

MID DEVON DISTRICT COUNCIL

MINUTES of a **MEETING** of the **AUDIT COMMITTEE** held on 27 September 2022 at 5.30 pm

Present

Councillors

N V Davey (Chairman)
J Buczkowski, W Burke, Mrs C Collis, R L Stanley, A Wyer
and B G J Warren

Apologies

Councillors

R Evans and Mrs N Woollatt

Present

Officers

Matthew Page (Corporate Manager for People, Governance and Waste), Paul Deal (Corporate Manager for Finance), Paul Middlemass (Audit Manager) and Sarah Lees (Member Services Officer)

27. **Apologies**

Apologies were received from Cllr B Evans and also Cllr Mrs N Woollatt who was substituted by Cllr B Warren (via Zoom).

28. **Public Question Time**

Mr Paul Elstone asked the following questions in respect of items 6 and 7 on the agenda:

QUESTION 1

The Grant Thornton Audit Plan, as provided to the Audit Committee in June of this year, assessed that there was "Significant risk of Material Misstatement of the GROUP Financial Statements".

MDDC Cabinet have just agreed to lend 3 Rivers an additional £2.3 million to cover overspends on two projects.

Given the fact that Cabinet threw out a Scrutiny Committee recommendation this in the form of a resolution to have a risk review carried out by the Audit Committee and that these loans are, I believe, are well below market rates, where an impairment is in place, which may leave MDDC open to accusations of anti-competitive Government Support.

Will this have any impact on Grant Thorntons Audit Plans?

QUESTION 2

I ask this question based on the principle of continuous improvement, and in the context of the exactness of MDDC Internal and External Audits.

For necessary background, The MDDC Grant Thornton Audit Risk Assessment 2021/2022 asks the following questions:

“Are you aware of any instances of actual, suspected or alleged fraud, errors or other irregularities either within Mid Devon District Council as a whole or within specific departments since 1 April 2021?”

MDDC responded:

“Housing received one fraud case for 2021. This is currently being investigated by the Neighbourhood Team Leader”.

Also,

“Are there any areas where there is a potential for misreporting?”

MDDC responded:

“It is our assessment that it is extremely unlikely that misreporting would take place”.

With these statements in mind

I ask that, given these MDDC Management Responses, will this Audit Committee supported by both Grant Thornton and the Devon Audit Partnership, please investigate why MDDC Executive Officers failed to declare that a serious and formal fraud allegation had been made during the audit period?

The allegation in question was that an MDDC Senior Officer purposely misrepresented facts to a Property Developer in relation to a land purchase deal that MDDC required to progress promptly, for MDDC’s financial gain and ultimate benefit. This alleged misrepresentation of fact by the MDDC Officer caused the Property Developer to incur substantial financial loss.

This alleged misrepresentations amounted to fraud, as defined in Section 2 of the Fraud Act 2006, and has the ongoing potential to form the basis of a civil compensation claim against MDDC for SUBSTANTIAL loss.

It is known, beyond all doubt, that every one of MDDC Executive Management Team, the MDDC Council Leader, and the MDDC Cabinet Members for Finance and Planning knew of the fraud allegation.

Furthermore, documents obtained following a Freedom of Information request appear to show that some of these individuals may be implicated in the fraud.

For the avoidance of any doubt, I refer the Auditors to the Minutes of the Scrutiny Meeting of 17th January 2022 at which Scrutiny Committee Members expressed concerns that allegations of fraud did not appear to be investigated internally, asking for clarification on the internal investigation process – See minutes of meeting.

The MDDC Executive Officer for Business Improvement stated there was an MDDC internal escalation process and for referral to the Devon Audit Partnership.

HOWEVER just 4 days later, in a letter dated 21 January 2022, the MDDC Monitoring Officer tells the person making the allegation that:

“As the key Senior Officer has left the Council, it is clear that there would now be little, if any benefit, in conducting an investigation”.

