



CITY OF WESTMINSTER

MINUTES

AUDIT AND PERFORMANCE COMMITTEE

MINUTES OF PROCEEDINGS

Minutes of a meeting of the Audit and Performance Committee held on **Wednesday 27th June 2012** at Westminster City Hall, 64 Victoria Street, London SW1E 6QP

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

Officers present: Barbara Moorhouse (Chief Operating Officer), Anna D'Alessandro (Deputy Director of Corporate Finance), John Ogden (Head of Financial Management and Control), Naomi Stauber (Committee and Scrutiny Officer), Moira Mackie (Senior Manager - RSM Tenon), Nick Byrom (Business Analyst - Performance), Sally-Anne Eldridge (Audit Commission - Senior Audit Manager), Michael Haworth-Maden (Audit Commission - District Auditor), Anthony Oliver (Chief Procurement Officer), Della Main (Support Manager, Process & Systems), Gareth Wood (Financial Reporting Manager), David Whitehouse-Hayes (RSM Tenon), Karen Middleton (RSM Tenon) and Tommy Hyun (Audit Manager).

1. MEMBERSHIP, MINUTES AND DECLARATIONS OF INTEREST

- 1.1 The new membership of the Committee as agreed at the Annual Council meeting on 16th May 2012 was noted.
- 1.2 It was noted that Councillor Lindsey Hall had been appointed as Vice-Chairman of the Committee.
- 1.3 The Chairman with the assent of the Members present signed the minutes of the Committee meeting held on 29th March 2012, and the minutes of the meeting of the Standing Committees held on 16th May 2012.
- 1.4 There were no declarations of interest.
- 1.5 The Chairman noted that Item 4 and the Finance Section of Item 8 were circulated separately to the main agenda as key pieces of financial information were not able to be included at the required time of publication. The Chairman considered these reports to be matters of urgency and agreed to accept them as late items.

2. WORK PROGRAMME

2.1 The Committee considered and agreed the proposed Work Programme for the 2012/13 municipal year.

2.2 The Chairman noted the Committee's Terms of Reference, which were approved at Council on 16th May 2012 and in particular two additional functions which had been allocated to the Committee – one of which had been transferred from the previous Standards Committee in respect of maintaining an overview of the arrangements in place for maintaining High Ethical Standards throughout the authority; and a second which had been expanded to include responsibility for the Council's compliance with the Bribery Act 2010. In this regard the Chairman requested that a briefing note detailing the main points of the Act, and the Committee's corresponding responsibilities, be circulated to all Members of the Committee for information.

2.3 The Chairman invited Members of the Committee to become Lead Members of the People and Property Working Groups and to undertake work in these areas as necessary.

2.4 The Committee noted the work undertaken by the Benefit Fraud Working Group chaired by the Vice-Chairman Councillor Lindsey Hall. Councillor Hall informed Members that a report on the work and findings of the Group will be submitted to the Committee in the coming months.

2.5 Actions:

(1) That a briefing note detailing the main points of the Bribery Act 2010 and the Committee's corresponding responsibilities be circulated to all Members of the Committee for information; and

(2) That a report on maintaining High Ethical Standards be scheduled in the work programme in consultation with the Chairman.

2.6 RESOLVED:

(1) That the Work Programme for the 2012/13 municipal year be agreed;

(2) That the Committee's terms of reference be noted; and

(3) That progress made by the Working Groups be noted.

3. AUDIT COMMISSION EXTERNAL AUDIT PROGRESS REPORT - AUDIT 2011/12

3.1 The District Auditor, Michael Haworth-Maden, introduced the report which detailed the progress made on the audit of the 2011/12 Financial Statements; detailed the assurances provided by the Audit and Performance Committee; provided an update on specific risks to the 2010/11 value for money (VFM) conclusion; and updated Members on the challenge work and the externalisation of the Audit Practice. Mr Haworth-Maden highlighted the assurances from the Audit and Performance Committee appended to the report which detailed how the Committee (as those charged with governance)

exercises oversight of management's processes to prevent and detect fraud and corruption and to maintain legality.

