

# **WAVERLEY BOROUGH COUNCIL**

## **AUDIT COMMITTEE**

**2 MARCH 2020**

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**Title:**

**AIR QUALITY MANAGEMENT INVESTIGATION OUTCOME AND FINDINGS**

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**Head of Service:** Richard Homewood Head of Environment and Regulatory Services

**Key decision:** No

**Access:** Public / Part Exempt

Note pursuant to Section 100B (5) of the Local Government Act 1972.

An annexe to this report contains exempt information by virtue of which the public is likely to be excluded during the item to which the report relates, as specified in paragraphs 1 and 3 of Part I of Schedule 12A to the Local Government Act 1972, namely:

1. Information relating to any individual.
  2. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
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### **1. Purpose and summary**

- 1.1 Waverley Borough Council has, like all other Boroughs and Districts, a statutory duty under part 4 of the Environment Act 1995 to review and assess air quality in the area against prescribed standards.
- 1.2 In 2017, during the course of responding to a request for information on the Council's approach to recording air quality information, anomalies in recording practises were noticed by a member of the public who has professional expertise in air quality matters and raised in August 2017 with the-then Interim Managing Director (now Chief Executive). An initial management investigation identified problems with the reported diffusion tube data results for the 2016 calendar year, which had been publically reported via the Annual Air Quality Status Report in 2017.
- 1.3 As a result of these identified problems an independent audit was commissioned immediately. The audit report was received in January 2018 and a redacted version can be found at Annex 1. Redactions have been made for legal reasons. A full copy of the report can be found at (Exempt) Annex 2. During the course of the reports production, potential criminal activity was identified involving falsifying air quality monitoring and results. As a result, officers promptly informed Surrey Police of the findings. This resulted in the Police carrying out a full criminal investigation of their

own.

- 1.4 This report details the outcome of that process and the subsequent action taken by the Police and the Crown Prosecution Service, which resulted in the criminal conviction of a former member of Waverley Borough Council staff.

## **2. Recommendation**

- 2.1 It is recommended that :  
The strengthened governance arrangements are considered and endorsed by Audit Committee.

## **3. Reason for the recommendation**

- 3.1 To ensure that members of the Audit Committee have had the opportunity to consider the adequacy of the governance arrangements put in place following the air quality incident described in this report and to confirm their endorsement of these arrangements.

## **4. Background**

- 4.1 The independent audit report at Annexe 1 outlines the investigation into these air quality anomalies and its findings in some detail. Following this investigation the Council consulted with Surrey Police as it appeared that offences had been committed. They subsequently carried out an investigation, with Waverley Borough Council's full cooperation.

In August 2019, the former Environmental Health Officer responsible for this area of the service, Ann-Marie Wade, was charged with 3 counts of fraud

- Count 1: Fraud in relation to the air quality figures for March to December 2015;
- Count 2: Fraud in relation to the air quality figures for 2016;
- Count 3: Fraud in relation to mileage claimed for collecting diffusion tubes in 2016.

- 4.2 This subsequently resulted in consultation between Surrey Police, Waverley Borough Council and the Crown Prosecution Service (CPS). On 4 November 2019 the defendant pleaded guilty at Guildford Crown Court to Counts 1 and 2. The defendant pleaded not guilty to Count 3 and the CPS decided not to proceed with Count 3. This is common practice where a defendant has pleaded guilty to other counts on an indictment.
- 4.3 On 12<sup>th</sup> December 2019, at a hearing in Guildford Crown Court, His Honour Judge Taylor sentenced Ms Wade to 12 months imprisonment suspended for 18 months and 150 hours of unpaid work. Ms Wade was ordered to pay prosecution costs of £1,500.
- 4.4 Since the initial investigation several changes have been made within the Environmental and Regulatory Service. Management capacity has been

addressed to ensure that general supervision is, in future, at a sufficiently operational level of detail.

To strengthen the controls around the way the data is produced by Waverley Borough Council two separate air quality contracts have been instigated relating to monitoring and reporting of data.

The separation of these functions to two contracts further ensures the independent verification of data integrity going forward. In addition to these controls, the month by month data that is produced is published on the web to provide further public accountability.

- 4.5 The circumstances outlined above are extremely unusual. The fictitious results did not show any trend: i.e. were neither consistently higher than predicted nor were they consistently lower. No motive is clear and the defendant did not appear to gain personally from the fraud. Nevertheless, the independent audit report and the court hearings made clear that the provision of false air quality was clearly the responsibility of the individual perpetrator. In describing the “extremely important function” carried out by the post-holder, His Honour Judge Taylor said: “Part of your job was to collect and replace the tubes, send them for laboratory analysis and then receive and collect the results, and then use those results to prepare the annual statutory air quality status report, which would be sent to Defra and published. And it’s that failure that I have to sentence you for.”

## **5. Relationship to the Corporate Strategy and Service Plan**

- 5.1 The Corporate Strategy describes Waverley Borough Council as an authority, which promotes and sustains a sense of responsibility for the environment, promoting biodiversity and protecting our planet. We are also committed to taking action on air quality issues.

To honour these commitments we need to ensure that the air quality data that we produce is accurate and that we have strong governance around it.

## **6. Implications of decision**

### **6.1 Resource (Finance, procurement, staffing, IT)**

There are no additional financial requirements because of this report as it seeks to update the Audit Committee on the current situation. Changes to the way data is collected and reported were implemented within existing budgets.

### **6.2 Risk management**

The management actions taken following this case have sought to reduce the risk to the authority. However, in this case reputational damage was done to Waverley by the criminal actions of an individual.

### **6.3 Legal**

The strengthened governance arrangements ensure the Council can comply with its obligations under Part 4 of the Environment Act 1995.

The legal issues within this case have been numerous and complex, with the Council having needed throughout to give careful consideration to sensitivities surrounding employment law matters, the Police's criminal investigation and the Council's obligation to keep the public as informed as could be permitted regarding the matter. This has meant the Council needing to release information only at appropriate junctures through the lives of the Council's investigation, the Police's investigation and the criminal prosecution. Legal advice has been sought throughout from the Council's Legal Services team.

#### **6.4 Equality, diversity and inclusion**

There are no direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

#### **6.5 Climate emergency declaration**

Understanding air quality in the Borough is a critical component of the Climate Emergency Declaration. Our local environmental quality data needs to be robust and accurate to enable us to assess the impact on public health and the environment.

### **7. Consultation and engagement**

7.1 Consultation is not appropriate for this action.

### **8. Other options considered**

8.1 As an update report no other options are appropriate however we welcome comments on any matter.

### **9. Governance journey**

9.1 Regular updates have been provided to the Overview and Scrutiny Committees throughout the progress of the investigation and court proceedings during and the matter is listed and discussed within the Annual Governance Statement and through the Air Quality Steering Group.

9.2 The reports in Annex 1 and 2 are published in their original form. It should be noted that -

Para 2.5 should read December 2017

Para 3.7, 3.8 and 3.9 are miss numbered and should read 3.5, 3.6 and 3.7.

### **Annexes:**

Annexe 1 – Southern Internal Audit Partnership - Waverley Borough Council Investigation report Air Quality Management (2017/18): (redacted)

**Background Papers**

**Various Press releases**  
**Annual Governance Statements**

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Agreed and signed off by:

Legal Services: date  
Head of Finance: date  
Strategic Director: date  
Portfolio Holder: date