It is true that senior officer left MDDC not long after the allegation was made in what would seem to be highly questionable circumstances given the timing, however it is clear that the facts at the centre of the allegation are still very much of concern to MDDC in terms of exposure both internal and external.

The Chairman stated that Mr Elstone was making a statement rather than asking questions but if he submitted the questions in writing he would receive a written reply.

Having submitted the question in writing above, the following replies have been provided to Mr Elstone’s questions by the Deputy Chief Executive (S151):

Question 1

The answer is 'No'.

Question 2

We were informed of an unsubstantiated fraud allegation by a resident – who has been asked on numerous occasions to provide evidence to us or the relevant authorities and no information has been forthcoming – therefore there was no need/requirement to update the Committee.

Note: Cllr R L Stanley declared a Disclosable Pecuniary Interest in that he was a Director of the 3 Rivers Development Company Ltd. and from this it was inferred that should any discussion ensue he would need to leave the meeting.

29. **Declaration of Interests under the Code of Conduct**

No interests were declared under this item.

30. **Minutes of the previous meeting (00:10:00)**

The minutes of the meeting held on 2 August 2022 were confirmed as a true record and signed by the Chairman.

31. **Chairman's Announcements (00:11:00)**

The Chairman had the following announcements to make:

1. It was acknowledged that the agenda for the next meeting on 22 November 2022 was going to be rather heavy and that a special meeting may be needed.
2. He had recently attended a South West Audit Chairman's Partnership meeting online which had been useful.

32. **Internal Audit Progress Report (00:12:00)**

The Committee had before it, and **NOTED**, a report * from the Devon Audit Partnership presenting their internal audit progress report for the year to date.

The following was highlighted within the report which included two internal audit reports undertaken since the last meeting:

Housing Care Service Alarms Follow Up

- This audit had been given a 'Reasonable Assurance', however, it was pointed out that much work had been put in by the Commercial Service's Manager to address the level of issues found within the audit.
- Better processes were now in place to rectify faults.
- Overall there was an opportunity to grow the service.
- There would be a focus on addressing the necessities needed first then a look towards the income opportunities.

Climate Change

- This had also been given a 'Reasonable Assurance' opinion.
- Everything was being done to try and meet the net zero targets, however the targets were very challenging
- A number of management actions had been agreed which were contained within the report.

Further updates were included as follows:

- The number of old recommendations continued to be at low levels.
- A Cyber Security Audit was just being finalised and a Leisure Centres audit would be commencing shortly.
- A Fraud Prevention Detection exercise was being conducted by Devon County Council.

Consideration was given to:

- The extent of the loss of income from the Care Alarm System in recent years, however, there would be a focus on income generation going forwards.
- Whether there was any merit in re-installing the machine in the reception area of Phoenix House for residents to pay bills? It was explained that Direct Debit was the best method of paying the Council. However, it was also explained that this could be done over the phone and on-line. There was also still a facility to pay with cash on site. Cheques were not the preferred method of payment but there was still an option available to do this.
- Customer satisfaction rates in relation the Development Management audit.

Note: * Report previously circulated; copy attached to the minutes.

33. **External Audit Progress Report (00:30:00)**

The Committee received, and **NOTED**, a verbal update from Grant Thornton as the Council's external auditors regarding progress with their work for the 2021/2022 audit.

- Grant Thornton had just commenced the Financial Statements Audit, no issues of concern had been identified thus far. The certification of the Housing Benefits Claim was also looking positive.
- They were facing challenges as a firm regarding what was happening nationally therefore there were some concerns about meeting deadlines which they had spoken to the Council about, however, bringing in more resources would help to achieve the November deadline.
- The challenges facing Grant Thornton in terms of resourcing and timescales would also have a knock on effect to the Council.

34. **Identification of items for the next meeting (00:37:00)**

In addition to the items already included within the work programme for the Audit Committee the following was identified as an agenda item that should come to a future meeting:

- Planning Appeals (possibly January 2023 given the Committee workload for November 2022).

(The meeting ended at 6.13 pm)

CHAIRMAN