

# **DURHAM COUNTY COUNCIL**

At a Meeting of **Audit Committee** held in **Committee Room 1A , County Hall, Durham** on **Monday 30 September 2024 at 9.30 am**

**Present:**

**Councillor A Watson (Chair)**

**Members of the Committee:**

Councillors P Heaviside, B Kellett, R Ormerod and T Smith

**Co-opted Members:**

Mr F Barnish, Mr C Robinson and Mr I Rudd

## **1 Apologies for absence**

Apologies for absence were received from Councillor Louise Fenwick and Councillor Douglas Oliver.

## **2 Minutes**

The minutes of the meeting held on 28 June 2024 were agreed as a correct record and signed by the Chair.

## **3 Declarations of interest**

There were no declarations of interest.

## **4 Company Governance Arrangements**

The Committee received a presentation by the Director of Legal and Democratic Services which gave an overview of the company governance arrangements for Durham County Council which included a brief overview of the companies, an oversight of the company governance arrangements, the historic arrangements and the roles and responsibilities (for copy see file of minutes).

Councillor A Watson asked if these companies generated income for the Council and if they were audited.

The Director of Legal and Democratic Services responded that there was a drive by Local Authorities to establish companies in 2010 in response to government funding cuts. The four companies were audited but carried an element of risk if managed ineffectively. The Corporate Director of Resources added that the Council received dividends from the companies and had a budget of £50,000 per annum from these activities, though many of the companies did not issue dividends.

Mr I Rudd sought clarification on Durham Villages Regeneration Limited as it had received a compulsory strike-off notice which had been discontinued.

The Director of Legal and Democratic Services explained that the company constructed domestic buildings but had been dormant for a while as the sites for development had been exhausted. Keepmoat undertakes the company secretary role for the company and had filed the required information with companies house. The company's future would be discussed at the Shareholder Working Group.

Mr I Rudd asked why each company had adopted the policy to produce accounts for small companies that gave no information as to what they did.

P Darby replied that the policy had been adopted purely on cost efficiency purposes. The annual accounts were accompanied by Annual Reports prepared by each company and there was nothing preventing the reports being published on the Council's website for further transparency. Members asked that this be done.

Mr C Robinson queried whether these companies aligned to the values and interests of the Council and if staff were employees of the Council.

The Director of Legal and Democratic Services confirmed that staff worked for the Council and were seconded to each company under the local authority's terms and conditions and indemnity.

P Darby added that service level agreements were in place to effectively buy staff time from the Council to support the activities of the company, none of the companies directly employed staff. In response to a query from Mr C Robinson he replied that there were external contractors procured to build houses for those companies that were set up for that purpose and that the councils inhouse construction team were not engaged in those activities.

Mr C Robinson asked if the Council had any investment interests in the airport.

P Darby confirmed that the Council were shareholders in Newcastle Airport along with the other six local authorities that made up the North East Combined Authority.

**Resolved:**

- i) That the presentation be noted.
- ii) That the Director of Legal and Democratic Services consider how to facilitate the publication of company reports to ensure openness and transparency in relation to the council's company activity.

**5 Annual Health, Safety and Wellbeing Performance report 2023/24**

The Committee received a joint report of the Corporate Director, Regeneration, Economy and Growth and the Corporate Director of Resources which provided the annual report on Health, Safety and Wellbeing (HSW) performance for 2023/24 (for copy see file of minutes).

Mr C Robinson queried the new tree management policy and asked whether the Council were responsible for every tree in County Durham.

The Corporate Health and Safety Compliance Manager responded that the new tree management policy had been put in place following the tragedy that had occurred in Newcastle where a tree had fallen and killed a child. The policy included lessons learnt, how to manage risk and how to carry out inspections. The policy related to trees on council owned land and in open spaces.

P Darby noted that he understood that the issue in Newcastle was that the tree had been inspected but that action had been taken quickly enough as a result of the findings. The tree management policy had tightened up targeted inspections in urban and school areas by risk and set out clearly the action that would be taken as a consequence. If there were any concerns it would be intensively monitored and action implemented immediately.

