

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Audit and Governance Committee**
held on Thursday, 27th September, 2012 at Committee Suite 1,2 & 3,
Westfields, Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor J Hammond (Chairman)
Councillor L Brown (Vice-Chairman)

Councillors S Corcoran, R Fletcher, M Hardy, S Hogben, A Kolker, M J Simon,
D Bebbington (for Cllr Marren) and B Murphy (for Cllr Roberts)

In attendance

Councillor B Moran

Officers

Kim Ryley, Interim Chief Executive
Lisa Quinn, Director of Finance and Business Services
Vivienne Quayle, Head of Performance, Customer Services and Capacity
Chris Mann, Finance Manager
Joanne Butler, Performance and Risk Manager
Paul Mountford, Democratic Services Officer
Julie Openshaw, Deputy Monitoring Officer
Jon Robinson, Internal Audit
Neil Taylor, Internal Audit
Joanne Wilcox, Corporate Finance Lead

Audit Commission

Judith Tench
Andrea Castling

Apologies

Councillors D Marren and L Roberts

14 DECLARATIONS OF INTEREST

Councillor S Corcoran declared a non-pecuniary interest in relation to Item 15 on the agenda – Standards Issues and Planning Protocols.

15 PUBLIC SPEAKING TIME/OPEN SESSION

Mr Peter Yates indicated that he wished to speak in relation to Item 8 on the agenda: Final Statement of Accounts 2011-12.

The Chairman informed Mr Yates that he would be invited to speak immediately before the item was considered.

16 MINUTES OF PREVIOUS MEETING

RESOLVED

That that the minutes of the meeting of 28th June 2012 be approved as a correct record.

17 ACTION PLAN ARISING FROM INTERNAL AUDIT REPORT INTO WASTE TRANSFER STATION (LYME GREEN)

The Committee considered a report providing an updated action plan and progress report to improve working practices highlighted by the findings of the internal audit review of Lyme Green.

A special meeting of the Audit and Governance Committee had been held on 14th June 2012 to consider the outcome of a review of Lyme Green. The Committee resolved, among other things, that the findings and recommendations of the Internal Audit investigation and the agreed Action Plan be noted and endorsed, and that progress reports against the identified actions in the Action Plan be submitted to the Committee on a quarterly basis. This was the first such quarterly report.

The action plan had since been developed further to ensure that the issues identified were properly addressed and that learning points were fully embedded. The findings had been separated into three central themes covering: the need for more robust option appraisal; the need for a comprehensive framework for programme and project management; and the need for better systems to ensure compliance.

The action plan included a proposed new gateway process for project approval to be managed by an executive management board, a technical enabler group to replace the Capital Appraisal and Monitoring Group, a new project management framework with appropriate training, and the setting up of a task and finish group on planning enforcement to review all aspects of planning enforcement.

By implementing improvements in project initiation, governance, monitoring and staff training, the sanctions which existed for non-compliance with the enhanced arrangements could, and would, be instigated in future where appropriate.

It was noted that Lyme Green was one of the significant governance issues identified in the Council's Annual Governance Statement for 2011/12 to be considered later in the meeting.

The Interim Chief Executive, Mr K Ryley, attended the meeting for this item. He commented that the actions required to address the issues raised by Lyme Green were wide ranging and required a whole Council approach. There would be no excuses not to understand what the corporate requirements were and proper sanctions would be applied

where appropriate. To some extent, organisational change would require a shift in attitudes and culture, which would take a little longer to embed as people became used to the new system and its requirements. A programme of staff training in project management was being carried out across the organisation and financial reporting systems were being improved. Within the next three months it should be possible to 'tick all the right boxes'.

Councillor B Moran, speaking for the Cabinet, assured Members that the Cabinet was committed to ensuring that the action plan was implemented and embedded. He commended the action plan to the Committee.

During consideration of this matter, Councillor S Corcoran moved, and Councillor S Hogben seconded, that the terms of reference of the task and finish group on planning enforcement, as set out in the action plan, be extended to include the following:

"To review the impact of pre-application procedures to ensure that they do not compromise the objectivity and impartiality of planning officers and to ensure that objectors can put their case on a level playing field."

On being put to the vote, the motion was not carried. Councillor Corcoran asked that this be recorded in the minutes.

Councillor Corcoran also asked that the record of the meeting reflect his concern at the bureaucracy and potential cost implications of the proposed arrangements.

RESOLVED

That the action plan attached at Appendix A to the report be approved subject to the amendment of action ref C5 (relating to the monitoring of project costs) to provide that this matter would be considered by the relevant Policy Development Group.

