

Audit and Standards Committee

18 January 2021



Time: 10.00am

PLEASE NOTE: This will be a 'virtual meeting', held remotely in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.

Members of the press and public can view the meeting by clicking on the link provided on the agenda page on the Council's website or calling the number provided.

Instructions for members of the committee, officers and other participants to join the meeting have been circulated separately.

Membership:

Councillor Julian Peterson (Chair); Councillors Stephen Gauntlett (Vice-Chair), Christine Brett, Roy Burman, Phil Davis, Adrian Ross and Christine Robinson

Quorum: 4

Published: Thursday, 7 January 2021

Agenda

1 Introductions

2 Apologies for absence/declaration of substitute members

3 Declarations of interest

Disclosure by councillors of personal interests in matters on the agenda, the nature of any interest and whether the councillor regards the interest as prejudicial under the terms of the Code of Conduct.

4 Minutes (Pages 5 - 10)

To confirm and sign the minutes of the previous meeting held on 16 November 2020 (attached herewith).

5 Urgent items

Items not on the agenda which the Chair of the meeting is of the opinion should be considered as a matter of urgency by reason of special circumstances as defined in Section 100B(4)(b) of the Local Government Act 1972.

6 Written questions from councillors

To deal with written questions from councillors pursuant to Council Procedure Rule 12.3 (page D8 of the Constitution).

7 Update on Lewes District Council's use of covert surveillance powers (Pages 11 - 14)

Report of Regulation of Investigatory Powers Act 2000 (RIPA) Monitoring Officer

8 Delay to the External Audit of the 2018/19 Statement of Accounts

Verbal update by Deloitte and Lewes District Council Officers

9 2021/22 Treasury Management Strategy (*to follow*)

Report of Chief Finance Officer

10 Date of next meeting

To note that the next meeting of the Audit and Standards Committee which is scheduled to commence at 10:00am on Monday, 8 March 2021, will take place in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations.

Information for the public

Accessibility:

This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

Public participation:

Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to submit a speech on a matter which is listed on the agenda if applicable. Where speeches are normally allowed at a Committee, live public speaking has temporarily been suspended for remote meetings. However, it remains possible to submit speeches which will be read out to the committee by an Officer.

Information for Councillors

Disclosure of interests:

Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the meeting while the matter is being considered (unless he/she has obtained a dispensation).

Councillor right of address:

A member of the Council may submit a question to ask the Chair of a committee or sub-committee on any matter in relation to which the Council has powers or duties or which affect the District and which falls within the terms of reference of that committee or subcommittee.

A member must give notice of the question to the Head of Democratic Services in writing or by electronic mail no later than close of business on the fourth working day before the meeting at which the question is to be asked.

Other participation:

Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

Democratic Services

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

Email: committees@lewes-eastbourne.gov.uk

Telephone: 01273 471600

Council website: <https://www.lewes-eastbourne.gov.uk/>

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Audit and Standards Committee

Minutes of the remote meeting held (via Microsoft Teams) on 16 November 2020 at 10.00am

Present:

Councillor Julian Peterson (Chair)
Councillors Stephen Gauntlett (Vice-Chair), Christine Brett, Roy Burman, Phil Davis, Adrian Ross and Christine Robinson

Officers in attendance:

Jackie Humphrey (Chief Internal Auditor)
Homira Javadi (Chief Finance Officer)
Sarah Lawrence (Senior Committee Officer, Democratic Services)
Jennifer Norman (Committee Officer, Democratic Services)
Ola Owolabi (Deputy Chief Finance Officer (Corporate Finance))

Also in attendance:

Niren Ramkhelowon (Deloitte)
Ben Sheriff (Deloitte)

52 Introductions

The Chair introduced members of the Committee via roll call, and those officers present during the remote meeting.

53 Apologies for absence/declaration of substitute members

There were none.

54 Declarations of interest

There were none.

55 Minutes

The minutes of the meeting held on 14 September 2020 were submitted and approved, and the Chair was authorised to sign them as a correct record.

56 Urgent items

There were none.

57 Written questions from councillors

There were none.

