



CITY OF WESTMINSTER

# MINUTES

## AUDIT AND PERFORMANCE COMMITTEE

### MINUTES OF PROCEEDINGS

Minutes of a meeting of the Audit and Performance Committee held on **Tuesday 23 April 2013** at Westminster City Hall, 64 Victoria Street, London SW1E 6QP

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

**Officers present:** Naomi Stauber (Senior Committee and Governance Officer), Nick Byrom (Performance Business Analyst), Martin Hinckley (Head of Shared Service Centre), John Ogden (Head of Financial Management and Control), Moira Mackie (Senior Manager - RSM Tenon), David Whitehouse-Hayes (Counter Fraud Manager - RSM Tenon), Tommy Hyun (Audit Manager) and Mike McDonagh (External Audit - KPMG).

#### 1. MEMBERSHIP, MINUTES AND DECLARATIONS OF INTEREST

- 1.1 The Chairman noted that Councillor Lindsey Hall (Vice-Chairman) had sent her apologies.
- 1.2 It was noted that Barbara Moorhouse (Chief Operating Officer) and Anna D'Alessandro (Deputy Director of Corporate Finance) had also sent their apologies.
- 1.3 With the assent of the Members present the Chairman signed the minutes of the Committee meeting held on 6 February 2013.
- 1.4 There were no declarations of interest.
- 1.5 The Chairman noted that the Finance Monitoring Report (Item 6) had been circulated after the main agenda to ensure that Period 11 financial information could be fully and accurately consolidated for the Committee's review.

#### 2. WORK PROGRAMME

- 2.1 The Chairman noted the work undertaken by the Process and Audit Working Group since the last Committee meeting in February, as detailed in the report. He further informed Members that the Audit Plan 2013/14 had been reviewed by himself and Councillors Boothroyd and Hall and that Councillor Hall had requested the inclusion of an audit on the Discretionary Housing Payment

process. A copy of the finalised Audit Plan had been circulated to all Members of the Audit and Performance Committee for information.

- 2.2 The Committee received an update from Martin Hinckley, Head of Shared Service Centre, on progress regarding Westminster's involvement in the West London Fraud Hub. Mr Hinckley informed Members that internal legal advice on the issue, received from the Head of Legal and Democratic Services, had been referred to the Chief Executive for consideration and Officers were awaiting the Chief Executive's decision. Members raised concerns that one of the Kensington and Chelsea Council had successfully progressed their involvement in the West London Fraud Hub and were able to participate in initiative following legal advice which conflicted with that received by the City Council. Members also raised concerns that the Council would not receive some the key benefits of joining the initiative in terms of reciprocal data sharing across the member Boroughs.
- 2.3 In light of Members' concerns the Committee recommended that external legal advice on the issue be sought. The Committee also requested to receive for information the legal advice provided by the Head of Legal and Democratic Services and to be kept fully informed of the Chief Executive's decision and any further developments on the matter.
- 2.4 The Chairman noted that himself and Councillor Hall would be meeting with the Chief Executive and the Chief Operating Officer to discuss the issue of the Council's involvement in the West London Fraud Hub and would communicate the Committee's concerns
- 2.5 Councillor Rowley updated the Committee on the work of the Commercial Property Review Board and informed Members that good progress had been made on reviewing the Council's management of property assets. As a result of which a number of weaknesses had been identified in this area. As such, a report on these key issues had been submitted to the Strategic Director of Housing, Regeneration and Property for his consideration and inclusion in the 2013/14 business plan.
- 2.6 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;
  - (3) That the work undertaken in response to the actions which arose from the last meeting, as detailed in Appendix 4, be noted; and
  - (4) That it be recommended that the Council seek external legal advice on the legality of the City Council's involvement in the West London Fraud Hub initiative.