- 3.2 Mr Haworth-Maden noted that the report contained an update on the challenge work and objections to the accounts from local electors. Members were informed that the need to improve the Council's arrangements for responding to challenge issues, as raised in his last annual governance report, are ongoing and responsiveness continues to require improvement.
- 3.3 The Committee were provided with an update on the externalisation of the Audit Practice, noting that the Audit Commission was in the process of consulting on the formal appointment of KPMG as the City Council's auditor for 2012/13 and going forward. Mr Haworth-Maden reassured the Committee that the Audit Commission remains committed to ensuring that the transition is smooth and that its remaining responsibilities are fulfilled to the highest standard, including appropriate hand-over arrangements to the new auditor.
- 3.4 The Committee were provided with the response to the District Auditor's request for assurances over the Council's arrangements to prevent and detect fraud and maintain legality. With reference to the instances of fraud cited in the response, Members enquired about what could be done in the opinion of the District Auditor to improve the Council's arrangements. Mr Haworth-Maden clarified that it is the responsibility of the auditor to form an opinion on the financial statements and a conclusion on the Council's arrangements for securing VFM. He considered the Council's arrangements for the prevention and detection of fraud and corruption in this context. Mr Haworth-Maden informed the Committee that the findings of his work will be presented at the next meeting in September. He emphasised, however, that it is the responsibility of the Council to prevent and detect fraud and corruption. Members (specifically the Audit and Performance Committee as those charged with governance) should draw assurances on Council processes from a range of systems and controls cited in the Annual Governance Statement. The District Auditor therefore encouraged Members to challenge the content of the Annual Governance Statement where deemed necessary to draw the assurances sought from Officers.
- 3.5 Councillor Warner commented that Council processes and frameworks are complex and are constantly changing as a result of reorganisation, which makes understanding, monitoring and therefore assessing the governance arrangements in place (as cited in the AGS) extremely difficult for Members. The District Auditor noted these comments and explained that his responsibility is to assess the overall arrangements in place by applying concepts of materiality and significance and examining the evidence before him. Part of this evidence is the processes and controls cited in the AGS and the Audit and Performance Committee's satisfaction with these assurances.
- 3.6 Councillor Rowley disputed that the Council has robust and satisfactory systems in place to prevent fraud (as stated in the Council's response to the auditor) having regard to the clear susceptibility of Council controls to housing benefit fraud. The District Auditor agreed that some systems are inherently vulnerable to fraud. For this reason the Council has various arrangements in place for testing, detecting and preventing fraud undertaken in-house by

Internal Audit and externally by central government. He recognised that the Council's housing benefit system is exposed to an inherent risk of fraud and corruption. However, in the context of his specific audit responsibilities, he deemed the Council's overall arrangements to be sufficient so as not to result in the qualification of the opinion or VFM conclusion. Mr Haworth-Maden briefly explained his responsibilities in this context. The concerns of Members regarding the robustness of the internal controls and arrangements for housing benefit need to be addressed with Officers.

- 3.7 Councillor Hall noted the work relating to the issue of housing benefit fraud (cited in paragraph 3.7 above) which the Benefit Fraud Working Group has undertaken and emphasised the complexity of governance in this area. She explained that system failings are largely attributable to government policy rather than failings at local level and noted the wide-ranging restrictions placed upon town hall officials in this area which makes prevention, detection and enforcement very difficult. Councillor Hall concurred with the District Auditor's point that it is not the role of the auditor to address such control problems.
- 3.8 Members requested assurance regarding the work which remained in progress on the accounts payable and the accounts receivable systems, where the District Auditor had reported control weaknesses in previous years. Mr Haworth-Maden informed the Committee that the incompleteness of this work is primarily a timing issue as the District Auditor places reliance on the work of Internal Audit. The District Auditor commented that he would report his findings in his annual governance report at the next meeting.
- 3.9 **RESOLVED:** That the report be noted.

