
SCRUTINY COMMITTEE

MINUTES of the Meeting held in the Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT on Thursday, 21 October 2021 from 7.00 pm - 9.35 pm.

PRESENT: Councillors Lloyd Bowen (Chairman), Steve Davey, Mike Dendor (Vice-Chairman), Tim Gibson, Mike Henderson (substitute for Councillor Hannah Perkin), Carole Jackson, Denise Knights, Pete Neal, Ken Pugh and Mike Whiting (substitute for Councillor Oliver Eakin).

OFFICERS PRESENT: Billy Attaway, Rich Clarke, David Clifford, James Freeman, Steve McGinnes, Jo Millard, Larissa Reed and Emma Wiggins.

ALSO IN ATTENDANCE: Councillors Mike Baldock (Deputy Leader) (remotely), Cameron Beart (remotely), Alastair Gould (remotely), Alan Horton (remotely) and Roger Truelove (Leader).

APOLOGIES: Councillors Oliver Eakin, James Hall, Hannah Perkin and Corrie Woodford.

394 EMERGENCY EVACUATION PROCEDURE

The Chairman drew attention to the Emergency Evacuation Procedure.

395 DECLARATIONS OF INTEREST

No interests were declared.

396 ERRONEOUS PLANNING DECISIONS

The Chairman introduced the report which set-out details of the Audit investigation and the timeline of events following the publication of the erroneous planning decisions by Mid-Kent Planning Support on 19 August 2021. The Chairman thanked officers for the well written report and outlined the format of the meeting for Members.

The Chairman asked Members for any observations on the covering report.

In response to questions from Members, the Chief Executive confirmed that the signatures of the Head of Planning which were on the applications were digital signatures stored within the computer system. She explained that as the information for the forms was pulled-through it also added the digital signature. If those signatures had not been on the applications, the Chief Executive thought they would probably not have been valid, but this would need to be confirmed with legal services. She reminded Members that there were different processes for the 'live' system and the 'test' system.

Members raised points which included:

- The key problem occurred in 2018 as set-out in the report when Mid-Kent Planning Services (MKPS) did not specify to Mid-Kent Planning IT precisely what they wanted, and it was that which needed resolving;
- considered there had been an oversight by Council Leaders who should have been aware of the issue and ensured that the correct processes were in place;
- did not understand why the Head of Planning's signature had been used on a 'test' site;
- Members had an obligation to oversee this process and it was not a failing of officers;
- someone had to take responsibility for the error, and it was unfair to put it onto officers;
- the risks had not been properly managed;
- disappointed that in four years the issue had not been dealt with;
- the testing of the system was 'hopeless';
- the IT section should have known that the testing was flawed;
- concerned that staff in IT services did not appear to have been trained to use the 'Uniform' computer system;
- to allow an IT system to be used without proper testing, supervision and protocols was ultimately Members' responsibility;
- would not expect the Leader to be involved in the 'micro-management' of the operational business of the Council; and
- did not seek to blame Council leaders, officers or want anybody disciplined. Members needed to establish how the problem could be resolved to stop it happening again, not just on Planning but any other IT system.

In response the Leader said they were not looking to blame anyone. The issue had never been brought to the attention of any Council Leader, and he expected Council staff to ensure the 'operational business' of the Council was maintained. He was aware that these particular issues were considered at the Mid-Kent strategic board meetings.

The Chairman referred to Appendix 1 which set out details of the investigation led by the Head of Audit Partnership and invited questions and comments from Members.

Members made points and asked questions which included:

- Why had it taken until 31 August 2021 to report the incident to the Head of Audit Partnership, and then a further seven days to publish the press release on 7 September 2021?;
- the timeline showed that there had been too many delays getting responses back, and for deciding what action to take on something which had happened previously;
- did not understand the delays and costs incurred when the response was already known;
- considered that recommendation 4 from Audit on page 15 of the report was a valid statement;

- what had been put in place to ensure that the Council were not reliant on members of the public informing them of any incorrect decisions being published?;
- why test on a live application?; and
- was concerned that recommendation 2 from Audit on page 12 of the report referred to the lack of knowledge, leaving the system vulnerable and said this should be addressed urgently;
- suggested an update on whether actions had been carried out;
- clarification on whether the sites chosen to test were 'random'?;
- was there an increased risk if testing was being carried out in a home environment?;
- suggested adding 'this is a test' to documents in a test environment; and
- sought clarification on who was included in the distribution list on page 14 of the Audit report.

The Director of Shared Services explained that with regard to concerns about delays reporting the incident, the immediate concern was to ensure that officers understood what had happened, and were then able to respond. An officer working group had been set up immediately and an internal independent investigation instigated to ensure that the necessary safeguards could be put in place. The Mid-Kent Planning Manager and Mid-Kent IT support sought advice from Mid-Kent Legal Services and liaised with colleagues in Swale Borough Council's (SBC) Planning and Communications teams, an ongoing process through to 31 August 2021.