Mr I Rud referred to chart one in the report that identified that within the top 5 accident categories violence and aggression was the highest causation. He asked if this was an increasing trend.

The Corporate Health and Safety Compliance Manager confirmed that violence and aggression incidents (physical and nonphysical) ranged from staff working in children's homes, staff within education settings and staff within traffic enforcement. Each role was risk assessed.

Staff were trained in restraint where appropriate (e.g. children's homes and the secure centre), de-escalation techniques and in some cases provided with body vests e.g wardens and enforcement officers. Lots of the incidents were verbal threats and not physical assaults. Information was collated to take measures about the risks associated with these jobs to ensure they were constantly revised and controlled measures introduced to keep on top of the situation.

Mr C Robinson was shocked at the statistics for violence and aggression incidents (physical and nonphysical) within the Council.

P Darby noted that when incidents occurred, they were reported and managers had been encouraged to capture incidents so that there was a record of these and that measures could be put in place. He gave an example of refuse collection operators being abused whilst doing their jobs.

The Corporate Health and Safety Compliance Manager stated that some areas were obvious where these incidents occurred but some there were some areas emerging like in the Refuse and Recycling where crew members had been attacked whilst on their rounds. He stated that this was a challenge but the Council constantly assessed to ensure that controlled measures were adequate to reduce the risk.

Mr F Barnish asked if the RAAC issues were posing a financial liability for the Council.

The Corporate Health and Safety Compliance Manager explained that the Council had a programme in place that had looked at all Council owned buildings that this had thankfully found that none of the councils building were affected by RAAC. The issues that had been identified related to schools and the Council had supported the relevant academy trusts with mitigations.

P Darby added that RAAC had major effects on a small number of schools within Durham who had been supported financially by DfE and this had not directly impacted on the Councils budget.

**Resolved:**

That the contents of the Annual Health, Safety and Wellbeing performance report for 2023/24 be agreed and noted.

## **6 Quarter one 2024/25 Health, Safety and Wellbeing Performance Report**

The Committee received a joint report of the Corporate Director, Regeneration, Economy and Growth and the Corporate Director of Resources which provided an update on the Council's Health, Safety and Wellbeing (HSW) performance for Quarter one 2024/25 (for copy see file of minutes).

Mr F Barnish asked if route cause analysis had been applied to incidents.

The Corporate Health and Safety Compliance Manager confirmed that a route cause analysis had been applied when the Council looked at more serious incidents and this determined how formally they were dealt with.

Mr F Barnish commented on employee absenteeism. He noted that the success rate at getting staff back to work was down to the level of support offered through telephone support lines and occupational psychology. He asked who looked at these trends.

The Corporate Health and Safety Compliance Manager confirmed that it was Human Resources who looked at these trends proactively with all services as there were different levels to consider.

P Darby mentioned that the scrutiny committee had regularly reviewed performance in terms of sick absenteeism and what drove it. This included scrutiny of the policies and programmes that were in place to ensure they were adequate.

Mr I Rudd commented that the trends seemed positive.

P Darby responded that levels were the same from the last quarter but had been low during covid as people had worked from home. Numbers fluctuated but generally increased slightly in flu season.

Councillor A Watson asked if the Council employed qualified staff who dealt with mental health issues or whether this was a bought in service.

P Darby replied that occupational health had access into mental health services that was provided by a third-party organisation. Awareness of Mental Health was raised at every level of management within the Council and was something that was focussed on.

The Corporate Health and Safety Compliance Manager stated that staff absent from work through mental health issues were not, in the main, work related. He added that the Council had a network of mental health first aiders which went above and beyond what the Council had to provide. Staff could be supported through specialised cognitive behaviour therapy (CBT) and a wraparound support service if they needed it.

Mr F Barnish asked what the numerical difference was between male and females employed by the Council.