58 External Audit report 2018/19 and 2019/20

The Committee invited the Deputy Chief Finance Officer (DCFO) to provide an update in relation to the progress of the External Audit reports 2018/2019 and 2019/2020.

The DCFO explained that, Mr Sheriff of Deloitte, the Council's external auditor, would be providing a verbal update to the Committee. The DCFO advised that officers had been waiting for receipt of the auditor's progress report in relation to the external audit reports 2018/2019 and 2019/2020, but this had not been received until late in the day on 13 November 2020. This had given officers no time to review and agree its contents prior to its presentation to the Committee.

Mr Sheriff (Deloitte) shared the content of the update with the Committee and all those present during the remote meeting. He apologised for the significant delays in presenting the external audit report 2018/2019. The external auditor explained that by the time it had received the necessary ledgers in November 2019, it had already committed its resources to other projects. As a result, it was not possible to begin the audit until June 2020, with the external audit for 2019/2020 commencing shortly after.

Mr Sheriff (Deloitte) highlighted that due to the Covid-19 pandemic, many factors had been working against all of those involved, which was slowing how efficiently work could be done. This included current working arrangements, making it particularly difficult to undertake complex work, and to collaborate, investigate and resolve matters with the Council's finance team. He advised that despite the current complexities, Deloitte was currently working on putting together its position on all outstanding items and when the matters could be resolved or closed out.

The Chair invited comments from the DCFO.

The DCFO apologised to the Committee that the information from Deloitte had not been able to be accompanied by an officer report, due to its late receipt. The DCFO highlighted officers' disappointment that Deloitte committed insufficient resources to complete the project in a timely manner, leaving outstanding issues that were yet to be resolved. He further highlighted that despite these issues, the Council and Deloitte were committed to working together, discussing and resolving outstanding issues and agreeing to a solidified plan in terms of direction and how the audit would be delivered.

The Committee requested an estimate of time and cost from Deloitte in respect of completion of the external audit reports 2018/2019 and 2019/2020. Mr Sheriff (Deloitte) explained that confirmation of completion of the external audit results would be dependent on issues that had yet to be identified and resolved, and therefore he could not give an estimated time of completion.

The Committee expressed its surprise and disappointment on the continued delays and Deloitte's inability to provide a timeframe and assurance that the work could be completed with the fixed audit fee. It further expressed its

displeasure that the information received in respect of the update on the outstanding external audits was sent late to officers, thus giving insufficient time for proper consideration.

The Committee queried with Deloitte the number of staff needed to complete the external audit and whether or not there was anything it could do to help move the process along going forward. Deloitte confirmed that an external audit would normally comprise a team of 3 to 4 auditors working over a six-week period in order to undertake the bulk of the testing required.

The Committee requested that officers and Deloitte agree a plan as to what items were outstanding, who was responsible for their completion and when the items would be completed. The Chief Finance Officer agreed that this was a sensible approach in order to move forward in a productive and transparent manner.

The Committee discussed options regarding bringing the matter to the attention of all Councillors at Full Council either at its meeting in November 2020 or in February 2021, and the Chair sought advice from the Senior Committee Officer (SCO). The SCO confirmed that the agenda had already been dispatched for the Council meeting in November and this would not meet the requirements for an urgent decision, but the matter could be highlighted to Members by way of a question to the Chair of the Committee, rather than as a resolution of this Committee. It was confirmed that the Committee could request an additional meeting to receive the requested update on outstanding items for completion of the audit, and extend an invitation to all Councillors to attend. In addition, it could make a decision at its next formal meeting whether to report formally to Full Council in February 2021 on any further action required.

The Committee adjourned for a period of 10 minutes to receive an explanation of this advice in full, and on resumption of the meeting this was repeated in public for transparency.

The Chair thanked Deloitte for its update.

Resolved:

1. That officers, in consultation with Deloitte, produce a list of the actions outstanding in respect of the external audit 2018/2019 and 2019/2020, the responsible authority and timescales for completion; and
2. That an additional meeting of the Committee be held to receive the list of outstanding actions in respect of the external audit 2018/2019 and 2019/2020 prior to its next scheduled meeting in January 2021.