18 COMPLIANCE WITH CONTRACT PROCEDURE RULES

The Committee considered a report providing details of the operation of the recently introduced revised procedure for delegated decisions to waive Contract Procedure Rules and non-compliances with Contract Procedure Rules.

From 29th May 2012, a new procedure had been introduced whereby the signing of delegated decision and non-compliance forms was a standing item on the weekly Corporate Management Team agenda. Decision authors attended, together with those support staff who signed off the report, to explain the necessity for any waiver of the rules. All forms were signed off by Legal, Procurement and Finance Officers, as well as the decision-taking Officer along with the relevant Head of Service and Portfolio Holder.

From 29th May to 4th September there had been 13 Delegated Decision forms considered by Corporate Management Team, of which 12 had been approved and only 1 rejected. Over the same period, there had been 10 Non-Compliance forms considered by Corporate Management Team, of which 9 had been approved and only 1 rejected.

As part of the new process for all Non-Compliances, Corporate Management Team would ensure that appropriate intervention was made and action taken to avoid recurrence. This was aimed at changing the previous organisational culture in which insufficient attention and rigour was given to ensuring proper compliance.

RESOLVED

That

- (1) the revised procedure and update on Delegated Decisions and Non-Compliances be noted;
- (2) it be noted that further reports on the process, and its robustness, will be brought to the Committee as part of the regular monitoring of the Annual Governance Statement Action Plan; and
- (3) the appropriate member/officer working group be invited to consider specific examples of delegated decisions and non-compliance.

19 ANNUAL GOVERNANCE REPORT 2011-12

The Committee considered the Annual Governance Report 2011-12.

The Annual Governance Report, which was circulated at the meeting, summarised the findings from the 2011/12 Audit and identified the key issues that had been considered by the Audit Commission before issuing their opinion on the Council's financial statements and its arrangements for securing economy, efficiency and effectiveness in the use of resources.

The District Auditor, Judith Tench, presented the report to the Committee and in doing so indicated that she had received objections to the accounts from two local electors. She had therefore agreed to hold the audit open until 12th October to allow the objectors to provide more information. At this stage, she expected to sign an unqualified opinion on the Council's accounts on 28th September. The auditor's report would not include a certificate of closing. However, if no further information were forthcoming from the objectors, the accounts would be closed on 12th October.

The District Auditor expressed concern about whether the Council had proper arrangements in place to secure value for money in its use of resources. She therefore intended to issue a qualified value for money opinion which would draw attention to identified weaknesses, in particular

relating to arrangements for developing business proposals and managing projects. She also felt that there were far too many small projects and that many of these were not aligned to stated priorities. However, she noted the Council's intention to embed sound project management practices throughout the organisation.

With regard to financial resilience, the District Auditor commented that the Council's General Fund reserves were no longer adequate to support in-year pressures and that the continued use of reserves for this purpose was unsustainable.

The District Auditor indicated that she was satisfied with the measures that the Council had put in place in relation to Lyme Green and that the incoming auditors were aware of the issues.

Finally, the District Auditor drew attention to the four high level recommendations on page 17 of her report, which she suggested required a whole Council response.

RESOLVED

That

- (1) the Annual Governance Report 2011-12 be received and noted, including the adjustments to the financial statements included in the report and the four high level recommendations at page 17 of the report; and
- (2) the draft letter of management representation set out at Appendix 4 to the Annual Governance Report be approved.

20 FINAL STATEMENT OF ACCOUNTS 2011-12

Prior to the Committee's consideration of this matter, Mr P Yates was invited to speak.

Mr Yates referred to the fact that the Statement of Accounts had been published on the Council's website two clear working days before the Committee's meeting, whereas the Council's Constitution provided that agendas and reports will be made available for inspection at least five clear working days before the meeting. He therefore felt that the Council had broken its own rules and that the report should be withdrawn.

The officers responded that Mr Yates had already raised his query with officers and had been provided with a response to the effect that since the Local Government Act 1972 did not require documents to be available to the public before they were available to Members, and since in any case there were separate Regulations providing how the Statement of Accounts was to be published, the legal requirements had been met. However, the officers would consider whether any changes to the wording within the

Constitution would be helpful. The response sent to Mr Yates would be circulated to all members of the Committee for information.

Mr Yates also mentioned the fact that the internal audit report to the Committee in June on Lyme Green had mentioned various breaches of procedure. However, no reference to this had been made in the Statement of Accounts.

The officers responded that this had been referred to in the Annual Governance Statement and that the wording had been discussed and agreed with the Audit Commission.

