

## **CORPORATE GOVERNANCE COMMITTEE**

Minutes of a meeting of the Corporate Governance Committee held in Conference Room 1a, County Hall, Ruthin on Wednesday, 23 November 2016 at 9.30 am.

### **PRESENT**

Councillors Jason McLellan (Chair), Stuart Davies, Martyn Holland, Alice Jones and Win Mullen-James together with Lay Member Paul Whitham

Councillor Bobby Feeley, Lead Member for Social Care, Adult and Children's Services

Observers: Councillors Meirick Davies and Arwel Roberts

### **ALSO PRESENT**

Head of Legal, HR and Democratic Services (GW); Head of Community Support Services (PG); Head of Internal Audit (IB); Senior Auditor (NW); Traffic, Parking and Road Safety Manager (MJ); and Committee Administrators (KEJ & SJ)

Wales Audit Office Representatives – Gwilym Bury and Michelle Phoenix

CSSIW Representatives – Vicky Poole (Regional Director) and Christine Jones (Area Manager) attended for agenda item 5: CSSIW Inspection of Domiciliary Care Services

### **1 APOLOGIES**

Councillor Julian Thompson-Hill, Lead Member for Finance and Assets

Anthony Veale – Wales Audit Office

### **2 DECLARATION OF INTERESTS**

The following declarations of interest were made in respect of agenda item 5: CSSIW Inspection of Domiciliary Care Services –

Councillor Alice Jones declared a personal interest as a former Chair of the Regulator Panel (Care Council of Wales) and a former Lay Assessor CSSIW.

Councillor Jason McLellan declared a personal interest in respect of discussions on Welsh Government Policy under this item because he was an employee of the Welsh Government.

### **3 URGENT MATTERS**

No urgent matters had been raised.

## 4 MINUTES

The minutes of the Corporate Governance Committee held on 28 September were submitted.

### **Accuracy –**

**Page 8: Item 6 Budget Process 2017/18 –** The Chair referred to discussions regarding the budget process and asked that the minute be amended to include his view, as expressed at that meeting, that a budget workshop should have been held between July and November for elected members to in order to scrutinise the ongoing efficiency savings.

### **Matters Arising –**

**Page 11: Item 8 Estyn Report on GwE Regional Consortium –** The Chair confirmed that the Head of Education Service's report to the Scrutiny Chairs and Vice-Chair's Group on progress regarding the Estyn recommendations would likely be submitted to the next meeting in January.

**Page 12: Item 9 Corporate Safeguarding Update Report –** With regard to the committee resolution to receive a further progress report, members were advised that the Corporate Safeguarding Panel were working on the content for the training module which would likely be launched at the end of March. Consequently a progress report back to the committee could be scheduled in the work programme for April. The Chair also referred to the comprehensive report received at a recent Council Briefing meeting regarding the Rotherham case which highlighted the importance of embedding corporate safeguarding principles across the authority.

**Page 13: Item 10 Ysgol Mair Rhyl – Internal Audit Report Update –** The Chair confirmed that he had sent a letter of appreciation to the Headmaster as agreed.

**RESOLVED** that, subject to the above, the minutes of the meeting held on 28 September 2016 be received and approved as a correct record.

## 5 CSSIW INSPECTION OF DOMICILIARY CARE SERVICES

The Chair welcomed Vicky Poole (Regional Director) and Christine Jones (Area Manager) from CSSIW who had been invited to attend the meeting for this item.

The Head of Community Support Services (HCSS) introduced the report (previously circulated) regarding an inspection of domiciliary care services for older people undertaken in Denbighshire as part of a national inspection. The report included responses to the issues identified in CSSIW's inspection report together with actions to address specific concerns. The full national report had been attached to the report (Appendix 1) together with the detailed report of Denbighshire's inspection (Appendix 2).

In presenting the comprehensive report the HCCS drew attention to the following –

- the context of Denbighshire's inspection as part of a larger national review of domiciliary care provision in November 2015 involving six local authorities
- the purpose of the inspections to assess the success of local authorities in achieving outcomes for people by evaluation of the efficiency and quality of the domiciliary care they commissioned
- concerns raised by officers regarding the lack of evidence to support the findings in Denbighshire's draft report with the final report being published on CSSIW's website with few changes and without officers' comments
- the issues officers believed to be inaccurate as detailed in paragraph 4.3.3 of the report [numbered 1 – 7] highlighting each individual issue together with Denbighshire's response thereto
- the findings in Denbighshire's inspection report having been fed into the national review and conclusions as contained within the Executive Summary
- the risks to the domiciliary care market and the planned actions to address them, all but one having been discussed with the inspector.

