

GOVERNANCE AND AUDIT COMMITTEE

Minutes of the meeting held on 15 March 2011 at 6.30 pm in Austen Room, Council Offices, Cecil Street, Margate, Kent.

Present: Councillor Jason Savage (Chairman); Councillors Day, Mrs Johnston, Mrs Lodge-Pritchard, McCastree, Mrs B Nicholson and Peppiatt

ALSO PRESENT:

Harvey Patterson – Head of Legal and Democratic Services (Monitoring Officer)
Sarah Martin – Financial Services Officer
Nikki Morris – Corporate Governance and Risk Officer
Natalie Beldin – Estates Surveyor
Geoff Musk – Building Control and Property Manager
Mark Seed – Director of Environmental Services
Mike Marsh – Interim Leisure & Culture Manager
Simon Webb – Audit Manager - East Kent Internal Audit Partnership
Christine Parker – Head of the East Kent Internal Audit Partnership
Andy Mack – District Auditor – Audit Commission
Harpal Singh – Team Leader - Audit Commission

VARIATION OF AGENDA ORDER

Members agreed to vary the order of the agenda and take Item 13 – Internal Audit Progress Report after Item 4 – Action Points from Previous Meetings.

124. APOLOGIES FOR ABSENCE

Apologies were received from Councillor Ms Russell.

125. DECLARATIONS OF INTEREST

There were no declarations of interest.

126. MINUTES OF PREVIOUS MEETING

Subject to an amendment to minute number 115 (Action Points from Previous Meeting) of the meeting held on 13 January 2011 to include the following wording:

“It was noted that the criteria for carrying out valuations had recently changed (April 1st 2010) with changes to the RICS Red Book embedding sustainability as a core part of the valuation process, Members had the following questions:

1. What is being done to evaluate the sustainability of the council's estate?.
2. How is the valuation department determining how sustainability will affect the valuation of the council's estate?
3. Do all buildings covered by Display Energy Certification (DEC) legislation have up to date certificates?
4. What sum of money has the council lost and/or not collected due to the backlog of rent reviews?
5. What action has been taken resulting from the report contained within the DEC's?”

The minutes were approved and signed by the Chairman.

In addition, Members agreed that it be noted that a difference of opinion in relation to the wording of the first paragraph of Minute 115 be recorded.

127. ACTION POINTS FROM PREVIOUS MEETINGS

Officers from the Estates Team were at the meeting to answer questions asked at the previous meeting of Governance and Audit Committee on 13 January 2011. This is to be covered under Item 5 on the agenda.

Members noted the report.

128. ASSET VALUATION AND PROPERTY MANAGEMENT

Members received verbal clarification from Natalie Beldin, Estates Surveyor and Geoff Musk, Building Control and Property Manager on the following queries raised at previous meetings:

What is being done to evaluate the sustainability of the Council's estate?

The Council's properties are inspected for a number of purposes namely:

- In satisfying prescribed clauses under agreement i.e. rent reviews, lease renewals, dilapidations inspections;
- Letting purposes;
- Quinquennial asset valuation inspections;
- Reviewing repairs liabilities;
- Insurance claims;
- If surplus, for disposal;
- Assessing maintenance backlogs, whole life costings etc;
- In relation to renovation, refurbishment, new build works, adaptations.

The perception of what is a sustainable building will change over time and between locations. There are varying interpretations of the concept of sustainability. Buildings are complex structures and every element, from design to construction material to location, is likely to have an impact on the buildings performance against sustainability criteria.

Although surveys are not undertaken specifically to assess the sustainability of a building, elements of sustainability are indirectly considered as part of the above processes, for example, if it is noted on inspection for lease renewal that the physical sustainability is being compromised due to a particular disrepair this will impact on the renewal decision, depending on whether the obligation is on the tenant or landlords part.

With regard to operational buildings involved in direct service delivery, the level of investment justified in addressing sustainability issues such as energy efficiency will depend upon long term operational requirements.

