



CITY OF WESTMINSTER

MINUTES

AUDIT AND PERFORMANCE COMMITTEE

MINUTES OF PROCEEDINGS

Minutes of a meeting of the Audit and Performance Committee held on **Wednesday 21st November 2012** at Westminster City Hall, 64 Victoria Street, London SW1E 6QP

Members Present: Councillors Tim Mitchell (Chairman), Lindsey Hall (Vice-Chairman), David Boothroyd, Jean-Paul Floru, Ian Rowley and Judith Warner.

Officers present: Anna D'Alessandro (Deputy Director of Corporate Finance), Naomi Stauber (Committee and Scrutiny Officer), Peter Large (Head of Legal and Democratic Services), Sue Howell (Complaints and Customer Manager), Anthony Oliver (Chief Procurement Officer), Carolyn Beech (Director of Human Resources), Tommy Hyun (Audit Manager), Moira Mackie (Senior Manager - RSM Tenon), Nick Byrom (Performance Business Analyst), Mohibur Rahman (Performance Analyst) and Sally-Anne Eldridge (External Audit - KPMG).

1. MEMBERSHIP, MINUTES AND DECLARATIONS OF INTEREST

- 1.1 The Chairman with the assent of the Members present signed the minutes of the Committee meeting held on 25th September 2012.
- 1.2 There were no declarations of interest.
- 1.3 The Chairman noted that he had received a formal request from a member of the public to film the meeting. In line with the Council's Code of Governance and agreed protocol he gave his permission in advance of the meeting on the basis that it would, in no way, disrupt proceedings.

2. WORK PROGRAMME

- 2.1 The Committee considered the proposed Work Programme for the 2012/13 municipal year and noted the progress updates provided in respect of the Process and Audit and Benefit Fraud Working Groups.

2.2 RESOLVED:

- (1) That the Work Programme for the 2012/13 municipal year attached to the report as Appendix 1 be noted;

- (2) That the progress of the Working Groups be noted; and
- (3) That the work undertaken in response to the actions which arose from the last meeting, as detailed in Appendix 4, be noted.

3. AUDIT COMMISSION ANNUAL AUDIT LETTER 2011/12

- 3.1 Sally-Anne Eldridge, External Auditor – KPMG, introduced the Annual Audit Letter which provided the Audit Commission's assessment of the Council's financial statements and its arrangements to secure value for money (VFM) in its use of resources, and followed-up the key messages shared with the Committee in the Annual Governance Report in September. Ms Eldridge reported that the District Auditor had issued an unqualified opinion on the 2011/12 Financial Statements of the Council and its Pension Fund, and an unqualified VFM conclusion on 28 September 2012, stating that the Council made proper arrangements to secure economy, efficiency and effectiveness in its use of resources for 2011/12. This incorporated a report by exception with regard to the pay-by-phone parking services contract. The District Auditor had also issued his assurance statement on the Council's 2011/12 Whole of Government Accounts' consolidation pack on 15 October 2012. This was a week beyond the deadline, but an improvement on last year.
- 3.2 Ms Eldridge noted that the Audit Commission had not issued a certificate closing the audits from 2008/09 onwards due to the ongoing consideration of a number of issues raised by members of the public. The District Auditor had focussed on five objections of which three have not been upheld. In respect of the Novation (internal audit contract) objection, Members heard that although the objection was not upheld, weaknesses were identified with regard to the delay in completing the novation agreement beyond what, in the District Auditor's view, was a reasonable period. Two objections were still in progress and these have been referred to the Council's new auditor (KPMG) to take forward. It was also noted that a number of further objections to the 2009/09, 2009/10, 2010/11 and 2011/12 financial statements had been received, which will also transfer to KPMG to consider.
- 3.4 In respect of the fees detailed in the report Ms Eldridge noted that an additional fee will be incurred relating to the ongoing consideration of matters raised by members of the public. The latest estimate of the likely outturn on the fees for claims and returns remains in line with the District Auditor's plan and his KPMG successor will report the final outturn in the Certification of Claims and Returns Annual Report to the next Committee meeting in February 2013.
- 3.3 In response to a query from Members regarding the threshold for investigating complaints and associated costs, Ms Eldridge explained that complaints (unless raised with the external auditor directly) are submitted to the Council in the first instance and, if determined to be serious enough to be classed as an 'objection' are then referred to the external auditor for consideration. The external auditor will give due consideration to the objection prior to accepting it and pursuing an investigation accordingly. Ms Eldridge assured Members that there are very clear parameters around the definition of a valid objection and defined processes in place to deal with such objections. In respect of the costs

of investigating objections, Members were informed that the fee reduces according to the speed and quality of the responses provided by the Council. In this respect the Chairman noted the importance of responding to requests for information received from the external auditor in a timely manner.