The HCCS elaborated upon the issues which officers believed to be inaccurate which had been detailed in paragraph 4.3.3 of the report numbered 1 – 7 –

#### **1. Denbighshire did not have a robust, detailed Market Position Statement**

Denbighshire, alongside all other local authorities in North Wales was in the process of working with the Institute of Public Care to refine their Market Position Statement (MPS). Expert advice was to keep the MPS short and to the point with detailed information kept separately.

#### **2. Denbighshire's method of mini-tendering for individual packages of care was not producing sustainable outcomes. Providers were asked to submit a rate 'equal to or lower than' our indicative rates**

The inspector did not provide evidence to support this statement. The statement about submission of rates was factually incorrect – providers were asked to tell the council if they could meet the requirements of the package and how much it would cost. In line with best value, if there was more than one provider able to meet the requirements, the lowest bid was accepted. The report suggested the main focus was cost which was not the case.

#### **3. Denbighshire funded a retainer while an individual was in hospital but stopped after 2 weeks, resulting in the possibility of a new provider picking up the care on discharge**

Denbighshire was one of only a few local authorities to fund a retainer of any length while an individual was in hospital and, while the report appeared to criticize that approach, the authority believed it to be good practice. Despite the issue that any longer retainer becomes unsustainable, an individual's needs would have changed during a longer stay in hospital and a new care and support plan would be required.

#### **4. Denbighshire commissioned calls of 15 minutes which were seen to be wrong**

The new Regulation and Inspection Act detailed in what circumstances 15 minute calls could be commissioned. Officers had reviewed every care and support plan that included 15 minute calls and all were been found to comply with the Act. Interestingly, the national report stated that the length of time of a call was unimportant, it was the outcome that should be considered.

**5. The local authority should review the organisational arrangements for commissioning and contracting, as this was not widely understood and was having a considerable impact on the effectiveness of the commissioning cycle, particularly in contract monitoring**

The inspector did not provide evidence to support this statement. The arrangements were not dissimilar to those in many local authorities across Wales and were an accepted method of delivering across commission and contracting, which were two different parts of the commissioning cycle. Commissioning arrangements, although different across the six local authorities that were inspected, were featured as a concern in five of the individual reports.

**6. The local authority did not meet providers regularly and relationships were strained**

The inspector did not provide evidence to support that statement. The Head of Service chaired quarterly meetings with providers (previously chaired by Service Manager), including Care Forum Wales, and those meetings showed that statement to be factually inaccurate. Unfortunately a representative from Care Forum Wales had been unable to attend the meeting due to a prior engagement but it was asserted that there were good relationships with providers.

**7. Reviews were not always undertaken when they should be**

Over 90% of reviews were completed on time last year, placing Denbighshire as one of the highest performing authorities in Wales.

The Head of HCSS highlighted the risks to the domiciliary care market and elaborated upon the planned actions detailed in paragraph 4.5 to the report in order to address those issues –

- Support with advertising and recruiting staff – recruitment and retention of staff was a national issue which was more pronounced in rural areas and resulted in higher costs to pay providers. In order to bolster the domiciliary care market the authority was assisting providers in recruitment advertising
- Work with regional colleagues and providers through the Commissioning Board to develop a new model for delivery based on patch-based contracts and creation of a preferred provider list across North Wales. The focus would be on user-choice and outcomes rather than ‘time and task’ in line with the Social Services and Wellbeing Act including conversations with both service user and provider to achieve those outcomes. Reference was made to a number of case studies highlighting the importance of listening to service users to ensure both personal care and wellbeing needs were being met

- Continued support with training staff – there was a need to support agencies and train staff and there was an ongoing programme in that regard
- Development of in-house short term team to give providers time to recruit for new care and support plans – this would allow individuals to leave hospital without delay whilst staff were being recruited
- An average fee increase of 5%, in recognition of the impact of the National Living Wage and other pressures had been agreed for 2016/17 and plans were being developed with providers to generate a fair price for ongoing fee increases
- Development of an up to date Market Position Statement, drawing from the work being undertaken in relation to the regional Population Needs Assessment – a final draft had been produced with the detail available separately
- A re-assessment of all individuals in receipt of domiciliary care would begin in the next month to ensure there was a focus on outcomes and that the new eligibility criteria laid down in the Social Services and Wellbeing Act was consistently applied and individuals were supported to use their own resources where possible, releasing capacity in the market.