4. ANNUAL STATEMENT OF ACCOUNTS

- 4.1 Anna D'Alessandro, Deputy Director of Corporate Finance, introduced the report which set out the background to the requirement for Members to review the Statement of Accounts, provided an explanation of the individual statements and highlighted the key issues for Members' consideration. The Committee were informed that there were no material changes to the draft outturn Revenue expenditure and Capital spending figures reported to the Cabinet on 25th June 2012 and, in Revenue expenditure, the General Fund balance at 31st March 2012 was £22.1 million. She also noted that, in terms of addressing capacity issues within the Finance Department which had affected the production of the draft accounts in previous years, the Finance Foundations Programme had overhauled the finance operating model during the municipal year and a new team had been created to produce the draft accounts presented to the Committee.
- 4.2 John Ogden, Head of Financial Management and Control, noted that the statement of accounts presented to the Committee were incomplete but provided assurance that the omitted information, in respect of the Cashflow Statement for the Council and Group accounts, would be incorporated by the 30th June 2012 for issue to the external auditors. The Committee were informed that problems relating to CityWest Homes' failure to supply necessary HRA related confirmation and supporting documentation had resulted in significant delays, primarily due to the belated implementation of

their new finance system. The Committee subsequently queried why CityWest Homes did not have in place a suitable strategy for the implementation of the system and were informed by the Chief Operating Officer that both herself and the Strategic Director for Housing, Regeneration and Property were in the process of investigating the issue.

4.3 Members were provided with an update on the recommendations arising from the accounts for the year ended 31st March 2011 and were informed that 6 out of 7 had already been addressed with the one remaining issue (to review the approach to disclosing the fair values of other external loans in the 2011/12 financial statements) being addressed as part of the 2011/12 audit cycle.

4.4 Members reviewed the unaudited statements in detail and discussed the following:

- **General Fund Reserves projection:** the Chief Operating Officer informed Members that the budget assumes no significant changes over the next 12 months above a small increase.
- **Comprehensive Income Expenditure Statement:** the Head of Financial Management and Control explained in detail the significant differences between the 2010/11 and 2011/12 figures cited by Members.
- **Balance Sheet:** Members requested clarification concerning a number of movements and were provided with comprehensive answers by the Corporate Finance team.
- **Notes to the Comprehensive Income Expenditure Statement CIES 4 (other operating expenditure):** Members were informed that the large movement cited in this note was partly due to the implementation of RAM (fixed asset database) which derecognised a number of assets; and partly due to the sale of Chiltern Street Carpark (the carrying value of which was greater than the receipt) and Pimlico Academy. Members queried the reasons for the valuation difference in respect of Chiltern Street Carpark and discussed the valuation of Council properties more generally and the work of the Capital Review Group.
- **BS 23 (Transfers from Earmarked Reserves):** Members queried why the Affordable Housing Fund (i.e. S106 money) was not listed as an earmarked reserve and were informed that S106 money is in liabilities.
- **CIES 7 (Taxation and Non-Specific Grant Income) and CIES 15 (Distribution from Non-Domestic Rate Pool):** the Chairman cited the reduction in government grant income referenced in these notes and noted the impact of this reduction upon the Council.
- **Collection Fund Reserves Accounts:** the Head of Financial Management and Control provided the Committee with an explanation of the considerable differences between the figures cited for 2010/11 and 2011/12.

4.5 **Actions:**

- (1) That the Committee is provided with information relating to the issues of CityWest Homes' implementation of their new finance system when a review of the issue has been completed; and
- (2) That the Committee is provided with information relating to the reasons for the valuation difference in respect of Chiltern Street Carpark, as discussed in relation to note CIES 4 (other operating expenditure); and

4.6 RESOLVED: That the draft financial statements as presented be noted, subject to additions to be reviewed and approved by the Chief Operating Officer.

5. GOVERNANCE REVIEW 2011/12

5.1 The report presented the Council's 2011/12 Annual Governance Statement (AGS) for consideration and approval in accordance with the Committee's terms of reference. This statutory document provided an overview of the City Council's governance arrangements and reflected the organisational changes and governance improvements implemented during the 2011/12 municipal year. Members were informed that the AGS had been reviewed by the Governance Working Group, Chaired by the Head of Legal and Democratic Services and comments incorporated.

5.2 In respect of the Section 5 of the AGS (Significant Governance Issues) Anna D'Alessandro highlighted the work undertaken in respect of the Finance Foundations Programme and the transformation of the Council's finance structure, including the establishment a Shared Service Centre (SSC) which resulted from control weaknesses previously identified by Internal Audit. Members were informed that a follow up audit had been undertaken to monitor the delivery of the expected improvements. The findings of this audit reported that compliance with these new processes and associated controls require improvement and a number of recommendations have been made to address the issues of non-compliance – particularly in respect of compliance with the processes within the accounts payable (P2P) area of the SSC. An agreed action plan has been put in place to remedy the weaknesses and Officers are in the process of actioning the recommendations with the assistance of Internal Audit.