- 3.4 In response to a query from Members regarding the prospect of completing the Call centre/service charges (pay-by-phone parking services contract) from the 2008/09 accounts, Ms Eldridge confirmed that a resolution to the objection was delayed due to the receipt of two different responses from the Council which revealed further information for investigation.
- 3.5 Anna D'Alessandro, Deputy Director of Corporate Finance, provided the assurance sought by Members that the non-closure of previous year's accounts will not affect the day-to-day running of the Council.
- 3.6 **ACTION:** That the Committee be provided with the statement of reasons issued in response to the objections.
- 3.7 **RESOLVED:** That the Audit Commission's Annual Audit Letter 2011/12 be noted.

4. MAINTAINING HIGH ETHICAL STANDARDS AT THE CITY COUNCIL

- 4.1 Peter Large, Head of Legal and Democratic Services and Monitoring Officer, introduced the report which set out how the City Council goes about maintaining high ethical standards and provided Members with a summary of the activity in key areas of ethical governance – compliance with the Bribery Act 2010; the new Members' Code of Conduct and Register of Interests; corporate complaints; procurement; and Human Resources in respect of staff disciplinary cases, whistleblowing issues, staff declarations of interest and receipt of gifts and hospitality. Mr Large explained that the landscape of ethical governance had changed significantly with the enactment of the Localism Act 2011 and the consequential changes for local authorities, such as the reduction of external supervision in respect of the abolition of both the Standards Board for England and the Audit Commission. Notably, authorities can now determine locally both the content of their Members' Code of Conduct and their procedure for dealing with complaints against Members. Mr Large noted the importance of ensuring that ethical governance is considered seriously at the Council and, in his view, the way in which an authority deals with ethical governance is often a measure of the organisation. Mr Large expanded on his point, explaining that there is often a correlation between excellent organisations having robust systems and arrangements in place for maintaining high standards of ethical governance.
- 4.2 Mr Large highlighted some of work which had been undertaken by Officers in the area of ethical governance across the authority, including the new regime in place for a Members' Code of Conduct; and the proposed Anti-Fraud, Bribery and Corruption Strategy which had been refreshed in response to the provisions in the Bribery Act 2010 and presented for the Committee's comment and approval. Members also noted that a number of Council protocols and procedures had been updated in accordance with the work

undertaken as part of the Bribery Act review and the recommendations issued by RSM Tenon as part of their audit on the subject.

- 4.3 The Committee noted that the Council is in good health in respect of its ethical governance, as illustrated in the report – citing a nil return in respect of complaints against Members of the Council since the implementation of the new arrangements, and no issues of note in the areas of HR, complaints or procurement in the last 12 month period. Mr Large clarified that, although the statistics are positive, the Council cannot be complacent and he will continue to monitor and work to maintain the ethical standards of the Council in accordance with his responsibilities as the authority's Monitoring Officer.
- 4.4 Members noted that the Council requires all employees to disclose any interests which may conflict with their public duty by completing a Declarations of Interests Form, and that employees in specified designated posts must also complete a Declarations of Interests Form on taking up the appointment, on any change in personal circumstances and on the general declaration completion date which occurs every 3 years. Failure to disclose such interests may lead to disciplinary action under the Council's policies. In this respect Members enquired as to the arrangements in place for ensuring staff comply with this policy. In response Carolyn Beech, Director of Human Resources, informed the Committee that the gifts and hospitality policy requirements are included as part of staff induction training and reminders are sent to staff at key times of the year, such as the Christmas period where gifts and hospitality are more likely to be received. However, ultimate responsibility falls to the relevant Strategic Executive Board (SEB) members to enforce the policy for their service and ensure compliance.
- 4.5 The Committee suggested that, going forward, the Council's Audit Manager undertakes an annual examination of the online Gifts and Hospitality Register to investigate year-on-year trends, particularly in those service areas which are routinely exposed to and work with external organisations.
- 4.6 Members cited their concerns with regard to the 'soft' relationships between Council staff and contractors (such as networking as opposed to formal meetings), and enquired about how those relationships are monitored to ensure corruption does not take place. Anthony Oliver, Chief Procurement Officer, informed the Committee that, in addition to the policies in place and communicated to both staff and contractors detailing the conduct expected by the Council, regard is given to those staff who may be exposed to 'softer' relationships with contractors. Those members of staff are not involved in the award of contracts or any formal decisions in respect of those procurements.
- 4.7 Mr Large clarified that networking in and of itself is not necessarily a negative function and, to the contrary, is recognised as an effective way to forge positive relationships for an organisation and generally do business. However, Mr Large recognised that it is important to minimize the risk of corruption occurring and explained that, although difficult to monitor, the Council has systems in place to ensure that networking is not abused. Two examples cited by Mr Large were transparency around gifts and hospitality (such as the online register) and, as Mr Oliver detailed in relation to the procurement process, an appropriate separation of responsibilities. Mr Large provided the example that

