The report also stated that as the applications progressed for assessment and authorisation, the Vale of Glamorgan DoLS team completed 94% of applications which put it in the top 1% of authorised assessments for 2016/17.

With regards to expenditure, the Operational Manager drew the Committee's attention to paragraph 23 of the report which demonstrated that there was a significant increase in the total expenditure and advised that the DoLS team was jointly funded by City of Cardiff Council, Vale of Glamorgan Council and Cardiff and Vale University Health Board and therefore the expenditure was proportionate across all three partners.

On this matter a Member thanked the Officer for providing the total expenditure figure for the Vale of Glamorgan for 2017/18 and asked for her thoughts regarding the expected expenditure for the next financial year. The Officer advised that the Directorate predicted the same amount of expenditure for the next financial year however, there was currently a Bill being considered in the House of Lords which would significantly change the DoLS process and was therefore unable to confirm the impact of this change if implemented.

A Member asked whether it was plausible for a Council employee to be an individual's RPR and whether the employee would be required to have a certain level of qualification. The Operational Manager advised that an individual's RPR would need to be deemed as independent and therefore the Council currently employed 'Training in Mind' to provide the service. However, it was important to note that an

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individual's RPR could be a friend or relative but the individual would need to prove that he or she could work in the individual's best interest.

A Member drew the Committee's attention to paragraph 16 of the report and queried the RPR costs for the financial year 2015/16 as the figures were currently missing from the table included. The Officer advised that the figures would be provided to Committee Members following the meeting and to her knowledge there was approximately £42,000 increase to that of the figure for 2017/18 which was £49,253.79.

As a supplementary question, a Member asked whether the level of expenditure was due to the significant surge in the number of referrals and assessments or whether it reflected the general expenditures going forward. The Operational Manager advised that the majority of the expenditure was as a result of employing an adequate workforce, employing Section 12 doctors as well as RPR costs and these factors would continue going forward.

The Chairman asked for further clarification regarding the ADSS (Cymru) Priority Matrix tool as referenced at paragraph 21 of the report, to which, the Operational Manager advised that the Matrix set out the criteria most commonly applied which indicated that an urgent response would be needed so as to safeguard the individuals concerned. It was effectively a scenario based system to afford staff the opportunity to prioritise cases.

In conclusion, the Chairman summarised that there was a general concern regarding the costs for the service and that it was understandable that an RPR should be an individual that was independent. However, as a matter of public decency, the hope was that a family member would also have the individual's best interests at heart.

**RECOMMENDED - T H A T** the case law in respect of arrangements for safeguarding adults who are unable to consent to their health and social care arrangements, and also the increased risk to the Council of legal challenge where statutory timescales are not met, be noted.

#### Reason for decision

The Committee continued to be informed of the service and subsequent risks to the Council.

#### 497 CORPORATE RISK REGISTER QUARTER 2 UPDATE (MD) –

In the absence of the Head of Performance and Development, the Head of Finance presented the report to update Committee Members on the Quarter 2 position (April 2018 – September 2018) of risks contained within the Corporate Risk Register as attached at Annex A to the report. The Corporate Risk Summary Report provided Members with an overview of the emerging risk themes and issues as outlined in the Risk Register.

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The Officer advised that there were currently 15 Corporate Risks on the Register and since the last committee update, no further risks had been removed or added to the Register. Of the 15 Corporate Risks, in terms of risk status, only the unauthorised Deprivation of Liberty Safeguards risk was scored high, and only the Welsh Community Care Information System (WCCIS) was categorised as medium / high. Of the remaining 13 Corporate Risks, 10 Risks scored medium and three risks scored medium / low. Therefore, the overall position of risks on the Register had remained largely unchanged, with the exception of the Housing Improvement Programme risk that had reduced from a medium to a medium / low status.

At this point, a Member queried if the Committee should continue to consider the report given that the primary presentation officer was not present. Following a brief discussion on the merits of continuing with the item, the Chairman took the decision to continue consideration of the report to address his concerns regarding the risks belonging to the Social Services Directorate whilst the Director of Social Services was present.

The Chairman drew the Committee's attention to page 212 of the Corporate Risk Register to address his concern over Corporate Risk 15: Transition to the Welsh Community Care Information System (WCCIS) and in particular the fact that the risk was previously in relation to the inability to interface with the legacy system (SWIFT) and to fully embed and utilise the system to its full potential in integrated health and social care teams. The Director of Social Services began his response by noting that many of the key risks, as set out in the Risk Register, were related to social care and he was therefore grateful for the opportunity to address these in person with the Committee.

