

COUNTY BOROUGH OF BLAENAU GWENT

REPORT TO: THE CHAIR AND MEMBERS OF THE AUDIT COMMITTEE

SUBJECT: AUDIT COMMITTEE – 17th NOVEMBER, 2020

REPORT OF: DEMOCRATIC SUPPORT OFFICER

PRESENT: COUNCILLOR S. HEALY (VICE-CHAIR IN THE CHAIR)

Councillors D. Davies

J. Hill

W. Hodgins

J. Holt

K. Rowson

B. Summers

S. Thomas

H. Trollope

L. Winnett

WITH: Managing Director
Chief Officer Resources
Senior Business Partner – Capital and Corporate Accounting
Professional Lead – Internal Audit
Service Manager Accountancy
Audit & Risk Manager
Corporate Director Social Services
Corporate Director Regeneration & Community Services
Head of Legal & Corporate Compliance
Data Protection & Governance Officer
Branch Secretary - UNISON

AND: Audit Wales
Mike Jones
Dave Rees
Derwyn Owen

DECISIONS UNDER DELEGATED POWERS

<u>ITEM</u>	<u>SUBJECT</u>	<u>ACTION</u>
No. 1	<p><u>SIMULTANEOUS TRANSLATION</u></p> <p>It was noted that no requests had been received for the simultaneous translation service.</p>	
No. 2	<p><u>APOLOGIES</u></p> <p>Apologies for absence were received from Councillor M. Cross.</p>	
No. 3	<p><u>DECLARATIONS OF INTEREST AND DISPENSATIONS</u></p> <p>The following declarations of interest were reported:</p> <p>Councillor B. Summers - Item No. 6 Statement of Accounts for 2016/17, 2017/18 & 2018/19</p> <p>Councillor J. Hill - Item No. 6 Statement of Accounts for 2016/17, 2017/18 & 2018/19</p> <p>Item No. 7 External Audit of 2016/17 Statement of Accounts – Blaenau Gwent County Borough Council</p> <p>Item No. 8 External Audit of 2017/18 Statement of Accounts – Blaenau Gwent County Borough Council</p> <p>Item No. 9 External Audit of 2018/19 Statement of Accounts – Blaenau Gwent County Borough Council</p>	
No. 4	<p><u>AUDIT COMMITTEE</u></p> <p>The minutes of the special Audit Committee held on 29th September, 2020 were submitted.</p> <p>RESOLVED that the minutes be accepted as a true record of proceedings.</p>	
No. 5	<p><u>ACTION SHEET</u></p> <p>The Action Sheet arising from the meeting of the Audit Committee held on 29th September, 2020 was submitted,</p>	

	<p>whereupon:</p> <p><u><i>Business Resource Centre Decommissioning</i></u></p> <p>The Managing Director apologised to Members regarding the delay in this matter coming back to Committee, which was due to other areas of work as a result of the pandemic. However, the Managing Director assured Members that a report would be submitted to the next meeting to outline lessons learned from the BRC report and how we deal with decommissioning buildings in the future.</p> <p>In terms of the question raised at the previous meeting regarding the planning application, the Corporate Director Regeneration & Community Services confirmed that an application for change of use had been approved had the site had been sold to Dragon Recycling, and they were currently undertaking refurbishment of the site to begin their recycling activities.</p> <p>RESOLVED, subject to the foregoing, that the Action Sheet be noted.</p>	
<p>No. 6</p>	<p><u>STATEMENT OF ACCOUNTS 2016/17, 2017/18 & 2018/19</u></p> <p>Consideration was given to report of the Chief Officer Resources.</p> <p>The Chief Officer Resources presented the report, and pointed out that Items 6, 7, 8 & 9 on the agenda related to the Council's accounts for 2016/17, 2017/18 and 2018/19. Item No. 6 reported the Council's statement of accounts covering all three years, with Items 7, 8 & 9 being Audit Wales reports, which included their opinion for each set of accounts. The Chief Officer Resources suggested that Item Nos. 6, 7, 8 & 9 on the agenda be considered together.</p> <p>She said Members would recall during September 2017 Audit Wales received correspondence raising concerns regarding the Council's relationship with Silent Valley Waste Services.</p>	