Council officers who routinely deal with applicants or clients in a service area will not have the authority to take individual decisions. He further informed the Committee that, in addition to having robust systems and processes in place, it is integral that the culture of the organisation is one in which the message is clear that the City Council does not consider the abuse of networking to be an acceptable way of doing business.

- 4.8 Members noted Mr Large's comments regarding the removal of external controls surrounding ethical governance and were clear that the Council needed to increase its internal controls as a consequence and ensure that it is robust in this respect.
- 4.9 The Committee discussed the detail of the Anti-Fraud, Bribery and Corruption Strategy and, in particular, the current and prospective use of data-matching to prevent fraud. In this respect the Committee recommended that the wording of paragraph 6.10.3 of the Anti-Fraud, Bribery and Corruption Strategy be amended to read:
- "The Council may also run data matching exercises against its own databases. This may include systems holding information about Council employees (payroll and personnel), claimants of housing / council tax benefit and residents parking. Contractors' data must also be used."
- 4.10 In response to an enquiry from Members regarding the ways in which relationships between Members and Officers are governed, Mr Large informed the Committee that the Council's Code of Governance (which is a public document published on the Council's website) contains a Protocol on Member and Officer Relationships. This protocol provides general guidance and information about the conduct expected of individuals employed by or acting on behalf the City Council. Mr Large confirmed that specific protocols can, and have, been agreed informally in recognition of specific relationships between Members and Officers, and he has also been asked to advise on specific circumstances.
- 4.11 Mr Large confirmed to the Committee that it is a legal requirement to publish the Members' Register of Interests online, whereas there is no such requirement applicable to Officers. The Committee recommended that Mr Large give consideration to publishing Officers' interests online in addition to the existing Members' interests.
- 4.12 Members cited a stage 3 parking ethical governance complaint case detailed in the report regarding allegations that street staff (Civil Enforcement Officers) were taking bribes not to enforce regulations. The report stated that the complainant was asked for evidence or further information to support his allegation, and as a result of his failure to provide this, the allegation was not investigated. Members therefore enquired about how much evidence the Council requires in order to pursue a complaint or allegation. Sue Howell, Complaints and Customer Manager, explained that the Council does not necessarily need evidence from a complainant in order to investigate an allegation. However, in the circumstance cited, the complaint failed to provide any information whatsoever to enable the Council to follow-up his allegation. Ms Howell noted that in the absence of any further communication from the

individual in question, he was issued with a response which advised him to report any further details to the Fraud Hotline, which he could use anonymously, or the Parking Customer Relations team. However, no further details from the complainant were received.

4.13 RESOLVED:

- (1) That the annual report and actions taken to maintain high standards of ethical governance through-out the authority be noted;
- (2) That the Anti-Fraud, Bribery and Corruption Strategy attached as Appendix 1 of the report be endorsed and recommended for submission to the Cabinet Member for Finance and Customer Services, for approval, subject to the amendment detailed in paragraph 4.9 above;
- (3) That the report be circulated to all Members of the Council or information with a covering letter from the Chairman of the Committee; and
- (4) That the Monitoring Officer give consideration to publishing Officers' Register of Interests online in addition to the existing Members' Register of Interests.

5. CORPORATE COMPLAINTS REVIEW 2011/12

5.1 Sue Howell, Complaints and Customer Manager, introduced the report which summarised the Council's complaints performance (complaint Stages 1, 2 and 3), the Local Government Ombudsman (LGO) first time enquiries, and performance in dealing with the Leader and Cabinet Member correspondence. A copy of the Local Government Ombudsman Annual Letter/Review for the year ended 31 March 2011 was also provided for the Committee's information.

