Rother District Council

AUDIT AND STANDARDS COMMITTEE

27 September 2017

Minutes of the Audit and Standards Committee held at the Town Hall, Bexhill-on-Sea on Wednesday 27 September 2017 at 6:30pm.

Committee Members present: M. Mooney (Chairman), J. Barnes, K.P. Dixon, S.H. Earl and T.W. Graham (in part).

Advisory Officers present: Executive Director of Resources, Service Manager – Finance and Welfare, Service Manager – Community and Economy (in part), Financial Services Manager, Audit Manager and Democratic Services Manager.

Also present: Leigh Lloyd-Thomas, Partner, and Grace Quist-Therson, BDO.

AS17/19. **MINUTES**

The Chairman was authorised to sign the minutes of the meeting of the Audit and Standards Committee held on 26 June 2017 as a correct record of the proceedings.

AS17/20. **APOLOGIES**

Apologies for absence had been received from Councillors A.K. Azad, R.K. Bird and R.C. Carroll and the Executive Director of Business Operations.

PART A STANDARDS REPORTS – NONE

PART B AUDIT REPORTS

PART I RECOMMENDATIONS TO COUNCIL

AS17/21. (7.1) **BEACH SAFETY MANAGEMENT AT CAMBER SANDS**

Members received and considered the comprehensive report and accompanying appendices of the Executive Director of Business Operations that set out an account of the management operation at Camber Sands before and after the tragic drowning incidents in July and August 2016; the incidents themselves and the aftermath; and the risk management controls in place.

The report was presented to Members of the Audit and Standards Committee under their remit for governance, risk management and internal control, accountability and assurance and invited scrutiny of the controls in place. The Service Manager – Community and

Economy summarised the report and drew out the following salient points to aid Members' understanding:

- Camber Sands was a major draw to visitors throughout the year, with an estimated 1.2 and 1.5 million visitors every year.

- The Council leased Camber foreshore from the Crown Estates Commission and had managed the beach in line with its obligations since 1974.

- The Council had always taken its responsibilities as beach operator at Camber seriously, dedicating resources to the task of maintaining a well-ordered amenity. Responsibility for the safety of the visiting public and assistance in the event of an emergency had been at the heart of the Council's undertaking and its co-operation with the many other agencies and landowners involved.

- Under health and safety, occupier and public liability legislation, officers had managed identified risk since 1974. Notwithstanding, given the nature of the beach and marine environment and the difficulty in identifying fixed boundaries, there was a certain degree of ambiguity surrounding issues of liability at the coast.

- James Maxwell Scott QC, the barrister appointed by the legal team to represent the Council at the inquest produced a Legal Note, attached at Appendix 1 to report. The following was a notable extract:

    - "At all material times, RDC was under no statutory duty to take any steps to prevent persons drowning in the sea at Camber Sands or to take any steps to rescue persons who were drowning or in difficulties".

- The Council provided a dedicated Coastal team with a year-round presence to manage the beach, car parks and ancillary facilities. The full time, permanent Coastal Officer had an intimate knowledge of the environs and a wide range of duties looking after the public on the beach and coastal areas.

- In 2004, the Council established a Coastal Activities Project Board that commissioned a management study of Camber from Atkins, an internationally respected consultancy. The Atkins study was acknowledged as the first of its kind to involve participation from a wide range of users of the beach and public agencies including the Coastguard, Police, Royal National Lifeboat Institution (RNLI), recreational sports clubs and private businesses.

- Following the involvement of the RNLI in the Atkins report a good working relationship between RDC and the RNLI developed, with regular contact between officers of both organisations maintained over many years.

- The Council had routinely conducted its own risk assessments at Camber Sands, noting the range of hazards that occurred either

naturally and through human behaviour. A range of mitigating actions had been put in place against known risks and pre-season and daily checks were maintained to ensure the measures remained in place.

- In 2009, 2013 and again in August 2016, the RNLI undertook risk assessments of the locality based on their standard approach to assessing safety. These reports formed part of the overall picture of safety management at Camber and were based on a visit to the beach and discussion with the coastal staff.

- The RNLI Risk Assessments in 2009 and 2013 suggested a number of potential risk control measures, including consideration of the introduction of a seasonal lifeguard service.

- Consideration of the RNLI reports by the relevant officers concluded that the most important area to invest the Council's available resources was in the direct supervision provided by the beach patrol and provision of detailed signage and information to visitors. This position was informed by a long experience of the beach conditions, history and track record and an understanding of the behaviour of the visiting public.

- The majority of the issues facing the coastal team were landward incidents such as missing children, first aid and public order. Camber had a long sustained record of being a safe bathing area with a very low number of serious incidents.