5.3 The report also provided Members with an update on the progress made implementing the significant governance issues identified in the AGS 2010/11. In respect of the issue relating to the improvement of internal controls within local systems for administering debtor accounts, Ms D'Alessandro noted that the recommendations had been implemented through Finance Foundations and the audit outcome on O2C is projected to move from red to amber. This indicates an improvement, with work still to be done. In respect of the issue relating to strengthening the practices that support the Council's major contract re-lets, Members were informed that this had been partially implemented but it was still in progress. Work will continue to be undertaken on this issue through the implementation of the "Procurement & Commercial Foundations" programme.

- 5.4 The Committee noted that, as detailed in the report, numerous governance controls were in place across the Council framework. However, Members raised concerns about the lack of cohesion across these different groups which was not evidenced in the AGS. Members suggested that a visual map of how these Groups interact be included in the AGS in future years.
- 5.5 Councillor Rowley questioned how the relationship between Executive Members and Senior Officers is governed and raised concerns that there are certain dynamics and structures which are not regulated. The Committee requested that the Monitoring Officer addresses the governance issues associated with this issue.
- 5.6 The Committee discussed the governance process for the scrutiny and approval of high-level expenditure and suggested that the Chief Operating Officer examine the Communications Department spend against budget constraints and report the findings to a Committee of the Council.

5.7 Actions:

- (1) That the Monitoring Officer addresses the governance issues cited in paragraph 5.5 and reports his findings to the Committee;
- (2) That that the Chief Operating Officer consider an examination of the accounts of the Council's Communications Department and, if deemed necessary, report these findings to a Committee of the Council.

5.8 RESOLVED:

- (1) That the AGS be approved and recommended for signing by the Leader and Chief Executive, for inclusion in the Annual Statement of Accounts;
- (2) That the progress be monitored with implementation of the associated action plan; and
- (3) That the response to the Audit Commission's governance enquiries be agreed.

6. INTERNAL AUDIT AND COUNTER FRAUD YEAR END SUMMARY MONITORING REPORT 2011/12

- 6.1 Moira Mackie, Senior Manager - RSM Tenon, introduced the report which summarised the internal audit and counter fraud work carried out during the 2011/12 financial year and detailed the latest information for the last quarter of the year. On the audit side, the Committee were informed that, as a number of finance audits were not undertaken until the latter two quarters of the year, a larger number of audits were included in the report compared with previous reports. Ms Mackie highlighted two RED RAG audits in the areas of Accounts Payable (Purchase to Pay) and Cash & Banking.
- 6.2 Barbara Moorhouse contextualised the aforementioned Purchase to Pay (P2P) RED audit by informing Members that issues in this area had not been resolved primarily due to the introduction of new systems and controls as part of the Finance Foundations Programme; as well as cultural difficulties within the Council in terms of managers failing to take responsibility for compliance with the 'No Purchase Order No Pay' policy nor following the correct

processes. The issue does not therefore sit exclusively with the Finance team, but with the wider organisation and the enforcement of correct processes. Members suggested that offending managers be required to attend a meeting of the Committee to explain their performance in this respect. With regard to the Cash & Banking audit, Ms Moorhouse explained that issues in this area partly arose due to the Vertex relationship and partly because relevant sections of the department had been overstretched in terms of staffing and therefore unable to make the required improvements.

- 6.3 On the counter fraud side, it was noted that the Council had undertaken its first successful prosecution for subletting a Council property, under Section 3 of the Fraud Act 2006. Members discussed a number of specific cases of fraud detailed in the report and enquired about the prosecution of offenders, the change in the law in respect of the criminalisation of subletting council properties, and the use and success of data matching technology in investigating and detecting fraud.
- 6.4 Councillor Lindsey Hall, in her role as the Council's Fraud Tsar and Chairman of the Benefit Fraud Working Group, noted that the City Council had been invited to join the West London Hub and urged Officers to investigate the business case to allow the Council to do so.
- 6.5 **RESOLVED:** That the internal audit and counter fraud work carried out during the period be noted.