The Committee then considered the Final Statement of Accounts 2011-12.

The 2011-12 financial year had proved challenging. Overall, Services had overspent against budget by £8.2M. Since mid-year, remedial actions had been taken to address the budget shortfall, including a recruitment freeze, a cessation of non-statutory advertising and a cessation of expenditure on non-essential supplies and services. In addition, savings had been achieved through the restructuring of senior management.

Training sessions had been held with the Committee in early September, which had provided Members with the opportunity to consider more detailed aspects of the Accounts.

RESOLVED

That the final Statement of Accounts for 2011-12 be approved.

21 ANNUAL GOVERNANCE STATEMENT 2011/12

The Committee considered the Annual Governance Statement 2011-12.

The Council was required to prepare and publish an Annual Governance Statement (AGS) to meet the statutory requirement set out in Regulation 4 of the Accounts and Audit Regulations. The purpose of the AGS process was to provide a continuous review of the organisation's performance arrangements to give assurance on the effectiveness of the processes and address identified weaknesses.

A Member workshop on the draft AGS and supporting documentation had been held prior to the Committee's meeting.

The AGS had been amended to take account of Members' comments at the previous meeting and to address feedback received in the interim period from Members and Officers. Once finalised, the AGS would be published on the Council's website, along with the Statement of Accounts, for members of the public, Members, Officers and other stakeholders to view.

Regular updates on progress on the AGS Action Plan would be brought to the Committee during 2012/13.

RESOLVED

That the Annual Governance Statement 2011-12 be approved subject to the following amendments agreed by the Committee:

- Page 54 – correct date of Council from 17th July to 19th July.
- Page 60 – define FOI
- Page 61 – define SLE
- Pages 61/65 – insert ‘and Project’ in ‘Financial Management’

22 CODE OF CORPORATE GOVERNANCE AND THE GOVERNANCE FRAMEWORK UPDATE

The Committee considered an update to the Council’s Code of Corporate Governance and a report on the ongoing work by the Corporate Governance Group in respect of the Council’s Governance Framework.

A review of the Code of Corporate Governance had taken place and a few minor changes had been made as outlined in the report.

The Corporate Governance Group had been working on producing a diagrammatic version of the Council’s Governance Framework to include a core policy list. Versions of the framework had been discussed with the Corporate Management Team, within the specialist Member/Officer group and at the recent Member training sessions. The latest version had been submitted to the Committee to note the ongoing work in this area.

RESOLVED

That

- (1) the update to the Code of Corporate Governance as set out at Appendix A to the report be approved subject to the addition of the following wording to Principle 1:

“The charge to taxpayers to be affordable and reasonable.”

- (2) the ongoing work on the Council’s Governance Framework be noted;
and
- (3) the officers ascertain whether any training will be provided by Cheshire East Council for the new town councillors for Crewe when elected next year, and Members be informed accordingly.

23 INTERNAL AUDIT INTERIM REPORT 2012/13

The Committee considered a report on progress against the Internal Audit Plan 2012-13, revisions to the plan and a summary of the work undertaken during the first quarter of 2012-13.

The interim report contained a summary of the audit work in the first quarter, any issues judged particularly relevant to the preparation of the Annual Governance Statement, a comparison of the work undertaken with work planned, a summary of the performance of the internal audit function against its performance measures and targets, comments on compliance with standards and communication of the results of the internal audit quality assurance programme, and other developments.

There had been two major pieces of work during the first quarter:

- Lyme Green Report, as reported previously to the Committee
- the Annual Governance Statement, which was a separate report on the agenda

The Internal Audit establishment had been reduced significantly to reflect the savings required as part of the 2011/12 budget settlement. The current team was particularly lean and the Head of Internal Audit post was currently vacant.

A recent review completed by Audit Managers had concluded that, although there were areas for improvement (as detailed in the Annual Report to Committee in June 2012), the internal audit service was being delivered to the required standard.

The Chartered Institute of Public Finance and Accountancy (CIPFA) and the Institute of Internal Auditors (IIA) had recently launched a public consultation on the first unified set of public sector internal audit standards. It was currently proposed that the PSIAS (Public Sector Internal Audit Standards) would come into force from 1st April 2013. The Committee would receive further updates when more information became available.

Cheshire East Council was currently exploring opportunities around regional collaboration and Internal Audit had been involved in discussions in the last few months with its partners within the Cheshire and Warrington Sub-Region on how best to share information and pool limited resources.