Undertaking a specific review of the portfolio to determine the sustainability of the assets at this time would be unachievable with current resources and potentially not a cost effective exercise if outsourced in that the Council holds an aging stock which has suffered in the past from a shortage of investment, hence the maintenance backlog of £5.5m as at 2010, therefore unless monies are allocated for maintenance the economic sustainability will continue to be impacted.

If the question relates to the economic sustainability of the building/asset, those which have obligations passed to tenants, action is taken to address disrepair under the terms of their

lease agreements, however those which TDC have an obligation are subject to securing funds, as detailed in the Asset Management Strategy.

How is the valuation department determining how sustainability will affect the valuation of the of the Council's estate?

If certain works have been undertaken to an asset to improve the assets sustainability i.e. thermal improvements, double glazing, such factors would be noted on the asset inspection and the asset is revalued once works have been completed in order to consider the improvements to the property in the context of the capital value, this is in accordance with CIPFA guidance.

The issue of sustainability is generally implied in the valuation process, for example, if valuing investment stock it would be expected that yields would be lower for newer build premises with better energy efficiency status compared to older stock which may not benefit from such measures and not have design and configuration benefits of a new build.

If at the date of valuation, the market does not differentiate, in terms of either occupier or investor demand, between a building that displays strong sustainability credentials and one that does not, there will be no impact on value.' RICS Sustainability and Commercial Property Valuation (Valuation Information Paper).

Do all the buildings covered by Display Energy Certification (DEC) legislation have up to date certificates ?

The primary building within the Authorities portfolio requiring a DEC is the Cecil Street offices. The DEC prepared is currently being updated following recent works and it is understood will be completed very soon.

What sum of money has the Council lost and or/not collected due to the backlog of rent reviews?

Following the 2005/06 restructure and the loss of a Chartered Surveyor post, a backlog of lease transactions did develop. The Authority managed this issue by contracting the work to an external surveying firm. In real terms, although there was a backlog, the financial implication to the Authority was minimal as the majority of agreements are not time constrained and reviews could be back dated from the effective date. That said there were a minority of agreements which were time of the essence and could not be back dated and for these further resources were not expended on completing valuations as time was better spent on the other reviews to ensure that contractual dates were met.

For information the Council as at 31/3/10 held 631 commercial assets including operational, non-operational, HRA commercial, community and infrastructure assets the capital value of those assets being £70m. The team of 1.6 Chartered Surveyors (reduced by 1 FTE following 2010 restructure) deals with 411 agreements of which there are on average 89 reviews/renewals per year.

It should be noted that there are situations whereby it is in the Authority's interest not to exercise a renewal, particularly during recession, as the properties may be over rented. In such instances the property remains on the property managers diary until altered which would be at the point when the market amount exceeds the passing amount.

129. THE COUNCIL'S DATA QUALITY AND PERFORMANCE MANAGEMENT FRAMEWORKS

The report outlines the process for the annual review of the council's data quality framework (DQF) and performance management framework (PMF) for 2011-2012.

Moved by Councillor Mrs Johnston and seconded by Councillor Peppiatt that:

“the Committee notes that the current date quality framework and performance management framework remain in place

and that the Committee agrees to receipt of a review of these arrangements in September 2011”

MOTION ADOPTED.

130. INTERNATIONAL FINANCIAL REPORTING STANDARDS (IFRS) PROGRESS REPORT AND UPDATED TIMETABLE

Sarah Martin, Finance Manager outlined the report which provides an update on progress in relation to the adoption of International Financial Reporting Standards (IFRS) for 2010/11.

The Implementation Plan was at annex 1 to the report followed by the Balance Sheet as at 1 April 2009 at annex 2, the Restated Core Financial Accounts 2009-10 at annex 3 and the Statement of Accounting Policies at annex 4.