- Two tragic drownings took place in 2012 and 2015, both involving non-swimmers entering the water clothed; the inquests recorded verdicts of misadventure and accident and at neither was the suggestion made by the Coroner or other parties that the Council should have had a lifeguard service on duty.

- Following the tragedies in July 2016 (two deaths) and August 2016 (five deaths), the Council formed a Beach and Water Safety Group, chaired by the Cabinet Portfolio Holder and local Member, Councillor Mrs Hart, with a multi-agency membership aimed at learning the lessons from 2016. The Group formed a Community Risk Assessment and Safety Plan and actioned all its recommendations. Officers sought advice and guidance from the National Water Safety Forum, the CEO of Durham County Council as well as working with the LGA Coastal Special Interest Group.

- The inquest into the deaths of the five men in August 2016 took place over five days in Hastings from 26 to 30 June 2017. At the conclusion of the inquest, the Coroner recorded conclusions of misadventure for all seven deaths with the following narrative to explain the circumstances of the five deaths:

  The deceased was one of a party of 5 Sri Lankan men who travelled to Camber to enjoy a day at the beach on 24th August 2016. They all went into the sea, at a time when the tide had started to come in. It is thought they were all on a sandbar when

they were overtaken and cut off by the incoming tide. All five bodies were recovered to the shore deceased or found after the tide had receded. The RNLI had recommended deploying lifeguards at the beach in 2013 but this had not happened. Of course it is not known whether such a step would have prevented his death, but it has since been implemented.

- The decision in 2013 not to deploy lifeguards was taken by experienced officers with a full knowledge of the specific conditions at Camber, continuing a policy that had been established in 2006 and with the full knowledge of the RNLI and other agencies.

- The decision was founded on the safe record of the beach and an understanding of the nature of the identified risks. The decision to deploy lifeguards from 2017 was taken in the face of unprecedented loss of life and with concern to reassure the visiting public.

- Following the inquest, the Coroner had written a Prevention of Future Deaths letter (Appendix 5 to the report) under the Coroners and Justice Act 2009 and regulations 28 and 29 of the Coroners (Investigations) Regulations 2013 to interested parties and agencies asking for a response by the 18 September. Recipients of the letter were required to respond to the Coroner with details of the actions they intend to take to prevent future drownings.

- Rother District Council had previously submitted extensive documentation to the Coroner and has submitted a response to the Coroner's letter including an account of the action taken since the inquest and future plans (Appendix 5a to the report).

- It was intended to continue with a streamlined Camber Beach and Water Safety Group to maintain the multi-agency approach to identifying risk and dealing with the changing nature of the operation at Camber Sands.

- The Council had contracted the RNLI lifeguard service for an initial period of three years with regular review and adaptation of the service as required.

- The invaluable work of the coastal team, particularly that of Mr Cass as Camber's Coastal Officer was continuing, and Members were appreciative of the dedicated and loyal service shown by this officer and his staff.

- The Council would play a part in the promotion of water safety education alongside the work of the LGA, the National Water Safety Forum, the RNLI and East Sussex Fire and Rescue Service.

- Civil claims had been intimated on behalf of the families of six of the seven victims in total and the Council's insurance company, legal team and staff were considering these claims; Members would be kept informed of any liability arising. Consideration was

also being given to a judicial review of the Coroner's findings and details.

Following the summary presentation, Members considered the report and the following points were discussed and noted:

- Members had not been involved in the decision in 2009, not to deploy lifeguards, following the RNLI Risk Assessment, as this was an operational management decision made in line with current Council policy at that time, by officers;
- the balance between operational management decisions and Member input was questioned; had senior politicians been made aware of the officer decision not to deploy lifeguards at that time?
- officers were employed to make professional judgements and take day-to-day operational decisions, based on sound evidence / risk assessments, within current policy set by the Council;
- operational management policy was regularly reviewed (not at political level) and Members needed to have trust and confidence that operations were properly managed;
- the Cabinet Portfolio Holder and local Member, Councillor Mrs Hart had been heavily involved since the tragic incidents and was taking a lead role in ensuring that the Community Risk Assessments were carried out and acted upon;
- it was important for the Council to continue to educate and inform the general public and recognise the changing visitor profile and ensure that all sectors of the community were aware of coastal dangers;
- with potentially 25,000 visitors on the beach on a good weather day, it was a logistical challenge to manage and the sustainability of this and wider implications for the tourism sector and economy needed to be taken into account; and
- Members requested that a further report be submitted following the receipt of any further information derived from HM Senior Coroner East Sussex Regulation 28 Report to Prevent Further Deaths.