P Darby confirmed that there were 64% female employees and 36% males employed by the council.

**Resolved:**

That the report be noted.

**7 Strategic Risk Management Progress Report for 2024/25 Review 1: 1 January 2024 – 31 May 2024**

The Committee received a report of the Corporate Director of Resources which supported the Council's Risk Management Strategy. It highlighted the strategic risks facing the Council and provided an insight into the work carried out by the Corporate Risk Management Group between January and May 2024 (for copy see file of minutes).

Councillor A Watson noted from the last meeting that there would be no financial liability to the Council from Milburngate until they agreed the lease. He asked if there were any further updates on this.

P Darby responded that the Milburngate Project dated back to 2018 when the Council had agreed a head lease subject to contract requirements and the site being completed to all necessary standards. The site had not been completed all defects rectified before the construction company had entered into administration. There were no financial liabilities to the Council until the developer completed the construction and triggered the head lease. It was noted that this was a complicated situation but that ultimately the development was not the Council's responsibility at this time.

Mr C Robinson was concerned about the reputational damage that could be caused to the Council by the Milburngate development.

P Darby acknowledged the reputational risk involved and that state that the council were mindful of the reputational damage that could be caused to the development and the city itself.

It was reiterated that ultimately, the building was not the Council's until or unless the lease was triggered by the developer. There was constant dialogue with Senior Officers each week to reach try and reach a conclusion.

Mr I Rudd asked if there were any penalty clauses or incentives for the developer to progress completion and avoid any further delays.

P Darby confirmed that there were no penalties from the Council and that the Agreement for Lease did not have a stop date but that there were contractual penalties between the funder and the developer and between the developer and the businesses that had signed up to occupy the development.

Mr I Rudd queried what would happen with the head lease when the site was complete.

P Darby replied that if the site was completed by the developer in line with the conditions set out in the Agreement for Lease then the council would be legally bound to sign the head lease. The Council would then be responsible for leasing the hotel, residential and hospitality/leisure units to tenants over a 35-year period. The Council would carry the risk of finding businesses to occupy the units to offset its headlease payment and would be responsible for the running costs, including maintenance of the building. At the end of the 35 year lease the council would be able to purchase the building for £1.

P. Darby highlighted that the decision to enter into the head lease was not to generate a surplus for the council. The Council had got involved to unlock the development and bring jobs to the city centre to boost the economy. He added that negotiations were ongoing with the funder to try and resolve the situation.

Councillor A Watson asked that a presentation be given at a future meeting on Milburngate and head lease issues.

Councillor R Ormerod stated that the development was in his division and wanted to ensure that the Council's media team got the right messages out to the public.

P Darby stressed that there were legal issues with the Milburngate development and the Council had to be careful about what was circulated in the public and suggested that if a presentation was required it would need to be in private.

Councillor B Kellett requested an update on the A690 slippage repair works and asked how much the repairs were going to cost.

P Darby confirmed that work had been ongoing behind the scenes to resolve the complicated land issues and to finalise the design, with repairs to commence shortly. There was £13million in the budget and the Corporate Director of Neighbourhoods and Climate Change was in discussion with Network Rail to determine if all the works could be done together as there was no value to just repair Durham County Council's land. The costs remain in line with the budget sum.

The Principal Risk and Governance Officer confirmed that works on the A690 should commence in October 2024.

Mr F Barnish commented that the Inquiry had published its final report in September 2024 on the Grenfell Tower tragedy in London and queried if Durham County Council had given anything to the coroner.

The Corporate Health and Safety Compliance Manager responded that the Council had not given anything to the coroner as they did not have any high-rise buildings that under the legislation that had any cladding issues.

Mr F Barnish asked if the Council had any concerns regarding risks associated with the winter months like flooding and if the Council needed to prepare.

P Darby confirmed that the Council had a good cleansing regime in place for gullies and drains. He added that this risk was included as a climate change risk.