Moved by Councillor Mrs Johnston and seconded by Councillor Peppiatt that:

“to accept the recommendations at 4.1, 4.2 and 4.3 as follows:

4.1 that Governance and Audit Committee note the report and the updated timetable to implement the changes required under IFRS

4.2 that Governance and Audit Committee adopt the revised accounting policies required to comply with the CIPFA Code of Practice on Local Authority Accounting

4.3 that the Governance and Audit Committee approve the 1/4/09 opening balance sheet and the restated core financial accounts for publication in the 2010/11 Statement of Accounts subject to amendment for audit recommendations”

MOTION ADOPTED.

131. REVIEW OF THE EFFECTIVENESS OF THE COUNCIL'S INTERNAL AUDIT ARRANGEMENTS 2010/11

Sarah Martin, Finance Manager outlined the report which presents the review of the effectiveness of the council's Internal Audit arrangements for 2010/11 as required by The Accounts and Audit (Amendment) (England) Regulations 2006.

The East Kent Internal Audit Partnership have met as a team and considered the CIPFA Checklist for compliance with the CIPFA Code of Practice for Internal Audit in Local Government in the UK 2006. The results of this self-assessment showed that the internal audit function is 97% compliant with the Code against a target of 97%, with no identified actions to improve the score.

Moved by Councillor Mrs Johnston and seconded by Councillor Day that:

“the Governance and Audit Committee accept the findings of the review of the effectiveness of the council's Internal Audit arrangements for 2010/11”

MOTION ADOPTED.

132. GOVERNANCE AND AUDIT COMMITTEE ANNUAL REPORT 2010/11

The Chairman introduced the report which summarises the achievements of the Governance and Audit Committee against its terms of reference for the period 1 April 2010 to 31 March 2011 and details the impact that it has made on the overall system of internal control in operation for that period.

The terms of reference for the Committee were also reviewed and changes recommended.

Moved by Councillor Mrs Johnston and seconded by Councillor Day that:

“Members agree the content of the report and the recommended actions within the action plan, and that Members recommend that the Annual Report be forwarded to Full Council”

MOTION ADOPTED.

133. QUARTERLY GOVERNANCE PROGRESS REPORT

Nikki Morris, Corporate Governance and Risk Officer outlined the report which updates Governance and Audit Committee with progress on governance related issues.

The report includes the Corporate Risk Register, Annual Governance Statement 2009/10 action plan, Programme of reports for 2011/12 and the annual review of the Terms of Reference.

Moved by Councillor Peppiatt and seconded by Councillor Mrs Johnston that:

“5.1 Members note the content of annexes 1 and 2 and identify any issues on which they required more clarification

5.2 that Members agreed the programme of reports for 2011/12, on the understanding that there may be variations to the programme should the need arise

5.3 that Members agreed the changes to the terms of reference and agreed that they go forward to the Constitutional Review Working Party, Standards and Council for formal agreement”

MOTION ADOPTED.

134. CONSTITUTION REVIEW 2010/11

Harvey Patterson, Head of Legal Services and Monitoring Officer updated Members on the changes to the Financial Procedure Rules that had been agreed by Council on 4 February 2011.

The Constitutional Review Working Party meeting of 26 January 2011 were asked to consider and approve amendments to the Financial Procedure Rules which would give the CFO the power to write off debts below £20,000 and to write off debts between £20,000 and £30,000 in consultation with the Cabinet Portfolio holder for Resources. All debts exceeding £30,000 would continue to be reported to Cabinet for write off. The proposed amendments were agreed and it was also recommended that a procedure be developed whereby all members receive regular reports concerning all debts written off at officer level.

The Standards Committee considered the same recommendations at its meeting on 8 February 2011 and concluded that the write off thresholds were too high. Following discussion the Standards Committee decided to recommend to Council that the CFO be authorised to write off debts up to £10,000 and be authorised to write off debts between £10,000 and £20,000 in

Consultation with the Portfolio Holder for Resources. All debts proposed for write off in excess of £20,000 would be reported to Cabinet. The Standards Committee also recommended that the Monitoring Officer consults the CFO on the adoption of a procedure that enables Members to be informed of all debts proposed for write off in advance of write off. As this can be implemented without constitutional amendment it is intended to take suitable proposals to the next meeting of the Governance and Audit Committee.