For context, the Director advised that the Social Services and Well-being (Wales) Act 2014 had integration of health and social care at its core and therefore the effective sharing of information was a fundamental foundation in integrated working and should be applied on a "once for Wales" basis. Therefore, Welsh Government had significantly invested in a programme to support the development and implementation of an integrated information system across health and social care services and the system was known as Welsh Community Care Information System (WCCIS) and this was the replacement to the Vale of Glamorgan's Social Care Information System known as SWIFT.

The Cardiff and Vale region had agreed in principle to move as a region to WCCIS to enable integrated working to become a reality, however, to date the Vale of Glamorgan Council was the only partner to have signed a Deployment Order with the supplier, Care Works. Initially there were some delays with the implementation of the system, which had since been addressed and although WCCIS went live in the Vale of Glamorgan during November 2017, there were a series of obstacles to overcome in order to ensure full transition to the new system so that all aspects of the system were fully utilised and embedded. The Director added that the Healthy Living and Social Care Scrutiny Committee was fully aware of the issue that the Council did not currently have accurate Quarter 2 performance information; as the data collated during the transition between systems was unreliable. Also that the WCCIS all Wales system would only come into its own when the Health Board also

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adopted the system. However, several other Local Authorities had now made the move to the WCCIS system.

The Chairman thanked the Director for the information and advised that the Council needed to make sure that all partners came on board with the system and it was concerning that in 2018 there were software systems that were unable to work in partnership with each other. As a supplementary point, the Chairman also wished to highlight the importance of ICT security when considering a new system.

With the discussion moving on, a Member asked for the main headline issue regarding the Council moving on to the WCCIS system in the context of risk. The Director advised that the Council's performance indicators were measured over many months so unless data was accurately collated it was impossible for the Directorate to inform performance reports and therefore the information was being transferred manually. A secondary issue was that it could take a significant amount of time to ensure that the system worked effectively for the Council and finally, if the service was unable to report accurately, then it was unable to evidence how well the section was performing.

With the Chairman's permission, the Director moved on to Corporate Risk 11: Safeguarding and advised that the Social Services Directorate brought an annual and mid-term safeguarding report to all Committees and it was important to ensure that corporate safeguarding remained separate to regional safeguarding measures.

With regards to Corporate Risk 14: Contract Management, the Director advised that a recent review of the contracting practices in the Vale of Glamorgan Council, which was undertaken by the South Wales Audit Partnership, had concluded that the Council's systems were robust and its policies and procedures were effective. However, shortcomings were evidenced in a number of instances across different service areas with the most prevalent being a break in crucial services if the current supplier was suddenly unable to continue to provide a service. With the Council being recently informed of a care provider going out of business by mid-December, this was a very real and current risk.

In response to this, the Chairman asked if Welsh Government was looking to support the Local Authority with employment to cover any staffing gap. The Director advised that Welsh Government were not currently suggesting that the Local Authority find the staff independently and that he was watching the situation very carefully however, there would be an unavoidable level of disruption as the transition took place from one care provider to another. The Director assured Committee that as soon as a more accurate position was known, then an update would be provided to Members.

In conclusion, the Chairman thanked the Director of Social Services for his input on the Corporate Risks relevant to his Directorate and requested that the Corporate Risk Register Quarter 2 update report be deferred to a future special meeting.

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RESOLVED –

- (1) T H A T the Audit Committee note the Quarter 2 position of Corporate Risks 11, 13 and 15 for the period April 2018 – September 2018.
- (2) T H A T an urgent Special Meeting be arranged to consider the report with the Head of Performance and Development and Director of Environment and Housing present, prior to the report being referred to Cabinet for their consideration and endorsement, including proposals to remove the risk associated with Welsh Housing Quality Standards (WHQS) as outlined in the report.

Reasons for decisions

- (1) To identify the Quarter 2 position of Corporate Risks across the Council and highlight any emerging risks, themes and issues.
- (2) To ensure Cabinet receives a Quarter 2 position on the Corporate Risk Register and endorses the recommendations contained within the Report following adequate consideration by the Audit Committee.

498 AUDIT COMMITTEE – CONTRACT PROCEDURE RULES (HOF / S1510) –

The Head of Finance presented the report to provide Members with an overview of the Council's Contract Procedure Rules and an update on their implementation in accordance with the functions of the Audit Committee as outlined in its Terms of Reference.

The Officer began by advising that the last major review of the Council's Constitution, including Sections 16 and 17, was approved in September 2015 when the legislation, which governs public sector procurement (The Public Contracts Regulations 2015), was updated and as a consequence of a comprehensive cross-party Constitution Working Group review. It was during the review that Procedure Rules were significantly changed taking into account the new model version issued for consideration / adoption by Local Authorities in Wales at the time.

Attached at Appendix A to the report was a briefing note which set out some of the key aspects in respect of the governance requirements, specifically in the first instance to Section 17 of the Constitution and the Council's Contract Procedure Rules that were also attached at Appendix B.