RESOLVED

That

- (1) the issues identified in Appendix A to the report be noted; and
- (2) the approach identified to achieving adequate audit coverage in the remainder of 2012-13 be endorsed.

24 ANTI-FRAUD AND CORRUPTION ARRANGEMENTS

The Committee considered a review of the Council's anti-fraud and corruption arrangements.

The Fighting Fraud Locally Local Government Fraud Strategy set out a three part strategic approach to tackling fraud:

- Acknowledge – acknowledging and understanding fraud risks and committing support and resource to tackling fraud in order to maintain a robust anti-fraud response.
- Prevent – preventing and detecting more fraud by making better use of information and technology, enhancing fraud controls and processes and developing a more effective anti-fraud culture.
- Pursue – punishing fraudsters and recovering losses by prioritising the use of civil sanctions, developing capability and capacity to investigate fraudsters and developing a more collaborative and supportive law enforcement response.

Each of the three elements was detailed in the report and a number of specific areas had been provided for consideration. The current arrangements had been reviewed against these areas to identify any gaps and the outcomes were detailed in the report.

RESOLVED

That the report be noted.

25 TREASURY MANAGEMENT UPDATE

The Committee considered a report on the Council's treasury management operation, with details of the activities undertaken in 2011-12 and the first quarter of 2012-13.

The report covered the Council's treasury year end position, forecast prospects for interest rates, interest rate outturn, compliance with treasury limits, the Council's borrowing and investment strategies, economic events in 2011-12 and prudential indicators.

The Treasury Management Annual Report had been reported to Cabinet on 23rd July 2012. In accordance with best practice, the Audit and Governance Committee would also receive regular reports on treasury management activity and would consider the 2013/14 Treasury Management Strategy report at its meeting in January 2013 prior to approval of the Strategy at Council.

A training session had been held for Members on 21st May 2012, led by the Council's treasury management advisers, Arlingclose.

RESOLVED

That

- (1) the treasury management activity for the year 2011-12 as detailed in Appendix A to the report be noted; and
- (2) the treasury management activity for the first quarter of 2012-13 as detailed in Appendix B to the report be noted.

26 UPDATE REPORT ON RISK MANAGEMENT

The Committee considered a report of the Corporate Risk Management Group summarising the key corporate risks and risk management work undertaken since the previous report.

The updated Risk Management Policy had been approved by Cabinet at its meeting on 20th August 2012.

It had been agreed that a risk and opportunity workshop be undertaken with Cabinet and the Corporate Management Team in November to review the key corporate risks to achieving the Council's objectives and to update the key corporate risk register. Further work would then be undertaken to determine the Council's risk 'appetite' so that a qualitative high level statement of risk preferences could then be defined for business areas.

The Committee had requested that it receive a short briefing at each meeting from the risk owners/managers of the highest key corporate risks. At the previous meeting, the key corporate risk around financial control had been discussed. The definition of this risk had since been updated and a copy of the updated risk stewardship template for this risk was attached at Appendix A to the report. Key corporate risk 15 – Reputation would be considered at the next meeting.

Guidance on risk management for policy writers had been drafted and was available on the Centranet. A copy of the guidance was attached at Appendix B to the report.

The report also dealt with operational risks. These were captured at directorate and service level, and in some areas risks were identified and monitored through risk registers at team level. The most up-to-date overview of risk register development across service areas was circulated at the meeting. Operational risks identified for mitigation so far appeared to be around staff capacity and competency; skills and knowledge gaps; the reduction in funding and budget pressures impacting upon ability to deliver objectives/plans/projects; interdependencies on other services to meet challenging timescales; changes in political priorities /strategic decisions

contra to aim of objectives; and supply chain instability.

Members asked about progress with proposals to apply a score to risks identified in reports to decision-making bodies. The officers responded that before this could be pursued further, risk management needed to be embedded firmly across the organisation.

The Director of Finance and Business Services advised Members that the impact of the Audit Commission's value for money opinion on the key corporate risk for Financial Control would be considered with a view to submitting an updated report on this risk to the Committee's meeting in January.

RESOLVED

That

- (1) the report be noted;
- (2) it be noted that the review of the key corporate risk 15 – Reputation will be considered at the next meeting; and
- (3) it be noted that an updated report on the Financial Control risk will be made to the Committee in January which takes into account the response to the Audit Commission's value for money opinion.

27 STANDARDS ISSUES AND PLANNING PROTOCOL

The Committee considered a report addressing a number of issues arising from the new standards regime and Member Code of Conduct.

1. Options for a proposed appeals process in relation to complaints under the Member Code of Conduct.

The Committee considered whether such appeals should take the form of a formal hearing or by could be dealt with by way of written representations.