Moved by Councillor Mrs Johnston and seconded by Councillor Mrs Lodge-Pritchard that:

“the report and the amendments to the Financial Procedure Rules be noted

and

that a report be received at the next meeting of the Governance and Audit Committee setting out proposals for a procedure whereby members are informed of proposed to be written off at officer level”

MOTION ADOPTED.

135. INTERNAL AUDIT CHARTER AND 2011/12 AUDIT PLAN

Christine Parker, Head of the East Kent Audit Partnership outlined the report which gives Members a summary of the way in which the internal audit function provided by the East Kent Audit Partnership intends to deliver its service for the period 1 April 2011 to 31 March 2012 and details of the coverage it intends to provide controls assurance on.

To comply with the CIPFA Code of Practice for Internal Audit 2006, the agreed audit plan should cover a fixed period of no more than 1 year. Members are being asked to approve the 2011-12 plan at the present time and the 2012-13 plan (modified as necessary) will be presented for consideration in March 2012 and similarly the 2013-14 plan will be presented for consideration in March 2013. The purpose of showing an indicative 2012-13 and 2013-14 plan at this time is to provide Members with assurance that internal audit resources are sufficient to provide effective coverage across all areas of the Authority's operations within a rolling cycle.

Members agreed the following recommendations:

- 6.1 approve to adopt the Internal Audit Charter
- 6.2 approve to adopt the Internal Audit Strategy for delivery of the internal audit service
- 6.3 approve the Council's Internal Audit Plan for 2011/12.

136. INTERNAL AUDIT PROGRESS REPORT

Christine Parker, outlined the quarterly internal progress report which included a summary of the work completed by the East Kent Audit Partnership since the last Governance and Audit Committee meeting, together with details of the performance of the EKAP to the 31 December 2010.

Christine added that there have been 9 Internal Audit assignments completed during the period. Of these: two concluded Substantial Assurance, two concluded Reasonable Assurance, one concluded Limited Assurance, and one review resulted in a split Assurance level. Additionally, there were three audit assignments for which an assurance level was not applicable.

In addition, six follow-up reviews have been completed during the period. Of these, two related to areas which were originally assessed as giving rise to a partially Limited assurance and the assurance levels for these business areas remains unchanged.

Simon Webb, Audit Manager advised the Committee that the Limited Assurance area related to an audit of Equality and Diversity. The Council no longer has a dedicated Equalities Officer in post since the previous officer left approximately 18 months ago. During this time the Council's responsibilities in respect of equalities and diversity have been dispersed amongst a number of officers. Consequently the Council's Corporate Equality Plan, Equalities and Diversity Policy and Action Plan are now out of date and in need of review. The revised Equality Plan will now be based on level two of the Equality Standard and new legislation.

There is an Equalities and Diversities Group that consist of a representative from each service area. This group meets each quarter and aims to ensure that equalities and diversity is co-ordinated and communicated across departments. Unfortunately this group no longer has the involvement of a Director or Cabinet Portfolio holder demonstrating the priority assigned to other issues at the current time.

Following some discussion on this matter Councillor Mrs Johnston proposed and Councillor Mrs Lodge-Pritchard seconded and Members AGREED that a Cabinet and Shadow Cabinet Member should be invited to the Equalities and Diversities Group meetings.

Simon added that the follow up of Audit report action plans showed that CSO Compliance had a revised assurance level of 'reasonable' and that Thanet Leisure Force had a split assurance level of Substantial/Limited partly due to the absence of up to date agreements.

Mark Seed, Director of Environmental Services indicated that the original agreement 1999 had been mainly superceded by a partnership approach to managing services. Formal approval of a revised management agreement that reflected these changes had been delayed due to pressure of work of greater priority, but all the background preparation was nearing completion, though additional legal input was required before the new agreements could be signed.

Members noted the report.

137. AUDIT COMMISSION PROGRESS REPORT MARCH 2011

Andy Mack, District Auditor from the Audit Commission outlined the report which updates Members on progress to date on the current audit plans and the audit and inspection work undertaken since the last update in September 2010.