The Officer added that failure to meet the Procedure Rules would put the Council at risk and during a time when the Council was required to make significant savings, the governance and implementation of the Council's Contract Procedure Rules was important. The Officer then provided Members with a supplementary document that provided examples of the procurement process for each of the Contract categories in terms of the three financial limits which were as follows:

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- Value under £15,000
- Value £15,000 to £75,000
- Value £75,000 to EU threshold.

With regards to the “Sell2Wales” portal, Council officers were being encouraged to use the portal and the Head of Finance was pleased to report that there had been significant uptake in the use of the portal. A significant amount of training had also been provided to staff regarding the Contract Rules and success following the training was evident by officers regularly liaising with the Finance Team.

A Member enquired how many suppliers were registered on the portal. The Officer advised that she did not have the exact figure for the number of suppliers, however, would be able to share this information with the Committee following the meeting and added that it was important to note that there were enough suppliers registered to ensure healthy competition. As a supplementary question, the Member then asked for the Officer’s opinion on how effective the three quote system was. The Officer assured Members that before a quote was requested, officers would be aware of the amount of funds available to them and therefore this was the primary factor leading the quote rather than a supplier’s input. Also it was unlikely that the same three suppliers would be used on repeated tender exercises as the suppliers were chosen from a significantly large pool. In response to the Member’s final question as to whether expert advice was sought before final sign off for large financial tender exercises, the Officer advised that that was the case.

A Member noted that retrieving multiple quotes was not a mandatory part of the process and therefore queried how senior officers were able to know that officers were getting three separate quotes and not using the same suppliers that they were familiar with each time. The Officer advised that there was no definitive way for senior officers to know that staff were using a variety of suppliers to gain three separate quotes; however, staff had been heavily briefed on the benefits of the process.

A Member asked if there were any spending limits assigned to officers, to which, the Head of Finance advised that there were delegated amounts assigned to officers based on the nature and level of responsibility of their work.

Following a member’s request, the Officer provided a recent example of a waiver to the contract procedures (as per Section 17.4 of the Council’s Constitution which set out when a waiver could or could not be granted) and apprised the committee of the electrical works that went out to tender during the recent Space Project and advised that as part of the Space Project the Reception area for the Civic Offices was upgraded. In identifying additional electrical works during the Reception upgrade, a waiver was granted to the current contractor already undertaking the works.

The Chairman apprised the Committee of an example for recruiting local suppliers currently adopted by Transport Wales and queried if the Council had sent invitations to local companies to generate interest and engagement so that more local companies were registered on the Sell2Wales portal and therefore money was staying within the Vale of Glamorgan area. Also as a supplementary point, the

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Chairman added that the approach would also support the Council in achieving its sustainability aims.

The Officer advised that the Council had previously held Provider Open Days which, as well as encouraging engagement with local companies, was an excellent tool for gathering the ideas of the local providers about how the Council could improve its services. To invite local companies, the Council had written out to them with the aim of educating local providers on the Sell2Wales portal and that a number of workshops had been facilitated by the Local Authority. It was important to eradicate any stigma over the difficulty of being registered with Sell2Wales which would help to improve the poor levels of uptake despite several offers by the Council.

A Member expressed his surprise over the Council having previously organised Provider Open Days as he could not recall seeing any advertisements regarding the events. In response, the Officer advised that the Council could make improvements in terms of advertisement by increasing its use of social media in the future. The Chairman also wished to raise the point that Town and Community Councils could also benefit from training regarding contract management, to which the Officer agreed and advised that future training for Town and Community Councils was a possibility the Council would be able to look in to.

The Chairman thanked the Officer for her presentation of the report and requested that a future report be presented to the Committee regarding contract data, in particular the time taken to complete a tender exercise, how much information the Council took into account regarding suppliers, an update on the status of creating a contracts register and all relevant costs involved.

RESOLVED –

- (1) T H A T the contents of the report, briefing note and contract procedure rules be noted.
- (2) T H A T a future report on contract data, as defined within the minutes above, be presented to the Committee in 2019.

Reason for decisions

- (1&2) To ensure that the Audit Committee was kept informed.

499 PROGRESS AGAINST THE AUDIT RISK BASED PLAN 2018-19 (OMA / HOA) –

The Operational Manager for Audit presented the report to provide Members with a position statement on progress being made against the audit work that was included and approved within the 2018/19 Internal Audit Annual Risk Based Plan.

The actual progress against the 2018/19 Risk Based Plan was attached at Appendix A to the report and further information was attached at Appendix B which detailed those reviews which had not yet been allocated in the respective quarter and those



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reviews which had been brought forward from previous quarters. The Officer added that in order to assist with effective monitoring of the Annual Risk Based Plan, further information was attached at Appendix C to the report, which detailed all those reviews which had been completed during the period and performance.