5.2 Ms Howell noted the following key complaints performance headlines

- **Complaint Numbers** – There had been a 23% reduction in the total number of complaints across all three stages of the complaints procedure;
- **Volume of complaints** - The majority of complaints are from CityWest Homes (CWH), Finance (Housing Benefit, Council Tax and Business Rates) and Housing Needs;
- **Response times** - There had been a general improvement in meeting the response times target across all three stages; and
- **Local Government Ombudsman (LGO)** – the LGO Annual Review for the year ending 31 March 2012 indicated that the Council achieved an average response time of 28.3 against a benchmark of 28 days. The Ombudsman also specifically noted that she has no concerns about the authority's response times and there are no issues arising from the complaints that she wishes to bring to the Council's attention.

- **Leader and Cabinet Member Correspondence (known as Pink Jackets)** - Correspondence had fallen (a reduction of 123) from 943 enquiries received in 2010/11 down to 820 in 2011/12.

5.3 Ms Howell further informed the Committee that, following on from last year's annual review, a business case for a new two stage approach to complaints handling was made and, in line with a common approach across the private sector and many other councils, a two stage complaints process was developed. This new two stage complaints procedure went live on 1 April 2012 and the next Annual complaint review submitted to the Committee will discuss how the new procedure has been received as well as summarising the complaint performance and trends for 2012/13.

5.4 The Committee noted that CityWest Homes (CWH) is piloting its own separate CWH led two stage complaints system. This approach will shadow expected national changes to housing complaints and allow CWH to set up a forerunner of the new tenants' panel to review complaints which would otherwise have been escalated to the council. The CWH two stage (pilot) complaints procedure went live on 1 April 2012, and CWH's report to the Housing Board will be appended to the Council's next review so to ensure visibility on their complaint performance.

5.5 In response to an enquiry from Members regarding the absence of complaints data relating to Adults and Children's Social Services, Ms Howell explained that complaints relating to those two services have their own statutory complaints procedure and are not dealt with through the normal complaints process. Reports detailing the complaints information for Adults Services and Children, Young People and Family Service are produced and monitored, however, due to the aforementioned separate statutory procedure, they are not within Ms Howell's remit of responsibility and do not therefore form part of the Annual Complaints Review Report.

5.6 **ACTIONS:**

- (1) That the reports detailing the complaints information for Adults and Children's Social Services be circulated to the Committee;
- (2) That information setting-out the formal scrutiny/monitoring arrangements for the aforementioned reports be provided; and
- (3) That the complaints information for Adults and Children's Social Services be detailed in the quarterly business plan performance reports going forward.

5.7 **RESOLVED:** That the Annual Complaint Review 2011/12 be noted.

6. **INTERNAL AUDIT AND COUNTER SUMMARY MONITORING REPORT AUGUST – OCTOBER 2012**

6.1 Moira Mackie, RSM Tenon, introduced the report which summarised the internal audit and counter fraud work carried out from August to October 2012. In respect of the audit work undertaken during the period Ms Mackie

highlighted one completed audit with significant findings - St Luke's Primary School (identified as Amber RAG). RSM Tenon found that although the School had established procedures which were considered appropriate, the audit identified a number of areas where these procedures were not complied with. Areas identified where an improvement in compliance was required included the purchasing and payments processes and the maintenance of personnel records. In addition, at the time of the audit, the cheque account could not be reviewed as there were outstanding reconciliation issues. Six significant recommendations were made and since the audit was completed, the School had confirmed that all of these recommendations have been addressed.