### **3. KPMG ANNUAL AUDIT PLAN 2012/13**

- 3.1 Mike McDonagh, KPMG External Auditor, introduced the report which detailed the work KPMG propose to undertake for the audit of the Council's Financial Statements and the Pension Fund for the financial year 2012/13. Mr McDonagh explained KPMG's key responsibilities in this context: to review and report on the Council's financial statements and to provide an opinion on the accounts; to review and report on the Council's use of resources, concluding on the arrangements in place for securing economy, efficiency and effectiveness in the use of resources (the value for money (VFM) conclusion); and to fairly consider questions and objections raised by electors in relation to the Council's financial statements. In this respect Mr McDonagh informed the Committee that he is currently dealing with a number of objections from electors – one new objection and those objections submitted to the Council's previous external auditor (the Audit Commission) which had been transferred to KPMG.
- 3.2 The Committee were informed that the plan for the audit of the financial statements will focus on a number of significant areas including pension costs and liabilities; the presentation of the accounts; and the efficiency of the arrangements across tri-borough working. Mr McDonagh emphasised that although he is the external auditor for all three tri-borough authorities each audit will be conducted individually. Members also noted that the interim on-site audit had been undertaken to evaluate and test controls over key financial systems identified as part of the risk assessment; to review the work undertaken by the internal audit function on controls relevant to the risk assessment; to review the accounts production process; and to review progress on critical accounting matters. Mr McDonagh confirmed that no issues relating to these interim evaluations had been found to date.
- 3.3 In respect of the aforementioned West London Fraud Hub issue Members enquired as to whether Mr McDonagh would be in a position to investigate the matter in his role as external auditor for both the City Council and Kensington and Chelsea Council – specifically the conflicting legal advice received by both authorities. Mr McDonagh confirmed that he had noted the Committee's discussion on the subject and would be investigating the issue. His findings will be reported directly to the Chairman prior to the next Committee meeting in June.
- 3.4 The Committee noted the significant fee reduction detailed in the report which includes KPMG's work on the VFM conclusion and the audit of the Council's financial statements. Mr McDonagh informed Members the he had agreed with the Chief Operating Officer that KPMG will receive full co-operation from officers towards the successful completion of its work. However, any delays in providing good quality and timely information will result KPMG undertaking extra work which will impact upon the final external audit fee. Members heard that Mr McDonagh will work with officers to ensure that appropriate timescales are agreed and understood and that he will be entirely open and transparent with Members in flagging-up significant issues in this respect, should any arise during the course of his work. The Chairman emphasised the importance of officers responding to KPMG's requests for information in a timely manner, particularly information relating to challenges from objectors. The Chairman

confirmed that he would liaise with Mr McDonagh to ensure this level of co-operation takes place.

- 3.5 Councillor Warner commented that the previous external auditor had historically followed a set of audit processes which had failed to make any significant impact upon the way in which the City Council operates – particularly in relation to key areas of concern such as procurement. Mr McDonagh was subsequently asked to explain how KPMG’s approach would differ to the previous auditor and how this will impact upon the organisation. In response Mr McDonagh clarified his responsibilities as the Council’s external auditor (which are primarily to form an opinion on both the financial statements and the arrangements in place for securing economy, efficiency and effectiveness in the use of resources); and assured Members that he would fulfil these responsibilities fully, openly and transparently. He further informed Members that he had already identified some challenges with regard to procurement. These amounted to the majority of questions pertaining to the Council’s arrangements which he was addressing and Mr McDonagh and his team will continue to investigate these issues during the course of the audit.
- 3.6 In response to a query from Members regarding KPMG’s role in auditing the Council’s property valuation processes, Mr McDonagh explained that he and his team will assess the Council’s external property valuation experts in terms of their independence, proficiency and how they are remunerated. He clarified that it is the Council’s right and responsibility to determine the property valuation method and KPMG’s role to assess the robustness of that method, in addition to how the relationship between the authority and the valuer is managed.
- 3.7 In respect of KPMG’s use of off-shore audit resources in the form of the KPMG Global Services (KGS Audit) team based in India, Members noted that the Council is subject to data protection legislation and sought confirmation that off-shore teams comply with such legislation and principles – particularly with regard to personal, confidential or sensitive information. Mr McDonagh confirmed that KPMG is fully compliant with data protection legislation and that all employees receive the same extensive training in respect of the safeguarding of data. He further reassured the Committee that the KGS Audit team are only utilised for a small element of its audit work including check-listing and other relatively straightforward high-volume activities.
- 3.8 In response to a request from Members wishing to receive information about the electors’ objections to the financial statements, Mr McDonagh confirmed that he would be able to discuss thematic trends once the objections and questions had been resolved.

**3.9 RESOLVED:** That the report be noted.

#### **4. ACCOUNTS RECEIVABLE MANAGEMENT REVIEW**

- 4.1 Martin Hinckley introduced the report which outlined the investigation undertaken as part of a critical review of the Council’s current accounts receivable processes and reporting. The report also detailed what had been achieved as a result of that review and the proposed action plan to be taken

forward. Mr Hinckley informed the Committee that an accounts receivable expert had worked with the Property Unit and its outsourced partners to resolve a number of long-term billing and payment issues. Work had also been undertaken with the Parking Unit to investigate and understand the unrecoverable position, raising write-off requests where necessary.