A Member drew the Officer's attention to page 9 of Appendix A and, in particular, the item regarding Catering, which specified that the review was not allocated due to a lack of resources available within the section, however, due to an increase in resources during August 2018, it was envisaged that the item would now be allocated in Quarter 4 but this could slip to 2019/20. The Officer advised that a slippage was still possible, however if this proved to be the case, then the section would utilise the time that was not directed to the review elsewhere.

The Chairman wished to address the Equalities item contained on page 7 of Appendix A and given the lack of note in the update column, asked the Officer if any time had been allocated to this item. The Officer advised that the item had been allocated in Quarter 4 to an officer and work on the review had begun.

A Member noted that the Council's Audit Section was still currently using the South Wales Audit Partnership and queried whether there would be any penalty if the Council were to terminate its contract. The Officer advised that the Council would continue with its contract to ensure that it could deliver the already scheduled work well within its allocated budget.

The Chairman thanked the Officer for her report and comprehensive appendices and advised that it was a pleasure to recently meet all of the Audit Team and to gain further insight into the wide variety of the work that the individuals complete.

RESOLVED – T H A T the content of the report and appendices as well as the progress made by the Council's Audit Department to date be noted.

#### Reason for decision

To ensure that the Audit Committee was kept informed.

#### 500 AUDIT COMMITTEE – CORPORATE FRAUD FRAMEWORK (OMA / HOA) –

The Operational Manager for Audit presented the report to provide Members with an update on the Council's overarching Corporate Fraud Framework in accordance with the functions of the Audit Committee as outlined in its Terms of Reference as the challenge presented to Councils by fraud was significant. As stated in the "Local Government Counter Fraud and Corruption Strategy 2016-19", it was estimated that fraud cost Councils around £2.1 billion each year and according to reports produced by other organisations, this figure could potentially be higher.

The Officer began by advising that a review had been undertaken which had been based on the good practice identified in the Local Government Fraud Strategy and that the review included an assessment of how well the Council acknowledged the risk of fraud and how it prevented, detected and pursued monies or assets obtained

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fraudulently. Attached at Appendix A to the report was the Fraud Strategy and Framework 2018/19 to 2020/21 together with an action Plan of proactive fraud activity to stimulate improvement which had been developed as a consequence of the assessment. The Officer highlighted that the document provided an extension to the Council's existing policies affording a framework of reactive and proactive initiatives to detect fraud and / or demonstrate assurance that fraud had not taken place.

In the past the Council had operated a Fraud Team that predominantly prioritised fraudulent activity regarding Council Tax and Benefit Claims, however, with staff moving to the Department of Work and Pensions, the Council's focus on fraudulent activity had decreased slightly. The Officer advised that given that the Council now had a permanent investigative officer, the Council would be able to scrutinise the Fraud Strategy and Framework more heavily and the Strategy had recently been presented to Corporate Management Team and deemed a positive step forward.

In conclusion, the Officer stated that the Council took a zero tolerance stance on fraud and referred Committee Members to the key fraud risks relevant to the Vale of Glamorgan Council as set out in Section 7 of the Fraud Strategy and Framework document attached at Appendix A to the report.

A Member stated that it was reassuring to see that a significant amount of work had been undertaken by officers regarding the prevention of fraud and asked the Officer for her opinion on how successful the Council had been in achieving this to date. The Operational Manager for Audit advised that approximately £100,000 had been identified with the majority of the funds being recoverable, however, there was always more that the Council could do to increase this figure going forward.

The Chairman concluded the agenda item by noting that the prevention of fraudulent activity was an interesting area and he was pleased to see the forward thinking approach the Council was currently taking and could therefore be in a position to sell its expertise to other Local Authorities in the future.

RESOLVED – T H A T the contents of the report and appendix be noted.

#### Reason for decision

To ensure that the Audit Committee was kept informed.

#### 501 AUDIT COMMITTEE – FORWARD WORK PROGRAMME 2018/19 UPDATE (OM / HOA) –

The Operational Manager for Audit presented the rolling report to update Members on the Audit Committee's Forward Work Programme for 2018/19 and was pleased to report that there were currently no items outstanding and / or expected to slip for the Committee's next meeting on 13<sup>th</sup> February, 2019.

A Member expressed her disappointment that a report regarding an update on the Council's Asset Register had not been presented to Committee to date and was also

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not listed on the Forward Work Programme despite her request several meetings earlier. The Operational Manager for Audit apologised for the report not yet being provided and assured the Committee that this would be added to the Committee's Forward Work Programme for its February meeting.

RESOLVED – T H A T the Audit Committee's Forward Work Programme for 2018/19 be noted.

Reason for decision

To ensure that the Audit Committee was kept informed.