The Principal Risk and Governance Officer acknowledged that there was a resilience forum that was carefully managed and geared up to respond to the autumn/winter months.

**Resolved:**

- i) That the report provided assurance that strategic risks were being effectively managed within the risk management framework across the Council be confirmed.
- ii) That an update presentation on the Milburngate development be provided at a future meeting.

**8 2023/24 Final Outturn for the General Fund and Collection Fund**

The Committee received a report of the Corporate Director of Resources which provided information on the General Fund and Collection Fund outturn position for 2023/24 (for copy see file of minutes).



Councillor A Watson asked why there were legal and professional fees for Milburngate within the accounts.

P Darby responded that the fees had been included in the accounts as the Council had sought external legal advice to support the issues around the Milburngate development.

Councillor T Smith questioned whether the Milburngate costs would impact on the Council's resources and occur financial losses to the taxpayer.

P Darby confirmed that Milburngate would not impact on the Council's resources as costs had been included in the existing budget for contingencies to provide access to advice and technical support.

Mr I Rudd referred to paragraphs 67 to 70 within the report that related to the resilience index and the Council using reserves to balance the books.

P Darby noted that this was a slight misrepresentation as the reduction in the earmarked reserves were sums that were set aside for specific purposes and not to balance the books. The MTFP reserves used to balance the accounts had strict controls. He noted that the section 25 report at full Council before the budget was considered set out his professional opinion on the adequacy of reserves. The aim of the s25 report was to ensure members were assured on the robustness of the estimates and reserves. He added that the underspend from corporate budgets last year had offset the overspend in children and young people services. The corporate underspend had been a managed position through delaying necessary borrowing whilst interest rates remain high.

As part of the outturn the Council had reviewed its reserves and sought to increase corporate capacity. He clarified that this had been done because the MTFP forecasts for 2025/26 and beyond showed a challenging outlook for the council. The Council was in a position where it could not raise sufficient Council tax revenues to meet its unavoidable spending pressures and the Government was not meeting the gap through additional grant, meaning that there would be a gap of £20million next year and £23 million the year after that would need to be addressed. He added that there was also the possibility that there would be no more money from government. The Council had lobbied the government as more funding was urgently needed.

Councillor A Watson asked if the Council still had a reduced Council tax scheme available.

P Darby responded that Members had agreed to a Council tax reduction scheme which supported low income families and people who were of a pensionable age. This was means tested and provided up to 100% support for financial vulnerable households so they had no bill to pay. He added that there were also statutory discounts and exemptions in place such as a 25% discount for single occupants and an exemption for students.

Mr F Barnish mentioned that taxing empty properties was a way to potentially create more revenue for the Council as he was concerned that there were too many empty homes in Durham. He requested a presentation on this.

P Darby confirmed that the council tax policy gave no exemptions for empty properties. These were charged 100% Council tax rates which included owner occupiers and landlords. He added that if properties were empty for more than twelve months, they were charged double council tax as an incentive to occupy properties. From April next year the council was introducing a premium on properties classed as second homes.

Members asked that a presentation be given to a future meeting on Council Tax and the Empty Homes Strategy.

Councillor T Smith mentioned that there were empty properties on the east coast of Durham which had attracted negative public attention. The media had run stories of refugees being housed in these areas which had caused issues in the community.

P Darby acknowledged that the scrutiny committee had investigated these issues.

**Resolved:**

- i) That the contents of 2023/24 Final Outturn for the General Fund and Collection Fund report be noted.
- ii) That a presentation on Council Tax and the Empty Homes Strategy be provided at a future meeting.

## **9 Addressing the Local Audit Backlog in England - Update**

The Committee received a report of the Corporate Director of Resources which provided an update on addressing the Local Audit Backlog in England following the statement by the Minister of State for Housing, Communities and Local Government in July 2024 and subsequent changes to legislation on 9 September 2024 (for copy see file of minutes).

**Resolved:**

That the Local Audit backlog update and its considered impact on the Council be noted.