There were three options for the appeals body:

- three councillors from the pool of 15 and an independent person none of whom have previously been involved in a particular case;
- a body comprising the remaining three independent persons; or
- arrangements for the Fire Authority to hear any appeals.

The officers reported that the Fire Authority was agreeable in principle to act as an appeals body for Cheshire East although detailed

arrangements had not been determined and Members were conscious that some form of reciprocal arrangement may be required.

It was noted that a second independent person could become involved in a case if the person under investigation sought their advice as was permitted. This would leave only two independent persons, making the second option untenable.

Members therefore favoured the first option.

2. Proposed dispensations for all Members of the Council and co-opted members to speak and vote on a number of matters for a period of four years.

The dispensations proposed were as follows:

- any allowance, payment or indemnity given to Members;
 - any Ceremonial Honours given to Members;
 - statutory sick pay under Part X1 of the Social Security Contributions and Benefits Act 1992 where they were in receipt of or entitled to receive such pay;
 - setting the Council Tax or a precept under the Local Government and Finance Act 1992 (or any subsequent legislation);
 - setting a Local Council Tax Reduction Scheme or Local scheme for the payment of business rates (Including eligibility for rebates and reductions) for the purposes of the Local Government Finance Act 2012 (or any subsequent legislation); and
 - school meals or school transport or travelling expenses where the Member is a parent or guardian of a child in full time education or a parent governor (unless the matter relates specifically to the school the child attends).
3. Proposed changes to the Planning Protocols of Conduct and Public Speaking to bring them into line with the new Code of Conduct.

Revised versions of the Planning Protocols, with the proposed amendments highlighted, were appended to the report, together with additional amendments which had been proposed by the Strategic Planning Board on 12th September. The Constitution Committee on 20th September had noted the proposed amendments without further comment and had recommended them to Council subject to the views of the Audit and Governance Committee.

RESOLVED

That

- (1) the appeals procedure in relation to complaints under the Member Code of Conduct take the form of an oral hearing, the appeals body to comprise three councillors from the pool of 15 and an independent person, none of whom have previously been involved in a particular case, and the arrangements to be reviewed after 12 months;
- (2) the general dispensations for all Members of Cheshire East Council and co-opted members as set out above be approved; and
- (3) the Committee, having noted the recommendations of the Strategic Planning Board and the Constitution Committee, recommends that Council approve the proposed amendments to the Planning Protocols as set out in the Appendix to the report and the minutes of the Strategic Planning Board subject to:
 - (a) the speaking time for ward members remaining at 5 minutes; and
 - (b) the addition of the following sentence at the end of paragraph 2.2 of the Protocol of Conduct: "However, paragraph 2.10 should be taken into account".

28 AUDIT AND GOVERNANCE COMMITTEE ANNUAL REPORT 2011/12

The Committee considered a draft of its 2011/12 Annual Report for 2011/12.

Many Audit Committees prepared an annual report to demonstrate how they had fulfilled their terms of reference and to account for their performance. CIPFA guidance stated that key aspects to consider including in such a report were:

- Committee membership.
- Summary of activity, including key topics, decisions and recommendations.
- Review of the committee's effectiveness, including any external assessment results.
- Development activity undertaken, such as training, networking with other audit committees and peer reviews.

The CIPFA guidance also stated that annual reports should be publicly available and should be readable and accessible.

The requirement to submit an annual report was now included within Cheshire East Council's Constitution and the 2011/12 report was the first annual report of the Committee.

Members agreed a couple of minor amendments with regard to the dates referred to in the report.

RESOLVED

That subject to the minor amendments agreed, the Annual Report 2011/12 be approved for submission to Council.

29 WORK PLAN 2012/13

The Committee considered an updated work plan.

A forward looking programme of meetings and agenda items to ensure comprehensive coverage of the Committee's responsibilities had been attached at Appendix A to the report.

At its June meeting, the Committee had asked that training be provided on the Member Code of Conduct for those Members who would sit on the new ad hoc bodies.

There had been no changes to the memberships of the specialist Member/Officer groups since the previous meeting.

RESOLVED

That

- (1) the Work Plan, and the changes made to it since the last meeting, be noted;
- (2) it be noted that the Work Plan will be submitted to the Committee periodically for further development and approval; and
- (3) consideration be given to the length of future agendas and whether any additional meetings of the Committee should be included in the Calendar of Meetings.

The meeting commenced at 2.00 pm and concluded at 5.48 pm

Councillor J Hammond (Chairman)