Andy advised that the accounts had progressed from a 'red' category to an 'amber' category which was very good news for the Council. The Value for Money conclusion focused on two specific areas, these being:

- securing financial resilience - focusing on whether the Council is managing its financial risks to secure a stable financial position for the foreseeable future; and

- challenging how the Council secures economy, efficiency and effectiveness – focusing on whether the Council is prioritising its resources within tighter budgets and improving productivity and efficiency.

Members noted the report.

138. AUDIT COMMISSION-AUDIT PLAN 2010/2011

Andy Mack, District Auditor from the Audit Commission outlined the report which updates Members on progress to date on Audit Commission's Audit Plan 2010/2011.

Andy added that in order to comply with a number of International Standards on Auditing he is required to obtain an understanding of the following:

- 1) How those charged with governance exercise oversight of management's processes in relation to:
 - undertaking an assessment of the risk that the financial statements may be materially mis-stated due to fraud;
 - identifying and responding to risks of fraud in the organisation;
 - communication to employees of views of business practice and ethical behaviour; and
 - communication to those charged with governance the processes for identifying and responding to fraud.
- 2) How the Audit Committee oversees management processes to identify and respond to the risk of fraud and possible breaches of internal control.
- 3) Whether you have knowledge of any actual, suspected or alleged frauds
- 4) How you gain assurance that all relevant laws and regulations have been complied with.

Sarah Martin, Financial Services Manager advised Members that measures were in place to ensure that separation of duties within the accounting team dealt with possible mis-statements. She also advised that the accountancy staff were fully trained and that a peer review was undertaken of the accounts by neighbouring authorities.

With regard to identifying the risk of fraud, she advised that assurance can be gained from the thorough internal audit reviews. The Head of Audit has access to the Chair of this committee at all times. Dedicated staff resource has been built into the organisational structure to promote good governance and risk management. Members have approved the anti-fraud and corruption policy and this is published on TOM for all staff to access. This committee has also recently received a presentation on the National Fraud Initiative.

Some Members had concerns regarding the Tender opening processes which were explained and Harvey Patterson, Head of Legal & Democratic Service and Monitoring Officer added that the Council had adopted Standing Orders which had also been adopted by all Councils. It was noted that a review of Tender procedures was due in June.

Thanks were given to the Audit Commission team.

Members noted the report.

139. AUDIT COMMISSION - CERTIFICATION OF CLAIMS AND RETURNS - ANNUAL REPORT

Andy Mack, District Auditor from the Audit Commission outlined the report which summarises the findings from the certification of 2009/10 claims.

Andy added that he was pleased to note that there are no significant findings arising from the grant certification work that needed to be brought to the attention of those charged with governance which was a good achievement.

Members noted the report.

140. EXCLUSION OF PUBLIC AND PRESS

Moved by Councillor Day, seconded by Councillor Mrs Nicholson and resolved that the public and press be excluded from the meeting on agenda item 18 it contains exempt information as defined in Paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended).

141. TREASURY MANAGEMENT QUARTERLY UPDATE

Sarah Martin summarised the report which updates Members on what Treasury activity has taken place since the last Governance and Audit meeting on 13 January 2011.

The base rate has not changed and the new forecasts just released from the Council's Treasury consultants show that this is expected to remain the case until at least September 2011. We are continuing to look at opportunities to maximise out investments but whilst always ensuring that risk is minimised. We are doing some work around out cashflow so that we are aware of when money is due into and out of the organisation so that we can place investments for longer terms at more attractive rates.

Members noted the content of the report.

142. EUROPEAN REGIONAL DEVELOPMENT FUND

Members felt that this item was not a restricted item and therefore should be deferred until the next meeting and be a public paper (on white).

Only one section of the confidential paper was to remain as a pink paper.

Moved by Councillor Mrs Johnston and seconded by Councillor Day that this item be deferred to the next meeting of Governance and Audit Committee.

MOTION ADOPTED.

Meeting concluded : 9.05 pm