**10 External Audit Progress Update 2023/2024 - Durham County Council**

The Committee received a report of the External Auditor which provided an update on progress in delivering their responsibilities as Durham County Council's external auditors. It included at Section 2 a summary of recent national reports and publications for information (for copy see file of minutes).

P Darby responded to Mr C Robinson that the external audit teams were experiencing resource shortages and that this had meant the audit hadn't effectively started until August.

Mr C Robinson asked if the external audit had seen an emerging risk with the PPE (Property, Plant and Equipment) valuations or other judgements within the accounts.

M Outterside responded that valuations of PPE was a technical issue that it was difficult to replace the cost value of PPE as the price of an asset was not seen but rather the costs on the local authority to run the asset. It was also difficult to add prices as the assets would be unique to the local authority. He gave an example of a school building that could not be sold on the open market as it was a specialised building and would have a unique value.

P Darby added that PPE valuations were based on a high degree of estimation and judgements made on them and the number of variables involved.

The Head of Corporate Property and Land noted that PPE valuations were difficult as they were initially measured on its cost but subsequently measured either using a cost or revaluation model, and depreciated so that its depreciable amount was allocated on a systematic basis over its useful life. This relied on opinion and its interpretation. If there were two opinions and we were unable to agree that the Council would adopt the Mazars opinion and amend its valuations accordingly to ensure its accounts could be signed off with an unqualified opinion.

M Outterside stated that Durham was not unique and this applied to all local authorities across the country. Information was checked and adjusted on merit that came out in the review.

P Darby thanked the team for all their hard work to pull together the external audit for the Council.

**Resolved:**

That the progress of the External Audit for Durham County Council be noted.

**11 External Audit Progress Update 2023/2024 - Durham County Council Pension Fund**

The Committee received a report of the External Auditor which provided an update on progress in delivering their responsibilities as Durham County Council's Pension Fund external auditors. It included at Section 2 a summary of recent national reports and publications for information (for copy see file of minutes).

**Resolved:**

That the progress of the External Audit for Durham County Council's Pension Fund be noted.

**12 Report of the Audit Committee for the Period September 2023 to August 2024**

The Committee received a report of the Chair of the Audit Committee which provided a copy of the proposed Annual Report that would be presented to County Council in October, which set out details of the work of the Audit Committee during the period September 2023 to August 2024 and how the Audit Committee continued to oversee good governance across the Council.

The report provided information on the outcome of the self-assessment evaluation of the effectiveness of the Audit Committee, carried out in February 2024 in accordance with CIPFA's Audit Committees: Practical Guidance for Local Authorities and Police 2022. The report highlighted the increase in the Audit Committee Co-opted membership from two to three members with effect from 1 May 2024 (for copy see file of minutes).

**Resolved:**

That the report and the work undertaken by the Audit Committee during the period September 2023 to August 2024 be noted.

### **13 Internal Audit Progress Update Report Period Ended 30 June 2024**

The Committee received a report of the Corporate Director of Resources which provided an update on the work that was carried out by Internal Audit during the period 1 April 2024 to 30 June 2025, as part of the Internal Audit Plan for 2024/25 (for copy see file of minutes).

#### **Resolved:**

- i) That the amendments made to the Internal Audit Plan during quarter one be noted.
- ii) That the work undertaken by Internal Audit during the period ending 30 June 2024 be noted.
- iii) That the performance of the Internal Audit Service during the period be noted.
- iv) That the progress made by service managers in responding to the work of Internal Audit be noted.

### **14 Exclusion of the public**

#### **Resolved:**

That under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in paragraph 1 of Part 1 of Schedule 12A of the Act.

### **15 Internal Audit Progress Report Period Ended 30 June 2024**

The Committee received a report of the Corporate Director of Resources which presented Appendix 6 which was referenced in the Internal Audit Progress report in Part A of the agenda (for copy see file of minutes).

#### **Resolved:**

That Appendix 6 be noted.