An Audit Wales investigation has been ongoing and as a result the Auditor General has been unable to provide opinion on the Council's accounts for the three years referred to. Whilst Audit Wales continue to examine a number of matters relating to the Council's historic relationship with Silent Valley, which they intend to report on in due course, they do not now consider any of the ongoing matters to be material to the Audit General's opinion on the Council's Financial Statements. An audit opinion has therefore been provided, and the Statement of Accounts for the three years (2016/17, 2017/18 & 2018/19) have been presented to Committee for approval.

The Chief Officer Resources reported that for 2016/17 and 2017/18 the Auditor General considered the pension contributions paid on behalf of the Chief Finance Officer and the Corporate Director for Environment & Regeneration for their roles as Directors on Silent Valley Waste Services appeared to be contrary to law, and considered that the Council should have disclosed the nature and impact of the additional pension contributions but failed to do so. Further detail on this opinion was provided in the Audit Wales reports at Items 7 and 8, and explained that whilst the value of the transactions identified in the Accounts were relatively small, the assessment of materiality could also be affected by certain quality issues, such as legal and regulatory requirements as well as political sensitivity. This was the case with Senior Officers' Remuneration Note considered to be material to its nature rather than value, and as result materiality level of £1 has been applied. Given this low level of materiality, Audit Wales expect this level of disclosure to be correct since it was publishing individuals' remuneration and making this information publicly available. As result of this, it was the Auditor General's intention to issue a modified or qualified opinion on the Council's financial statements for 2016/17 and 2017/18, and the 2018/19 opinion as unqualified.

The Chief Officer Resources said the Council had sought

independent legal advice on this matter, and whilst it was accepted that there were procedural errors in the way in which employer pension contributions were administered, it was considered that these did not have the effect of rendering the payments contrary to law.

In addition to the above issue, the Audit Wales' reports also highlighted the corrected and uncorrected misstatements identified as part of the audit of accounts. For 2016/17 & 2017/18 the misstatements have been corrected within the respective Statement of Accounts. For 2018/19 there were a small number of misstatements that remain uncorrected. All misstatements have been considered previously by the Audit Committee who agreed with the Officer recommendation not to amend the misstatements identified in 2018/19 on the basis that these would not have a material impact on the accounting statements.

Whilst a qualified opinion on the accounts for 2016/17 and 2017/18 was disappointing, the Officer was pleased that the Auditor General was now in a position to provide an opinion that confirmed, with the exception of those pension contribution payments highlighted, that for each of the three years the Council's financial statements provide a true and fair view of the financial position of Blaenau Gwent County Borough Council as it stood at 31st March each year; and have been properly prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom.

The Chief Officer Resources concluded by recommending that the Audit Committee, after due consideration, approve the 2016/17, 2017/18 and 2018/19 Statement of Accounts in line with the preferred option outlined at 3.1 of the report.

A Member said given the fact that this matter was referred to the Police by Audit Wales, and then referred back to Audit Wales, he said Members needed to be clear on whether it would be appropriate to agree the Statement of Accounts. He referred to the issue of pension contributions, and the fact that the Council had sought independent advice, and asked why

the independent legal advice had not been provided to Members within the report.

In response the Chief Officer Resources said the legal advice received was clear, and was similar in certain aspects to the advice of Audit Wales, however, the Council had a different opinion on the interpretation of the advice provided.

The Member asked whether the independent legal advice was contrary to that of Audit Wales in respect of members of staff receiving pension contributions from the Authority, whilst representing outside bodies.