Councillor Bobby Feeley, Lead Member for Social Care, Adult and Children's Services paid tribute to the work of CSSIW to effect improvements in the provision of domiciliary care across Wales and ensure providers were professional, efficient and met the needs of residents. Overall Denbighshire provided good care and were quick to intervene if the need arose. Where it was felt changes could be made for the better they were keen to do so.

At the invitation of the Chair the CSSIW Regional Director (RD) provided some context to the review, further clarifying and responding to issues raised as follows –

- explained the background to the review which had been commissioned by the former Health Minister Mark Drakeford as part of a suite of work
- elaborated upon the methodology used in conducting the review which included acquiring information from a whole range of sources in order to triangulate that information and form a view
- CSSIW representatives did meet with officers at the draft report stage and some minor amendments had been made. In terms of factual accuracy no evidence was presented to say the assertions were inaccurate
- the final report had been sent electronically to the council but because of an IT glitch it had not been received and the fault had not been realised
- highlighted that the review had been undertaken twelve months previously and provided a snapshot in time – it was pleasing to hear of the changes being made in responding to the requirements of the Social Services & Wellbeing Act
- in terms of the overall findings Denbighshire's practice along with other local authorities in Wales had been compared and contrasted.

The RD responded to those issues officers believed to be inaccurate as follows –

#### **1. Denbighshire did not have a robust, detailed Market Position Statement**

Noted the work being undertaken in order to improve the Market Position Statement

**2. Denbighshire's method of mini-tendering for individual packages of care was not producing sustainable outcomes. Providers were asked to submit a rate 'equal to or lower than' our indicative rates**

This had been an important issue of consideration as at that time Denbighshire's approach had been very different to that across Wales and other models of good practice. Providers advised they were not comfortable with an auctioning approach where they had to submit a low bid to acquire work. One provider chose not to do business with Denbighshire because of that approach. Providers felt they could not provide quality of service if costs were driven down. That was the practice twelve months ago and Denbighshire were putting measures in place to change that approach in favour of a new delivery model.

**3. Denbighshire funded a retainer while an individual was in hospital but stopped after 2 weeks, resulting in the possibility of a new provider picking up the care on discharge**

The statement in respect of Denbighshire funding a retainer was a position of fact and not a criticism. Providers felt good domiciliary care was about continuity of care and the relationship between those staff and service user.

**4. Denbighshire commissioned calls of 15 minutes which were seen to be wrong**

During the review it was found that Denbighshire commissioned more 15 minute calls than other authorities and the council was asked to assure itself that they were justified and appropriate. Whilst the council considered those calls appropriate providers advised that they were struggling to provide care within that timeframe. That view had been reflected in the report.

**5. The local authority should review the organisational arrangements for commissioning and contracting, as this was not widely understood and was having a considerable impact on the effectiveness of the commissioning cycle, particularly in contract monitoring**

It was accepted that it was not up to CSSIW to tell the council how to operate its business. The review had been carried out at a time of change within the council with a reorganisation of teams which had not been clear to people at that point.

**6. The local authority did not meet providers regularly and relationships were strained**

Whilst the council's intention was to meet providers regularly some meetings had been cancelled prior to the review and meetings were now more regular with the Head of Service chairing those meetings. At the time some providers had advised that they had not had the opportunity to meet with the authority and would welcome that. It was accepted that some providers would not express that view.

## **7. Reviews were not always undertaken when they should be**

Performance was good and the comment made had been more about the time taken to respond to changes in circumstances. The HCSS clarified that all providers had been made aware that they had the ability to change an individual's care package if an issue arose without first asking the authority.

In conclusion the RD explained that CSSIW's national inspection report would help inform the five year care strategy for Wales and featured moving away from 'time and task' and focusing on better outcomes for people.

The Chair clarified that the CSSIW inspection report had been submitted to the committee in line with the usual reporting process for external regulatory reports and representatives from CSSIW had been invited as part of that process in light of the differences of opinion which had been highlighted. In general members felt there had been an honest and open exchange of views from professionals on both sides which had helped to clarify the issues raised and actions required to address specific concerns. The reasoning behind Welsh Government's commissioning of the review and expected outcomes were discussed and overall the committee considered the review a positive step in tackling the problems faced within the domiciliary care market and improving provision across Wales. Members were keen to learn how the review would be used by Welsh Government in order to effect improvement and whether financial support would be forthcoming to help achieve better outcomes, particularly in light of budget cuts facing local authorities. The RD explained that CSSIW carried out inspections to improve care provision and was operated independently of Welsh Government and had no influence over their priorities or spend. However she agreed to feedback members' comments through to the National Commissioning Board. The national report included recommendations for Welsh Government and from 1 April 2017 the Care Council for Wales would be reformed as Social Care Wales for which this issue would be a priority in terms of supporting providers and councils and ensuring best practice.