- 4.2 In response to a query from Members John Ogden, Head of Financial Management and Control, explained that although the review covered all areas, it focused on those with the greatest opportunities for improvement. Although the high-value areas of Housing Benefit and Temporary Accommodation arrears were investigated they were not subject to significant follow-on action because of limited apparent scope for potential improvement. Therefore the major areas of focus were Property and Parking.
- 4.3 Members noted an action plan proposal detailed in the report to conduct an audit to identify the properties within the WCC portfolio that were not recorded on the Knight Frank systems, in addition to whether lease renewal dates were being recorded correctly. Members raised concerns that an audit into such a fundamental process was considered necessary. Mr Ogden recognised that property is a complex area and that the Council has a fluid property portfolio. However, he shared Members' concerns and confirmed that the review revealed that information is not being captured accurately or in a timely way and is an issue which needs to be resolved. Mr Ogden noted that the Managed Services Lot 3 contract for Property Asset Data Management will directly support this objective and ensure that any missing information is added to the Knight Frank systems.
- 4.4 Mr Ogden further explained that high levels of outstanding debt are often a symptom of ineffective underlying commercial processes which culminate in either non-payment or delays due to payment disputes. This was found to be the case in respect of Property, with a number of delays and blockages resulting in outstanding debt in relation to revenue. He highlighted that the review revealed an underpinning lack of proactive client-side engagement and management which are key issues to be addressed.
- 4.5 The Committee discussed issues surrounding contract management in the context of the report and were informed that the Council's contract specifications are often determined routinely on the assumption that no problems will occur through-out the duration of its let. Furthermore, once contracts are let they are not managed and are instead left to run their course. Mr Ogden noted that there was no evidence to suggest that proper contract performance management had been undertaken nor any performance reports authored. He emphasised that performance is key to effective contract management, which must take place as basic good practice.
- 4.6 Mr Ogden noted that there is a lack of an 'income generation mentality' amongst service areas and informed Members that his team are focusing on the balance sheet and are working to embed cultural changes in the organisation against some inertia and even resistance. Members were informed that the work detailed in the report was continuing and will be progressed according to the action plan. Therefore, specific long-term actions to rectify issues surrounding debt had not yet been determined. However, one potential

outcome of the review could be to create a centralised debt management team.

#### **4.7 RESOLVED:**

- (1) That the content of the report be noted; and
- (2) That the key activities to be taken forward as a result of the review, as detailed in the report, be endorsed.

### **5. INTERNAL AUDIT AND COUNTER SUMMARY MONITORING REPORT JANUARY – FEBRUARY 2013**

- 5.1 Moira Mackie, RSM Tenon, introduced the report which summarised the internal audit and counter fraud work carried out from January to February 2013. In respect of the audit work undertaken during the period the Committee noted that in the areas audited, internal control systems were generally effective with 70% of the audits completed receiving a positive assurance opinion. The Council was also found to be effective at implementing recommendations where problems were found and, where control improvements were required and compliance with agreed systems should be improved, action plans were in place to remedy the weaknesses identified. These will be followed up until they are considered to be complete.
- 5.2 Ms Mackie highlighted that three Amber RAG audits were completed with significant findings – two of which related to schools in the Borough. The Committee were informed that an audit undertaken at Soho Parish School found that the controls in place were operating well. However, shortly after the audit a theft from the school safe occurred whilst the Finance Officer was on leave. This lapse of security had been addressed through a revised procedure for receiving cash and/or cheques and securing income. Compliance with the new procedure will be checked at a follow-up review. The Committee also noted that an audit at Queen Elizabeth II School resulted in six significant recommendations to address weaknesses relating to lack of compliance with its federated governance arrangements with College Park School.
- 5.3 Ms Mackie detailed that three tri-borough audits had been completed during the period in the areas of Total Facilities Management, the Fostering Service and Safeguarding Adults. The Committee noted that the Fostering Service formed in April 2012 is the only truly integrated service currently operated on a tri-borough basis. Although the audit identified that clear service objectives had been established and that governance arrangements were considered to be appropriate, a number of weaknesses were identified that needed to be addressed. One of the key issues identified was that each of the tri-borough councils were still using separate systems. This resulted in a number of issues such as delays in setting up payments to carers; and carers looking after children from different boroughs receiving multiple separate payments generated by each council. All the recommendations made to address the identified weaknesses were accepted by management and, significantly, a tri-borough project had been established to create a single integrated care

system through the implementation of the tri-borough managed services contract in 2014.