The Chief Officer Resources said the independent advice received stated that whilst the payment in relation to Silent Valley Directorship should have been treated as a separate pension pot, it did not necessarily make the payments unlawful.

The Member then referred to Item No. 7 and the pension contributions totalling £4,975 and asked whether this was the total cost over a number of years, or the costs for the 2016/17 financial year.

In response the Chief Officer Resources said the Audit Wales report referred to years 2016/17 and 2017/18, so the amount referred to was the pension contributions paid for both individuals in those financial years.

The Member said when reading Item No. 7 he was incensed that, while being a previous Deputy Leader and Leader of the Council, that the information did not come before Members, and this was clearly an issue within the report, bearing in mind that this issue was reviewed in March 2012, November 2016 and in 2017, and on this basis he found it difficult to support the reports.

A Member asked whether the reports could be signed-off in the absence of the Chair, and the Chief Officer Resources confirmed that the Vice-Chair would be in a position to sign-off the accounts on behalf of the Committee, as Chair of this meeting.

The Vice-Chair said if the Committee agreed the reports, he would be prepared to sign-off on behalf of the Council.

Another Member said he was concerned that the pension contributions had not been identified previously, and sought clarity on who paid the pension contributions, as the accounts registered with Companies House for Silent Valley Waste Services show them as paying pension contributions. He also referred to the significant variations in the Director's remunerations over the years, particularly the significant increase in 2017.

The Chief Officer Resources explained that Silent Valley Waste Services accounts registered with Companies House would reflect the fact that they paid pension contributions on behalf of their employees, and confirmed that they never paid pension contributions in the LGPS in relation to the two individuals, as these were paid by the Council.

In relation to the variations in Director's remunerations, the Audit Wales Officer explained that the significant increase in that particular year (2017) was due to a termination payment to the then Managing Director.

A Member enquired as to the costs of the independent legal advice, and the Chief Officer Resources undertook to provide this information.

Another Member asked why the Council paid the pension contributions to the two individuals in their roles on an outside organisation, and how many years this had been happening.

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In response the Chief Officer Resources said this was an historic issue. When Silent Valley Waste Services was established the Council agreed that the Directors nominated to the Board would be paid an addition to their pay for undertaking that role, and at that time as it was classed as an addition to pay, it was pensionable. In the interim the arrangements changed and it became less part of the individuals' role from the Council, and became separate employment, and at that time the Council should have treated the payments differently. However, this was not done, and whilst this was accepted as a mistake, it was not considered that the payments were unlawful.

The Member asked whether the Council could reclaim the pension contributions, and the Chief Officer Resources that Silent Valley Waste Services had been asked for reimbursement of the payments made but declined, stating that the individuals were employees of the Council at that time. They reimbursed the Council for the Directors' fee but not the pension contributions.

The Audit Wales Officer pointed out that Audit Wales were not suggesting that any fraud had taken place. The issues related to the fact that the Council had not, in the past, put adequate governance arrangements in place over the relationship between itself and Silent Valley, and failed to define the roles to be performed by the Officers concerned or determine what the remuneration of roles should be, and the position of pensions.

The Head of Legal & Corporate Compliance said in terms of reclaiming any potential monies due, at this point it would not be advisable to comment on any possible future legal action or repayment. However, she assured the Audit Committee that these matters would be considered.

A Member stated that Audit Wales have stated that the

accounts could be signed-off. However, he said this was a serious issue and assured that the investigation would continue and the outcome would be reported back to the Audit Committee for Members to consider.

The Audit Wales Officer said in terms of the continuing investigation, he said it was likely that the report would include greater detail on the issue of pensions, and other issues, however, it was considered that those issues do not impact on the Auditor General's opinion on the financial statements.