Members discussed the report findings and responses to the various issues raised with the HCSS and CSSIW representatives together with the wider national context and risks in the domiciliary care market. Main discussion points included –

- ensuring people were able to stay in their own homes and live as independently as possible was a key element and remained a priority
- concerns raised regarding the serious lack of capacity in the domiciliary care market which was extremely fragile with too much emphasis on cost
- highlighted loneliness and social isolation as a major issue for people being cared for at home, particularly in rural areas and the need to ensure home visits continued where appropriate and were not replaced by phone calls
- the move away from 'time and task' was welcomed with a move to a more person centred approach focusing on outcomes and wellbeing and the HCSS elaborated upon work being undertaken in order to replicate good practice in other areas by developing a fixed price model to include a mix of both large and small local companies in order to deliver the best services to service users
- stipulations for providers in the new model would include registration with CSSIW, a local office base in Wales and meeting Welsh Language standards

- it was explained a Wellbeing Impact Assessment had not been necessary in this case because the report had been based on the findings of the review and did not result in any change of policy – a Wellbeing Impact Assessment would be undertaken when developing the commissioning plan
- it was noted that the last two Annual Improvement Reports issued by the Wales Audit Office had included a critical report from CSSIW on domiciliary care and the latest report would feature in the next Annual Improvement Report
- commissioning and tendering of services was highlighted as a crucial issue and the Chair queried whether CSSIW could take assurance from the actions being undertaken in that regard – the RD likened improvement to a journey and advised that CSSIW would continue to monitor and evaluate progress
- in terms of the relationship between the council and providers the RD confirmed that the way care was commissioned had not been conducive to an equal partnership and the planned change in arrangements should help in that respect and improve those relationships – some providers would be more willing to speak with CSSIW as a neutral body as opposed to the council who commissioned their services
- the HCSS explained that the commissioning of residential care services was a separate issue involving an overarching contract with the care home – domiciliary care providers had a contract with the council and could be offered a piece of work.

In considering the way forward the committee was keen to monitor progress in respect of the actions listed in 4.5 of the report in order to address areas of concern – in particular the commissioning and tendering of domiciliary care services which was considered a crucial part of the process. Consequently it was –

**RESOLVED** that the report be received and noted and a progress report on the actions listed in paragraph 4.5 of the report to address areas of concern be submitted to the committee in April 2017.

## **6 ANNUAL RIPA (REGULATION OF INVESTIGATORY POWERS ACT 2000) REPORT**

A report was submitted (previously circulated) on the Council's use of its powers of surveillance under RIPA (Regulation of Investigatory Powers Act 2000) as required under the Home Office Code of Practice.

The Head of Legal, HR and Democratic Services provided an overview of RIPA and explained how powers under that Act could be used by the council together with the processes in place. Since the last report only one covert surveillance operation had been conducted involving the sale of age restricted products such as tobacco or alcohol (juvenile test purchase). Regular in-house training sessions were provided to officers using those powers with the next session planned for 30 March 2017. The role of the Council's RIPA Working Group was also explained and the Group continued to meet as required.

**RESOLVED** that the Annual RIPA (Regulation of Investigatory Powers Act 2000) report be received and noted.



At this juncture (11.05 a.m.) the meeting adjourned for a refreshment break.

## **7 DENBIGHSHIRE COUNTY COUNCIL'S ASSESSMENT OF 2015-16 PERFORMANCE - WALES AUDIT OFFICE CERTIFICATE OF COMPLIANCE**

The Certificate of Compliance issued by the Wales Audit Office on Denbighshire's Annual Performance Report 2015/16 was submitted (previously circulated) for information.

Mr. Gwilym Bury, Wales Audit Office explained the background to the issue of the annual certificate as required under the Local Government Measure 2009. Denbighshire had always complied with the Measure and produced a bilingual annual performance report which was published on its website within the timeframe.

***RESOLVED** that the Certificate of Compliance issued by the Wales Audit Office be received and noted.*

## **8 INTERNAL AUDIT UPDATE**

The Head of Internal Audit (HIA) submitted a report (previously circulated) updating members on Internal Audit progress in terms of its service delivery, assurance provision, reviews completed, performance and effectiveness in driving improvement.

Internal Audit progress reports had previously been shared with members outside the formal agenda with only audits having a 'low' or 'no' assurance rating being discussed at committee. To provide a more balanced view and allow the committee to formally monitor Internal Audit's progress and performance a new style progress update had been designed to be presented to each committee meeting.