RECOMMENDED: That

1) Rother District Council's thoughts and sympathies remain with the families and friends of those who lost their lives;

2) the report and programme of actions taken following the incidents of 2016 be noted and endorsed;

3) the Cabinet Portfolio Holder, as Chairman of the Camber Beach and Water Safety Group be requested to provide reports to Members on progress / emerging issues, through the Members' Bulletin;

4) a report be presented to the Audit and Standards Committee following any further information derived from HM Senior Coroner East Sussex Regulation 28 Report to Prevent Further Deaths; and

5) a report be presented to the Audit and Standards Committee on the respective roles of Members and officers in the development of policies and the operational implementation of those policies.

PART II – DECISIONS TAKEN UNDER DELEGATED POWERS

AS17/22. (5.1) **AUDIT COMPLETION REPORT – FOR THE YEAR ENDED 31 MARCH 2017**

The Chairman welcomed Leigh Lloyd-Thomas and Grace Quist-Therson from BDO to the meeting who proceeded to summarise the External Auditors' Audit Completion Report for the year ended 31 March 2017, as follows:

Audit Scope and Objectives
BDO had completed their audit procedures in accordance with the planned scope and objectives had been achieved. BDO had amended the audit risk from normal to significant for land and buildings valuations and the calculation of the pension liability due to the extent of the estimations and assumptions used in determining these valuations. No other additional significant audit risks were identified during the course of the audit and BDO's materiality levels had not required reassessment.

Key Audit and Accounting Matters
The audit had not identified any material misstatements. The initial draft financial statements were amended by management prior to the commencement of the audit to reflect the treatment of section 106 capital receipts. The adjustment decreased the surplus on the provision of services by £521,000. A number of presentational changes had been made to the financial statements as a result of the audit. No non-trivial misstatements had been identified by the audit testing and there were no significant deficiencies identified in internal controls.

Audit Opinion
BDO anticipated issuing an unmodified opinion on the financial statements for the year ended 31 March 2017. BDO had no exceptions to report in relation to the consistency of the annual governance statement with the financial statements to their knowledge. BDO anticipated issuing an unmodified conclusion on the Council's arrangements to secure economy, efficiency and effectiveness in the use of resources for the year ended 31 March 2017.

BDO extended their congratulations to the Finance Team for the pleasing result and confirmed that the Council was in a very good financial position to deal with the funding gap.

RESOLVED: That the report be noted.

AS17/23. (6.1) **INTERNAL AUDIT REPORT TO 30 JUNE 2017**

The Audit Manager led Members through the internal audit report to 30 June 2017 that gave details of audit matters and any emerging issues not only in relation to audit but risk management and corporate governance. In addition to audit assurance work, the service had also engaged in various consulting activities during the quarter and continued to work with the Revenues and Benefits Section regarding the investigation of cases identified as a result of the National Fraud Initiative (NFI) data matching exercise.

The report gave details of the four audits completed in the quarter (Election Payments, Internet and Email Controls, Grounds Maintenance Contract and Estates Income) all of which had given good or substantial assurance on the overall governance arrangements. Members were reassured that robust systems and securities were in place to protect the authority from phishing emails containing ransomware etc. and staff had recently received training in this regard.

It was advised that good progress continued to be made regarding the audit recommendations made in 2016/17, with only four items remaining outstanding from previous years, all of which were also being progressed. The older recommendations still included one high risk recommendation in respect of Asset Management, which following previous updates, it had been agreed that progress would be reported in December 2017.

The high risk recommendation made in relation to the Data Protection audit in July 2013 had been downgraded to medium risk as a result of progress made. This long standing issue would shortly be resolved as a result of ongoing work by the IT Infrastructure Team to further strengthen the security of the corporate email system.

RESOLVED: That the Internal Audit report to 30 June 2017 be noted.

AS17/24. (6.2) **TREASURY MANAGEMENT REPORT – MID YEAR REVIEW**

Cabinet had approved the Council's 2017/18 Investment Strategy in February of this year; this required regular reports to be presented to the Audit and Standards Committee on the Council's treasury management activities. Investment activity was also reported to Members through the monthly Members' Bulletin. In managing its treasury management activities, the Council followed the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management (revised 2011).

The report provided an update on a number of areas as follows:

- The Council's treasury advisors, Capita Asset Services (CAS), had provided their view on the current economic climate and their outlook for the remainder of 2017/18, which was appended to the report.
- The Council made its own investments through the use of call and deposit accounts with the major financial UK institutions; the

Council also held a Government Gilt valued at £1.121m which was a legacy of the previous arrangements with external fund managers. The Council had also invested £2.25 million in the Churches, Charities, Local Authorities' (CCLA) Property Investment Fund in 2016/17, with a further £2.75 million invested at the end of April 2017. The current dividend yield as at July 2017 was 4.49%, the only yield above inflation.