- 6.2 In respect of the fraud work undertaken during the period Ms Mackie noted that Housing Benefit Fraud Investigations resulted in 7 prosecutions and 19 "Cautions" or "Administrative Penalties" being issued which related to overpayments and fines totalling £247K. Furthermore, General fraud investigation work had resulted in 3 Council/housing association properties being recovered.
- 6.3 Members cited a fraud case detailed in the report which was referred for investigation when the Benefits Service identified that an adult son declared as a resident at the property was claiming Benefits in his own right from the London Borough of Wandsworth. It was noted that during the investigation Officers noticed that the claimant had deliberately inflated the rent paid from £500 to £750 week in order to get more Housing Benefit. In response to a query from Members regarding the issue of rent inflation, the Committee heard that the recent introduction of Housing Benefit Caps is bringing the problem to end to a certain degree. However, it is a very difficult type of fraud to detect unless it is flagged-up or, as in the case cited, is already under investigation.
- 6.4 Officers agreed with the principle of a point made by Members that the Council needs to forensically unpick how different types of fraud are allowed to take place in order to ensure that steps are taken to prevent it in the first instance, and not simply detected after the event. However, Officers also noted that the Council is constrained by both its statutory obligations and the resources/funds at its disposal.
- 6.5 Members expressed concerns that the sanctions for committing fraud were not nearly severe enough and did not therefore act as an effective deterrent against fraud, even making fraud a profitable business despite prosecution. The Committee noted that the sentencing guidelines are set by the Ministry of Justice and not the Council and therefore suggested that the Council should lobby the Government on this point as part of its Benefit Fraud work going forward.
- 6.6 RESOLVED:** That the internal audit and counter fraud work carried out during the period be noted.
- 7. (QUARTER 2) FINANCE AND BUSINESS PLAN PERFORMANCE REPORT 2011/12**
- 7.1 Anna D'Alessandro, Deputy Director of Corporate Finance, introduced the finance section of the report and reported the following key messages for

Period 6: A projected £1.2M overspend against the Westminster Budget baseline of £215.5M, which is moving towards the Corporate Finance “Best Estimate” projection of a break-even position; and a projected Closing General Fund Reserves position of circa £25M, which is an increase of circa £3M from the previous period. Ms D’Alessandro also noted that the recommendations of the Debt Review conducted at year-end were being implemented and the appointment of an external debt specialist had recently commenced. The debt specialist had been tasked with reviewing the current practice and steps needed to establish consistent and robust debt management arrangements and is already making good progress, having met with Serco, Veolia and Knight Frank to explore the steps they are taking to reduce debt. A further update on the progression of this work will be provided for the Committee at the next meeting.

- 7.2 In response to a query from Members regarding the aged debt cited in the report in the area of SEB and Strategic Support, Ms D’Alessandro confirmed that the figure of £114k relates to old salary overpayments. The Committee were informed that salary overpayments had been a long-standing issue; however, this had been recognised and addressed at cross-council-management level. Service Area managers had been advised that going forward, any failure to notify the HR Department of a member of staff leaving the Council, according to the right procedural policy and timeframes, will result in any resultant salary overpayments being deducted from their service area budget. The new approach appears to have been successful with a significant reduction in salary overpayments since the message had been communicated.
- 7.3 Nick Byrom, Performance Business Analyst, introduced the performance section of the report and reported the key messages for on current progress with delivery against the business plans for 2012/13 at Quarter 2. The Committee were informed that the overall performance against items in the business plans at Quarter 2 continued to be positive, and delivery of the Council’s business plans for 2012/13 had been successful over the second Quarter of the year.
- 7.4 In respect of the August 2012 Resident Survey, the Council’s reputation measures had increased overall since the last resident survey in May 2012. However, concerns were flagged-up in the area of street cleanliness with 6% of those residents surveyed citing rubbish and litter on the streets as a problem in the borough. Mr Byrom explained that street surveys have generally noted an increase in litter, and this is likely to be due to the £2M reduction in the service area’s budget. Members agreed that the anecdotal evidence which they had experienced in the course of their Ward Member work concurred with the views that litter is becoming an increasing problem. However, Members emphasised the importance of ensuring that front line services are protected from being negatively affected by budget cuts to service areas.
- 7.5 Members referred specifically to two priority performance measures detailed for the Communications and Strategy portfolio business plan – showing that only 45% of residents surveyed felt the Council takes account of resident views, and only 32% of residents surveyed felt the Council makes residents

feel involved in decisions. Members considered the results to be wholly unacceptable and urged the Communications Dept to take steps to drastically improve those figures.

7.6 Mr Byrom reported that he and his colleagues are in the process of developing a tri-borough risk management strategy statement and suggested submitting the consultation document to the Committee for consideration and comment, subject to the Chairman's agreement. On the subject of tri-borough working, Mr Byrom also raised his concerns that tri-borough may threaten meaningful performance analysis at a local level and there is therefore a real need to ensure that tri-borough performance measures, in those areas where services are shared, are properly reflective of the needs of Westminster.

7.7 **ACTION:** That where "no data available" is cited in the report due to figures being collated annually (rather than quarterly) this clearly stated.

7.8 **RESOLVED:** That the Quarter 2 Finance and Business Plan Performance Report be noted.

8. TERMINATION OF MEETING

8.1 The meeting ended at 9.24pm

CHAIRMAN _____

DATE _____