The HIA guided members through the report which provided an update as at the end of October 2016 on –

- Internal Audit reports recently issued (Payments of External Providers – Community Support Services; Housing Allocations & Voids; Public Transport)
- Follow up of previous Internal Audit reports (Strategic HR; Management and Administration of Legal Services)
- Progress in delivering the Internal Audit Operational Plan 2016/17
- Internal Audit performance standards

The following matters were raised during debate –

- some discussion focused on audit reports recently issued in respect of 'Payments to External Providers – Community Support Services' and 'Public Transport' and the need to ensure that regular financial checks were carried out to certify that providers were financially sound and not experiencing financial difficulties that may lead to problems in continuation of the service. It was noted that the issue was more of a problem for service areas which relied heavily on a small number of providers and the need for financial checks had been referenced in the Procurement Review and Contract Procedure Rules

- the importance of business continuity planning was highlighted and the committee was advised that each service was responsible for developing its own business continuity plan to deal with potential risks to their particular service areas. There would also be a corporate business continuity plan.
- members discussed the progress in delivering the Internal Audit Operational Plan for 2016/17 given the capacity issues arising from periods of maternity leave within the team covering the current and next financial year resulting in the third revision of the Plan. The Plan was well underway and the HIA was confident that it would be completed in order for him to provide an annual audit opinion at the end of the financial year
- with regard to the management of voluntary school funds detailed in the Plan, the HIA explained that in light of the low assurance rating he would be developing new guidance for schools on how to manage funds effectively to be in place by 1 April 2017. It was agreed that a follow up on the effectiveness of the new guidance in schools be undertaken after approximately six months' implementation and the findings reported back to the committee.

Members felt the report format was clear, comprehensive and easy to read and asked that future reports to committee also contain the following information (1) Follow up of previous Internal Audit reports – to include a table showing all audits with an action plan that had not been fully completed, and (2) Progress in delivering the Internal Audit Operational Plan 2016/17 – to include audit completion dates.

The Chair urged members to read all internal audit reports circulated to them to identify good practice and borderline cases which may warrant further consideration by the committee. The HIA added that contact details were included on the reports and he encouraged members to contact the relevant auditor if they wished to discuss the report further. Councillor Alice Jones welcomed the report and paid tribute to the work of the Internal Audit team in providing a valuable service.

**RESOLVED** that –

- (a) *the report be received and noted;*
- (b) *the content and format of the report be approved for presentation to future committee meetings subject to the inclusion of (1) a table showing all audits with an action plan not fully completed, and (2) the inclusion of audit completion dates, and*
- (c) *a follow up report on the effectiveness of the new guidance for schools on how to manage funds effectively be undertaken after approximately six months' implementation and the findings reported back to the committee.*

## **9 CORPORATE GOVERNANCE COMMITTEE WORK PROGRAMME**

The Corporate Governance Committee Forward Work Programme was presented for consideration and members noted the following additions –

- Domiciliary Care Services Actions Update – April
- Corporate Safeguarding Progress Report – April

***RESOLVED** that, subject to the above additions, the Corporate Governance Committee's forward work programme be approved.*

## **EXCLUSION OF PRESS AND PUBLIC**

***RESOLVED** that under Section 100A of the Local Government Act 1972, the Press and Public be excluded from the meeting for the following items of business on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 14 of Part 4 of Schedule 12A of the Local Government Act 1972.*

### **10 PARKING SERVICES AUDIT - UPDATE REPORT**

The Traffic, Parking and Road Safety Manager (TPRSM) submitted a confidential report (previously circulated) updating members on the remedial actions taken since the publication of the Parking Services Audit in August 2016.

The Parking Services Audit had identified eight issues resulting from certain flaws in some areas of the existing processes. The TPRSM elaborated upon the remedial actions being taken to improve processes and mitigate against the identified risks, clarifying particular issues in response to members' questions thereon.

During a lengthy debate the following actions were agreed –

- (1) Monitoring of Pay by Phone mobile phone parking payments – it was agreed that a financial check be carried out on the service provider and regularly thereafter in accordance with good practice and that clarification be sought regarding the clause provisions for breach of contract
- (2) Staff Permit System – this matter was of specific concern to the committee who noted that a draft report regarding the process had been submitted to the Head of Planning and Public Protection. It was agreed that members be provided with a copy of the final version at the earliest opportunity.

***RESOLVED** that the report be received and noted and a further progress report on actions be submitted to the next meeting of the committee in January 2017.*

The meeting concluded at 12.25 p.m.