59 Treasury Management

The Committee considered the report which presented details of recent Treasury Management activity for the period of 1 September 2020 to 31 October 2021.

The Deputy Chief Finance Officer (DCFO) summarised the report and its findings.

The Chair confirmed that the Committee had no questions for the DCFO in respect of the report.

Resolved:

That Cabinet be recommended to accept the Treasury Management activity from 1 September to 31 October 2020 has been in accordance with the approved Treasury Strategy for the period, as set out in the report.

60 Internal Audit and Counter Fraud report for the first half of the financial year 2020-2021 to the end of September 2020

The Committee received the report which provided a summary of the activities of Internal Audit and Counter Fraud for the first half of the financial year, 1 April 2020 to 30 September 2020.

The Chief Internal Auditor (CIA) summarised the report and its findings.

Discussion included:

- Questions surrounding domestic rates and housing benefit checks, and whether or not the checks for each should be done by the operational team or the Counter Fraud team. The CIA confirmed that it was a combination of factors. For instance, Right to Buy and other areas within the Council, operation officers did not have access to systems required to do the necessary checks. As a result it made sense for the Counter Fraud Team to undertake those actions to meet statutory timelines.
- Whether or not the applications which were withdrawn were as a result of fraudulent claims or genuine misunderstanding. The CIA confirmed that it was difficult to tell and could be down to a number of factors, leading to a possible mixture of both.
- Small business grant funds and whether the post verification applications indicated in the report were just a sample of the applications received. The CIA confirmed that they started with a sample of applications, then worked through all of the applications.

Resolved:

That the report be noted.

61 Strategic Risk Register quarterly review

The Committee received the report which summarised the outcomes of the quarterly review of the Strategic Risk Register (SRR) by the Corporate Management Team (CMT).

The Chief Internal Auditor (CIA) highlighted that the SRR was taken to CMT on 21 October 2020 for a quarterly review. As many of the risks had already been raised to their highest level to consider the effects of Covid-19 and Brexit, it was felt that the scores should not be changed. In response, however, to a comment about Newhaven Port at the last meeting of the Audit and Standards Committee on 14 September 2020, additional descriptions and internal controls, referring specifically to the Port, had been added under the relevant risks as set out in paragraph 2.3 of the report and Appendix A.

The Committee questioned whether or not Strategic Risk code 026 (SR 026) on page 47 of the agenda might be reviewed and downgraded. The CIA confirmed that she would review and consult with CMT prior to the next SRR.

Resolved:

That the report be noted.

62 Date of next meeting

The Chair requested that the Committee be contacted by officers regarding the requested emergency meeting in relation to the External Audit report 2018/18 and 2019/20 as soon as practically possible. The Senior Committee Officer confirmed that officers would consult with the External Auditor and confirm a date yet to be agreed by the Committee.

The Chair wished to thank the Committee Officer and Senior Committee Officer for their participation in relation to the matters on the agenda.

Resolved:

That the next meeting of the Audit and Standards Committee which is scheduled to commence at 10:00am on Monday, 18 January 2021, in a virtual capacity, via Microsoft Teams, and in accordance with section 78 of the Coronavirus Act 2020 and section 13 of the related regulations, be noted.

The meeting ended at 11.58am.

Councillor Julian Peterson (Chair)

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Report to:	Audit and Standards Committee
Date:	18 January 2021
Title:	Update on Lewes District Council's use of covert surveillance powers
Report of:	RIPA Monitoring Officer
Ward(s):	All
Purpose of report:	To provide an overview of the Council's recent use of covert surveillance powers.
Officer recommendation(s):	That the Committee notes the report.
Reasons for recommendations:	The Committee is responsible for overseeing the operation of the Council's policy on the use of covert surveillance.
Contact Officer(s):	Name: Lee Ewan Post title: Counter Fraud Investigations Manager and RIPA Monitoring Officer E-mail: lee.ewan@lewes-eastbourne.gov.uk Telephone number: (01323) 415123

1 Introduction

- 1.1 This report summaries the Council's recent use of covert surveillance and online intelligence gathering.
- 1.2 For legal reasons, the report can only provide an overview of surveillance activity. It cannot disclose personal data or details of individual cases that are still the subject of active investigations.