The Chief Executive said that given the decision notices published were so erroneous, officers had to seek legal advice to establish whether the decision notices were legally sound. She explained that professional legal opinion was still split on whether the Council could have just withdrawn the applications. The Chief Executive stated that both she and the Chief Executive of Maidstone Borough Council (MBC) were responsible for the mistake as it was an operational matter. The Chief Executive said there were no delays dealing with the issue just many days working to establish the facts.

The Director of Shared Services explained that Recommendation 4 in the Audit report referred to the fact that an officer had tried to delete the erroneous planning decisions without realising the legal implications. He reported that a new protocol had been introduced across planning support that if a decision notice was issued in error it would be flagged initially with the Head of Planning and they would need to take legal advice on what action to take, only the Planning Support Manager had the authority to remove the notices. In response to a query from a Member he said that whilst it was primarily a legal issue he was sure that the Head of Planning would keep the Cabinet Member for Planning informed about any such incidents. He referred to the recommendations in the report that addressed the risk in managing any situation that might arise again and said that a thorough risk assessment would be carried out before testing was carried out in the future.

The Director of Shared Services said that the management response to the Audit report recognised the risk management responsibility and safeguarding would be built in. He clarified that the tests were not carried out on the 'live' system but a

copy of the live system was carried across into a test environment, and the error occurred because a line of configuration was carried across from the live system and directed documents to a third system that had public access. He confirmed that they were sure what caused the issue and that the change in procedures to IT systems testing would ensure that the same error could not happen again. The Director of Shared Services said that many of the suggested actions had already been completed.

In response to a Member's question, the Chief Executive gave the history behind the Planning Shared Service and why Tunbridge Wells pulled out of it.

The Head of Audit Partnership clarified that the cases chosen were done so by a blind sample, by officers only knowing the number of an application and no other details.

The Leader said that the focus of concern should be on the systemic failure, not on a working environment.

In response to a Member's question the Chief Executive confirmed that no action had been taken against the member of staff who made the comments on the test.

There was a discussion on the use of the Head of Planning Services electronic signature on decision notices and the checks that took place when sending out a decision notice. The Chief Executive explained the checks and processes that took place in ordinary circumstances but advised that in the test environment, some steps did not take place. She agreed that taking the electronic signature off test samples would be explored. The Director of Shared Services referred to recommendation (3) on page 12 of the report and said that building in additional processes and safeguarding for testing was being progressed.

The Chairman then referred to the timeline on page 15.

The Leader said it was important that SBC gave a response to the incidents, particularly as five out of the six incidents were in Swale and he said he was concerned what the national and social media reaction would be. The Leader referred to the early stages of the Mid-Kent Planning service seven years previously when there had been lengthy delays which he considered to be embarrassing and he said he felt angry on the adverse impact the latest error would have on SBC when it wasn't at fault.

The Leader went on to say that it was appropriate that the press release, issued jointly from himself and the Deputy Leader, expressed sympathy with the applicants and that time was taken to carefully consider what was said. He said he and the Deputy Leader took full responsibility for the press release which went out to try and prevent embarrassment to SBC.

The Deputy Leader added that he had been concerned for and wanted to protect Planning Officers at Swale as well as having consideration for the applicants who would have longer to wait for their applications to be determined.

In the debate that followed, Members raised points and asked questions including:

- Why did the Leader and Deputy Leader blame an individual and have they ever apologised to the individual?; and
- did the Leader and Deputy Leader take advice on the tone of the press statement?;
- had the Leader or Deputy Leader personally contacted the applicants affected?;
- did the Leader think the language used in the press statement was wise, or could have been put better?;
- the unintentional perception was that a member of staff was being blamed; and
- the Leader should have followed the Leader of MBC who publically apologised rather than blame anyone.

The Leader said it was not his intention to blame an individual and he referred to the service error and its impact. He said he did not know who the individual was. The Leader said the press statement was released jointly by himself and the Deputy Leader, officers gave guidance and the statement was modified. He confirmed the press release that went out included changes from the original statement. He said it was important to act quickly in the best interests of SBC and referred to the previous poor service from Mid Kent Planning Services in the first year of the shared service.

The Deputy Leader said the press release did not blame an individual but gave examples on social media posts that did.

The Leader said a letter was sent to the affected applicants but it was not appropriate to contact them personally as a legal process was being followed.

In response to a Member's question on the advice given and changes made, the Leader said that he would not share that information. The Monitoring Officer confirmed the information was in principle subject to Freedom of Information (FOI) but in view of the circumstances would probably be exempted from disclosure in practice.

In response to a Member's question, the Director of Shared Services clarified a previous error on Uniform as outlined in Appendix 3 on page 17 of the report.

There was a discussion on the need for social media and communication training for Members and it was agreed that this would be taken forward by the Member Development Working Group.

Recommended:

(1) That further Training of ICT Personnel and other relevant staff on the Uniform System and to work better with various departments on how to apply the system to Planning.

(2) That signatures be removed from any test systems.

(3) That close liaison takes place between officers from ICT and other departments when testing systems.

397 ADJOURNMENT OF MEETING

The meeting was adjourned at 8.41 pm until 8.46 pm.

Chairman

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All Minutes are draft until agreed at the next meeting of the Committee/Panel