- 5.4 In respect of the Safeguarding (Adults) Service the audit reviewed the process across the three councils and identified different levels of assurance at each. Substantial assurance was given to the systems operated at RBK&C where a sound system of control was in place with a good level of compliance and one significant recommendation was made. Satisfactory assurance was given to the systems operated at LBHF with three significant recommendations made. Unfortunately a limited assurance was given to the systems operated at Westminster Council with two fundamental, five significant and two best practice recommendations made.
- 5.5 Members noted that these services were brought together in April 2012 and, given the significant weaknesses identified by the various audits, raised concerns about the overall management of the integration of tri-borough services and how governance processes had been embedded. Tommy Hyun, Audit Manager, reassured Members that the audits referred to in the report were undertaken some time ago not long after the respective services had been initially integrated and regard needed to be given to the time lapse between the audit and the subsequent reporting of the findings.
- 5.6 The Committee discussed an update on the Pay by Phone contract audit which assessed the strength of the arrangements prior to the re-let of the contract in 2013. Members noted that the audit identified key issues relating to the existing contract regarding a lack of formal contractual agreement between the Council and the contractor to support some of the charges; weaknesses in the governance arrangements; and a lack of clarity in respect of the methodology for calculating call-centre costs which resulted in an overpayment to the contractor of £144k between 2008 and 2011. Members were reassured that a follow-up review confirmed that the actions agreed in the original audit to address these issues had been progressed appropriately. However, Members were concerned that such significant issues were allowed to occur at all, which appeared to be due to the fact that it was a new contract and key details and processes had been overlooked.
- 5.7 Mr Hyun informed the Committee that the audit team recognise that it is important for service areas to be provided with more support and advice at the outset of determining the specification of contracts rather than retrospectively when issues are identified through audits at the end of the process. As such, going forward the audit team would be engaging in the process at the outset, acting in consultative role when specifications are drawn-up and offering advice through-out the duration of the process, in addition to conducting reviews post-let. Members were also reassured that the Pay by Phone contract was let some time ago and procurement procedures had improved significantly since with new robust governance processes and a new Contracts Code in place.
- 5.8 The Committee discussed the subject of Housing Benefit fraud prosecutions and the civil recovery process. Members noted that the investigations detailed in the report identified £873k in overpaid Housing Benefit and fines of which

only circa 15% had been recovered – with the remaining amounts subject to continuing recovery action. In response to a query from Members as to why all overpayments could not be recovered fully and successfully David Whitehouse-Hayes, RSM Tenon, provided an explanation of the civil recovery process and informed the Committee that recovery is slow due to the statutory restrictions imposed upon the recovery process and the consequential constraints on the action that can be taken. Mr Whitehouse-Hayes cited the example of the fact that the maximum sum that may be ordered for offence in a Magistrates' Court is £5,000. Therefore, the remaining amount must be recovered through the identification of assets and income which can be a long and difficult process.

5.9 In response to a query from Members regarding the number of successful fraud cases which are publicised, Mr Whitehouse-Hayes confirmed that all prosecutions are referred to the Council's Press Office. Some are picked by local newspapers but few escalate to the national press.

5.10 **RESOLVED:** That the internal audit and counter fraud work carried out during the period be noted.

## 6. (QUARTER 4 INTERIM) FINANCE AND BUSINESS PLAN PERFORMANCE REPORT 2011/12

6.1 Mr Hinckley introduced the finance section of the report and highlighted the following key messages for Period 11:

- Service areas are projecting a favourable variance of £3.1M against the net Budget position of £215.8M which is an adverse movement of £1.4M from Period 10. Corporate Finance is projecting a favourable movement to Period 10 of £1M. The bottom line surplus of £4.1M is therefore £0.4M worse than that reported in Period 10. Mr Hinckley noted that the Year End figures were in the process of being calculated and no significant variations from Period 11 are predicted.
- Closing General Fund Reserves are projected to be circa £25M - £29M.
- Capital Expenditure is projecting a net capital outturn of £25.5M which is an under-spend to Budget of £9.2M. Of this, £5.8M is due to slippage and £3.4M to projected underspend.
- The Balance Sheet net asset position had moved from £288.6M in Period 10 to £275.9M at Period 11. This is almost exclusively driven by movements in working capital. Mr Ogden noted that over the next 12 months he will be able to establish some clear benchmarks in this respect.
- Outstanding debt had reduced by £5.4M from Period 10.

6.2 Nick Byrom, Performance Business Analyst, introduced the performance section of the report and informed Members that data collection for Year End 2012/13 will not be completed until the end of April 2013. As such, the Chairman agreed that an interim report giving an overview of the emerging



service priorities for 2013/14 would be supplied to the April meeting. The performance targets for 2013/14 will be set in late May 2013 once Year End reporting is completed and the Year End report will be supplied to the Committee ahead of the next meeting to expedite the review of data in June in light of a full agenda.

6.3 Mr Byrom noted Members' comments from the last meeting that key performance indicators (KPIs) and target deliverables determined by service areas needed to accurately reflect the key priorities for the Council, rather than more routine small-scale deliverables. Mr Byrom assured Members that these observations had been recognised and will be reflected in the KPIs included in the business plan 2013/14.

6.4 **RESOLVED:** That the content of the reports be noted.

## 7. TERMINATION OF MEETING

7.1 The meeting ended at 8.49pm

CHAIRMAN \_\_\_\_\_

DATE \_\_\_\_\_