7. ANNUAL CONTRACTS REVIEW 2011/12

- 7.1 Anthony Oliver, Chief Procurement Officer, introduced the report which forms the Annual Corporate Contracts Monitoring Report which is a requirement under the City Council's Procurement Code for the award, management and monitoring of contracts. Members were informed that 76 contracts over the value of £150,000 and 45 contracts with a value of less than £150,000 were let in 2011/12, with 99 extensions and variations of existing contracts. Members reviewed the details of the contracts prepared by Procurement Team, as well as the information relating to the performance of live contracts in 2011/12 and those contracts, totalling 69, which were let through a waiver to the City Council's Procurement Code.
- 7.2 In response to a query from Members regarding the different reasons for the waivers cited in the report the Chief Procurement Officer explained that many of the waivers will be classified as 'defined circumstance' following review of the Procurement Code as part of the "Procurement and Commercial Foundations" project. He explained that the Council is in the process of implementing the aforementioned project to introduce a new operating model. This will provide a platform for improving procurement and corporate contracts management, with more professional and commercial focus and new best practice (standardised) processes and systems. As a result of this work Mr Oliver predicted a significant reduction in the number of waivers within 12 months.

7.3 The Committee requested the following information from the Council's Chief Procurement Officer about the contracts cited in the report, which will be provided as a written response:

- **Renewable energy service concession (solar pv installation):** Members requested details with regard to what this contract refers to; how realistic the £25M spend is; whether the longevity of green energy had been assessed/taken into consideration when awarding the contract; and what income will be generated from the contract.
- **Contracts Register:** Members requested to be provided with an accessible link to the contracts register and received assurance that all contracts referenced as 'not on contracts register' will be added.
- **Expenses incurred by Alison Kirwan, Head of Parking Services:** Details of the expenses cited were requested.
- **Transformation and Change Management Consultancy (PWC):** That the Chief Operating Officer provide the Committee with the background report detailing the contract.

7.4 **RESOLVED:** That the content of the report be noted.

8. YEAR END FINANCE AND BUSINESS PLAN PERFORMANCE REPORT 2011/12

8.1 Anna D'Alessandro, Deputy Director of Corporate Finance, introduced the finance section of the report and reported the following key messages:

- **Reserves:** The Council increased its General Fund Reserves by £6.5M from the opening position of £15.6M to a closing balance of £22.1M.
- The funding of redundancy and other change costs of £10.7M.
- **Earmarked Reserves** were created for the provision for future costs of £8.1M. which consists of: Athena Programme £3.7M, future Redundancy costs £2M, Parking Olympic Reserve £1.4M and MRP Provision for borrowing repayment £1M.
- **Savings Programme:** Over 99% of the required £60M of savings were delivered. Property missed its savings target by £0.9M and SEB/Strategic Support under-delivered against the £0.5M general target.
- Preliminary **balance sheet analysis** had been undertaken and this balance sheet control and management will be followed-through into 2012/13 in-ear rather than produced at year-end as was done in previous years.
- **Working Capital** will be examined and brought to the attention of the Cabinet, Strategic Executive Board and the Committee.
- **Capital Expenditure** was significantly better than previous years – outturn £31.9M which was £7.5M below the full-year £39.4M Budget (excluding HRA). The reduction was due to £6.5M of slippage and £1M of net underspend. Slippage represented 16% of the full year Service Area Budget of £39M.

8.2 The Chairman highlighted the improved management of debt and overall year-end debt position.

8.3 Nick Byrom, Performance Business Analyst, presented the performance section of the report which provided the Committee with an end of year update on current progress against the business plans and priority performance measures for 2011/12 and the end of year status of deliverables, milestones, measures and risks to the Council.

Mr Byrom highlighted the following key points:

- 80% of the key deliverables and milestones of business plan had been delivered.
- Almost 60% of priority measures had improved.
- Key successes were linked to the change programme and the savings delivered through the business plan.
- The effects of the change programme will be monitored through-out 2012/13, particularly the effects of tri-borough working and the decisions to merge services. The increase in serious violent crime will also be closely monitored and this has been flagged-up as a key risk to the Council during the Olympic period.
- Satisfaction levels with the Council had dropped slightly.

8.4 **RESOLVED:** That the content of the report be noted.

9. TERMINATION OF MEETING

9.1 The meeting ended at 9.42pm

CHAIRMAN _____

DATE _____