- The Council held £30m of investments at 25 August 2016 and the investment portfolio yield to 30 June 2017 was £70,035K. The Council's budgeted investment return for 2017/18 was £235,000 and the estimated outturn position was £300,000, a surplus of £65,000 which was mainly due to the additional investment in CCLA.
- There were no current plans to incur any borrowing for the financing of the Capital Programme.
- The Council's Capital Financing Requirement (CFR) remained at zero, based on the current Capital Programme.
- The limits to borrowing and the key controls over this treasury activity were detailed within the report; net borrowing (borrowings less investments) would only be for a capital purpose. The Council had an approved policy for borrowing in advance of need and the Service Manager - Finance and Welfare reported no difficulties were envisaged for the current or future years in complying with the key controls.

The Council's current treasury management and investment strategies remained robust in managing the Council's cash funds. The economic outlook remained difficult and supported the Council's financial strategy to reduce reliance in investment returns.

RESOLVED: That the report be noted.

AS17/25. (6.3) **STATEMENT OF ACCOUNTS 2016/17**

In accordance with the Accounts and Audit Regulations 2003, the Council's accounts were required to be approved by the Council, or its delegated Committee, each year. The report of the Executive Director of Resources discussed the main issues affecting the Council's Statement of Accounts and provided a full commentary on the core financial statements. The published accounts were accompanied by a narrative report and the Annual Governance Statement approved by the Audit Committee at its meeting in June 2017. A copy of the full Statement of Accounts had been circulated to Members on 21 September 2017.

At the time of writing the report, the Council's external auditors BDO, had largely completed their work on the accounts for 2016/17. The published accounts included a Narrative Report and the Annual Governance Statement approved by the Committee at its meeting in June (Minute AS17/15 refers).

It was noted that the Code of Practice had required major changes in the presentation of the Comprehensive Income and Expenditure

Statement, in which the lines within the Cost of Services now reflected the way in which services were managed within the Council. The revenue budget and outturn figures in the Narrative Statement showed the figures required by law to be charged against the General Fund, while those in the Comprehensive Income and Expenditure Statement had to reflect proper accounting practice. The necessary adjustments were summarised in the Expenditure and Funding Analysis. As a result of these changes the prior year figures in the Comprehensive Income and Expenditure Statement had been re-presented, in line with the new format.

The Financial Services Manager led Members through the Statement of Accounts and drew out the salient points. Members were very appreciative of the new look accounts and could now fully appreciate the relationship between the General Fund Summary and the Comprehensive Income and Expenditure as the same headings were used.

It was noted that overall, the balance sheet showed that the financial position of the Authority remained sound with an adequate amount of reserves in place to meet short term needs. The Pensions Fund liability of £22m was a long term financial assessment of a possible shortfall based on its current performance and therefore no immediate action was required.

It was essential that the Council continued to deliver the target savings set out in the Medium Term Financial Strategy in order for the Council to continue to balance its budget. It was recommended and agreed that the Statement of Accounts be signed by the Chairman of the Committee.

RESOLVED: That the Council's 2016/17 Statement of Accounts be approved.

AS17/26. (6.4) **WORK PROGRAMME**

Consideration was given to the Work Programme which contained details of the reports to be considered by the Audit and Standards Committee meetings for the remainder of the 2017/18 municipal year.

Following the recommendation made at AS17/21 above, it was agreed that a report on the respective roles of Members and officers in the development of policies and the operational implementation of those policies be made to the March meeting.

RESOLVED: That the Work Programme at Appendix A be approved, as amended.

CHAIRMAN

The meeting closed at 8:08pm

as170927/ljc

Appendix A

WORK PROGRAMME
AUDIT AND STANDARDS COMMITTEE

WORK PROGRAMME 2017 – 2018	
DATE OF COMMITTEE	**SUBJECT**
Monday 11 December 2017	**Part A – Standards Reports** • Code of Conduct Complaints Monitoring • Local Government Ombudsman Complaints Monitoring and Annual Review 2016-2017 **Part B – Audit Reports** • BDO – Annual Audit Letter 2016-17 • Internal Audit Report to 30 September 2017 • Annual Risk Management Update • Treasury Management Update Report
Monday 26 March 2018	**Part A – Standards Reports (none scheduled)** **Part B – Audit Reports** • BDO – Grant Claim Certification for the year ended 31 March 2017 • BDO – Audit Plan 2017-18 • Internal Audit Report to 31 December 2017 • Internal Audit Plan 2018-19 • Review of Internal Audit 2017-18 • Treasury Management Report • Report on the respective roles of Members and Officers in the development of policies and the operational implementation of those policies.