A Member referred to the inadequacy of the governance arrangements between the Council and Silent Valley over a period of years, and said it was important to point out that previous reports that came before Members were written by Senior Officers of the Council, and some of those Senior Officers would have been in receipt of the pension contributions; and Audit Wales have stated that this was unlawful. Whilst the Council has taken advice to the contrary, the Member said the fact that this has not been reported to Members, in his opinion somewhat weakened the significance of that advice. He said the public would be interested in this issue and would likely be of the opinion that an addition to pay would have been sufficient for the role, without the pension payment on top, and that this was done without the knowledge of elected Members. On the basis of the concerns outlined he found it difficult to support approval of the accounts. In relation to the continuing investigation by Audit Wales he asked when a report could be expected.

The Audit Wales Officer reported that the audit work was nearing completion, and the provisional findings and conclusions have been drafted. In the first instance, the relevant extracts of the document would be circulated to those who are answerable within it, to provide opportunity for them to correct any factual inaccuracies to the extent that it related to themselves or their actions. Once that has been

undertaken any following any amendments that may be necessary, the document would be sent to the Council as a consultation draft, and the Council would have the opportunity to comment on it at that stage, and it was anticipated that this would be early next year.

In response the Member asked whether the report could include a timeline of the significant events, i.e. when the issue was reported to Council, and when the Police investigation was launched etc., as it would be beneficial for Members to have this information when making judgement on the report.

A Member said he would support sign-off of the accounts, subject to assurance that the governance arrangements would be strengthened moving forward.

In response the Managing Director reminded Members that a review of the governance arrangements for Silent Valley Waste Services was undertaken in late 2017, and new arrangements put in place at the end of March 2018, hence the reason that year's accounts were not qualified because some of the issues identified had to be corrected preventing sign-off of the previous two years' accounts. In conclusion the Managing Director said a review had already been undertaken and arrangements put in place, and this would hopefully be reflected by Audit Wales in their full report that Council would receive in due course.

The Audit Wales Officer confirmed that there had been significant changes and improvements made in the governance arrangements, and many of the issues likely to be reported on had been dealt with and this would be highlighted in our report.

A discussion ensued when a Member expressed concern that the Council had not taken the advice provide by Audit Wales.

The Chief Officer Resources said the Council were not going against the advice of Audit Wales, it was more of a difference of opinion in relation to some of the transactions within the 2016/17 and 2017/18 accounts being deemed unlawful.

The Audit Wales Officer said whilst there was a difference of opinion on the question of lawfulness, there was no difference of opinion on the issue of governance matters and the need to improve, and those opinions have been taken on board and the Council has taken action.

Prior to Members making a decision, the Audit Wales Officer undertook to formerly report the findings. He said the first thing to point out was that the Auditor General's opinion for all three years, was that the Accounts were a true and fair reflection of the Council's financial position. For 2016/17 and 2017/18, except for the pension payments and ongoing work, it was the Auditor General's opinion that the ongoing work would not affect his audit opinion. However, Certificate of Completion of the Audit would remain open on all three years to allow us to continue the work referred to, and provide assurance to Members that a report would be available. He said when the report was completed the Certificate would be issued and the audits would be closed.

He concluded that the audits for 2016/17 and 2017/18 had already been reported to previous Audit Committees, and felt it was important to point out that whilst Audit Wales stated that the Council acted outside the regulations and contrary to law, this was not to say that anything illegal has been undertaken. In relation to the 2018/19 accounts, he said this was a very standard report with a clear audit opinion and again this had been reported to Committee previously.