2 Legislative and policy background

- 2.1 Part 2 of the Regulation of Investigatory Powers Act 2000 ('RIPA') provides for the authorisation by certain public bodies, including district councils, of 'directed surveillance'.
- 2.2 'Directed surveillance' is covert surveillance carried out in relation to a specific investigation or operation in such a manner as is likely to result in the obtaining of private information about any person, other than by way of an immediate response to events or circumstances.
- 2.3 In conducting directed surveillance, the Council must comply not just with RIPA but with the relevant Home Office code of practice and the Council's own policy – links to which are provided in paragraph 10 below.

2.4 In procedural terms, the most important steps under RIPA are for the directed surveillance to be authorised internally by a trained and designated senior manager, and for the authorisation to be approved by a justice of the peace (JP) – either a magistrate or district judge.

2.5 At both stages, the authorising officer and JP must be satisfied that the proposed surveillance is necessary for the prevention or detection of a crime attracting, on conviction, a custodial sentence of at least six months; and is proportionate to what is sought to be achieved by carrying it out. This involves balancing the seriousness of the intrusion into the privacy of the subject (or any other person who may be affected) against the need for the activity in investigative and operation terms.

3 Covert Surveillance authorised under RIPA in 2020

3.1 There are no cases to report during this period.

4 Online covert activity

4.1 The growth of the internet, and the extent of the information that is now available online, presents opportunities for Council officers to view or gather online information which may assist them in preventing or detecting crime or carrying out other statutory functions.

4.2 Officers engaged in debt recovery relating to housing rent, council tax, business rate or overpaid housing benefit may need to carry out online research to identify the whereabouts of the debtor; or the existence of that person's employer, for a possible attachment of earnings order.

4.3 In addition to its policy on internet and social media research (see link at paragraph 10), the Council has issued its debt recovery officers with guidance on the procedure to follow when their research is likely to obtain private information, if the study of an individual's online presence becomes persistent, or where material obtained from any check is to be extracted and recorded. Whilst debt recovery is a civil matter and therefore outside the RIPA regime, private issues must still be considered and, where necessary, the research must be authorised on the basis of necessity and proportionality. There is a process in place to ensure the Account Management team follows this protocol.

5 Financial appraisal

5.1 The cost of conducting and managing covert surveillance and online research is met from existing service budgets.

6 Legal implications

6.1 As detailed above, the statutory framework for the authorisation of directed surveillance is part 2 of RIPA, supplemented by the relevant Home Office code of practice. Directed surveillance authorised and conducted in accordance with RIPA provides for lawful interference with a person's right to a private and family life. Failure to comply with statutory requirements may render any directed

surveillance unlawful and therefore inadmissible in evidence. As a further consequence, any persons subjected to unlawful privacy interference could bring a civil claim against the Council.

7 Risk management implications

7.1 The Council's arrangements for the management of surveillance, in terms of policies, procedures and designated roles (e.g. RIPA Monitoring officer and RIPA authorising officers) should ensure that activity is fully compliant with RIPA and human rights legislation. Further, the Council will have regard to the recommendations of RIPA inspections conducted by the Investigatory Powers Commissioner's Office, and any internal audits.

8 Equality analysis

8.1 There are no equality implications associated with this report.

9 Environmental sustainability implications

9.1 There are no environmental sustainability implications with this report.

10 Background papers

10.1 The background papers used in compiling this report were as follows:

- Home Office Code of Practice on Covert Surveillance and Property interference (August 2018) - [CHIS Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)
- Lewes District Council policy on covert surveillance - [292573.pdf \(lewes-eastbourne.gov.uk\)](https://www.lewes-eastbourne.gov.uk/292573.pdf)
- Lewes District Council policy on conducting internet and social media research - <https://www.lewes-eastbourne.gov.uk/resources/assets/inline/full/0/277395.pdf>

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