A Member proposed that in light of the Auditor's General opinion highlighted at Section 2.6 of the report, that the

	<p>statements give a true and fair view of the financial position of Blaenau Gwent County Borough; and that the financial statements have been properly prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom, a Member proposed that Option 1 be approved with the addition that a further report be received from Audit Wales in due course.</p> <p>The proposal was seconded.</p> <p>Upon a vote being taken it was</p> <p>RESOLVED that the Statement of Accounts for the years 2016/17, 2017/18 & 2018/19 be approved and a further report be received from Audit Wales in light of the Auditor's General opinion highlighted at Section 2.6 of the report, that the statements give a true and fair view of the financial position of Blaenau Gwent County Borough; and that the financial statements have been properly prepared in accordance with the Code of Practice on Local Authority Accounting in the United Kingdom.</p>	
<p>No. 7</p>	<p><u>EXTERNAL AUDIT OF 2016/17 STATEMENT OF ACCOUNTS – BLAENAU GWENT COUNTY BOROUGH COUNCIL</u></p> <p>Consideration was given to the report of Audit Wales.</p> <p>RESOLVED that the report be noted.</p>	
<p>No. 8</p>	<p><u>EXTERNAL AUDIT OF 2017/18 STATEMENT OF ACCOUNTS – BLAENAU GWENT COUNTY BOROUGH COUNCIL</u></p> <p>Consideration was given to the report of Audit Wales.</p> <p>RESOLVED that the report be noted.</p>	
<p>No. 9</p>	<p><u>EXTERNAL AUDIT OF 2018/19 STATEMENT OF ACCOUNTS – BLAENAU GWENT COUNTY BOROUGH</u></p>	

	<p><u>COUNCIL</u></p> <p>Consideration was given to the report of Audit Wales.</p> <p>RESOLVED that the report be noted.</p>	
No. 10	<p><u>ANNUAL GOVERNANCE STATEMENT</u></p> <p>Consideration was given to report of the Chief Officer Resources.</p> <p>The Audit and Risk Manager presented the Annual Governance Statement for 2019/20 which provided an assessment of the effectiveness of the Authority's governance arrangements.</p> <p>The Officer spoke to the report and highlighted points contained therein.</p> <p>RESOLVED that the report be accepted and the Annual Governance Statement be approved and adopted (Option 1).</p>	
No. 11	<p><u>THE ANNUAL REPORT OF THE PUBLIC SERVICES OMBUDSMAN FOR WALES 2019/2020</u></p> <p>Consideration was given to report of the Head of Legal & Corporate Compliance.</p> <p>The Head of Legal & Corporate Compliance presented the report which informed Members of the Council's performance with regard to complaints to the Public Services Ombudsman for Wales.</p> <p>The Officer went through the report and highlighted points contained therein.</p> <p>RESOLVED that the report be accepted and the Audit Committee note that the process for the monitoring of complaints was robust and the performance information provided reflected these practices (Option 1).</p>	
No. 12	<p><u>WAO ACTION PLAN UPDATE</u></p>	

	<p>Consideration was given to report of the Corporate Director of Social Services.</p> <p>The Corporate Director of Social Services presented the report which updated Members on the formation of the Corporate Safeguarding Leads group and the developments in respect of the Welsh Audit Office (WAO) recommendations following their review of the arrangements of the corporate arrangements for the safeguarding of children.</p> <p>The conclusion of the WAO review was that the Council had made limited progress in addressing previous recommendations and proposals for improvement, and safeguarding arrangements were not consistent enough to provide assurance across all areas.</p> <p>The Corporate Director reported that as a direct result of the COVID 19 pandemic the Action Plan in response to the WAO recommendations has been amended to allow for the timescales for the completion of the actions to be extended.</p> <p>RESOLVED that the report be accepted and the WAO revised Action Plan timescale be approved (Option 1).</p>	
<p>No. 13</p>	<p><u>AUDIT WALES CERTIFICATE OF COMPLIANCE FOR THE AUDIT OF BLAENAU GWENT COUNTY BOROUGH COUNCIL'S ASSESSMENT OF 2019-20 PERFORMANCE</u></p> <p>Consideration was given to report of the Head of Governance and Partnerships.</p> <p>The Chief Officer Resources presented the Audit Wales Certificate of Compliance following the audit of the Council's Assessment of 2019-20 Performance.</p> <p>RESOLVED that the report be accepted and the Audit Committee note the compliance certificate dated October 2020.</p>	