

Medway Council
Meeting of Audit Committee
Tuesday, 10 July 2012
7.00pm to 9.10pm

Record of the meeting

Subject to approval as an accurate record at the next meeting of this committee

Present: Councillors: Clarke (Chairman), Griffiths, Jarrett, Mackness and Maple

In Attendance: Kerry Barnes, PKF (Council's External Auditor)
Lucy Cokayne, Paralegal
Odette Collard-Woolmer, Principal Accountant
Neil Davies, Chief Executive
Robert Grant, PKF (Council's External Auditor)
Mick Hayward, Chief Finance Officer
Richard Hicks, Assistant Director, Customer First, Leisure, Culture, Democracy and Governance
Perry Holmes, Monitoring Officer
Carl Madjitey, Head of Festivals Arts Theatres and Events
Andy Larkin, Finance Support Manager
Anthony Law, Democratic Services Officer
Alison Russell, Audit Services Manager

133 Record of meeting

The records of the meeting held on 29 March 2012 and the Joint Meeting of All Committees held on 16 May 2012 were agreed and signed by the Chairman as a correct record.

During the discussion of the minutes of the last meeting the Chairman requested that Members be updated, on a monthly basis, as to the availability of the briefing notes requested by the Committee. Referring to minute 964/2012 and the markets audit, the Chairman requested a briefing note to provide an update on the three recommendations that had not been implemented.

134 Apologies for absence

There were none.

135 Urgent matters by reason of special circumstances

There were none.

136 Declarations of disclosable pecuniary interests

There were no relevant declarations of disclosable pecuniary interests.

The Monitoring Officer took this opportunity to explain to the Committee the new provisions relating to disclosable pecuniary interests. Members noted that there was a requirement for Members to leave the room under the proposed new Code of Conduct, due to a preregistered disclosable pecuniary interest, but it would be helpful if Members could state the nature of this interest before leaving, as it would aid transparency.

Members sought clarification on personal interests relating to partners working at schools, which had been previously declared by Members, and were advised that due to the reports before the Committee there were no disclosable pecuniary interests.

Whilst not declaring a disclosable pecuniary interest, Councillor Griffiths asked that it be recorded that he is a non-executive director of Medway Community Healthcare Community Interest Company.

137 Treasury Management Outturn Annual Report

Discussion:

The Finance Support Manager introduced the report, which provided an overview of treasury management activity during 2011/2012. The body of the report and the appendices outlined the significant financial implications. The Cabinet had considered the annual outturn report earlier on 10 July 2012 and recommended its approval to the Audit Committee.

The report covered a number of issues including the Council's treasury position as at 31 March 2012, performance measurement, the strategy for 2011/2012, borrowing and investment rates, the borrowing outturn, compliance with treasury limits and prudential indicators, investment outturn and debt rescheduling. The outturn for the prudential indicators, as contained in the council's Treasury Strategy Statement, was set out at Appendix 1 to the report.

The Finance Support Manager outlined the current economic climate and the contents of the report. It was explained that overall the Interest and Financing Budget had made a surplus over its targeted budget by £0.272m. In light of the continued historically low bank rate, which continued at 0.5% throughout 2011/12, the overall rate achieved for the in-house team was 1.42% and 1.77% for the fund manager averaging an overall return of 1.51%.

Members discussed the report, highlighting that there were costs associated with borrowing activity that were not easily identifiable in the report, Members requested that a breakdown of performance be provided in future in order to put any surpluses or deficits into context. Responding to questions concerning the proportion of investments split between the in-house team and the external fund manager, Members were advised that this was reviewed annually with the

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external fund manager and the Council's financial advisor (Sector). The Committee was also advised that when comparing investment performance the ability of the market and specific investments to fluctuate should be considered, as this could alter performance rates, and the requirement for the Council to be able to maintain working cash balances when making investment decisions. Members requested that in order to ease comparison with the external fund manager future reports should distinguish between the performance of liquid funds and more long-term investments for the In-house team.

It was noted that the average investment managed internally, as set out in table 4 of the report, should read "£63.740m".

Decision:

The Audit Committee approved, in accordance with the CIPFA Code of Practice, the Treasury Management Outturn Annual Report.

138 Statement of Accounts 2011/2012

Discussion:

The Chief Finance Officer presented the Council's draft Statement of Accounts for 2011/2012, which were required under the Accounts and Audit Regulations 2003 (as amended). The Cabinet had considered the Statement of Accounts earlier on 10 July 2012 and recommended to the Committee that it approve the statements as submitted.

It was reported that the final accounts showed a revenue surplus of £2.885 million, which had enabled a contribution to the General Reserve of £2.268 million. The final capital expenditure for 2011/2012 was £75 million with £6 million slipping to future years. The Chief Finance Officer explained the contents of the core financial statements and their accompanying notes.

The summary financial positions for both the Housing Revenue Account and Delegated Schools Budget was also reported, as were the principal variations to agreed budgets.

Robert Grant of PKF, the Council's external auditor, noted that the closure of the accounts had been on time and the accounts were of an improved standard from the previous year. The Statement of Accounts would now be subject to scrutiny by the external auditors, and additionally interested parties would have the right to inspect the accounts and make representations to the auditor.

Members discussed the contents of the accounts, including consideration as to whether the revenue balance (contingency) of £10m and the insurance fund (used to protect the Council from uninsured losses) of £2m were adequate. Members were advised that liabilities to creditors (as contained within note 13 to the accounts) were set at 31 March 2012 but were also reviewed during the year and, if necessary, would be reported via the budget monitoring process. In

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response to a Member question the Chief Finance Officer also advised that the Council paid approximately 90% of its invoices within 30 days.

The Committee discussed their role in considering the service implications of the significant variations to agreed budgets, the Committee's Terms of Reference and the training requirements of Members. The Chief Finance Officer advised that following the Government's response to the consultation on the Future of Local Public Audit he would review the training available to Members and report back to the next meeting. This training would enable further consideration of the Committee's Terms of Reference.

During the discussion on this item Members requested that in future the table setting out the 'summary capital outturn position', within the covering report, be revised to enable analysis of the reported variance, identifying slippage. This should set out what proportion of the variance was 'deferred' to future years and what was attributed to 'under/overspends'. It was also requested that the table setting out the exit packages awarded to employees (as contained within note 23 to the accounts) should present this information under headings for schools and non-schools.

Decision:

- a) The Audit Committee approved the draft Statement of Accounts for 2011/2012, subject to the correction of typographical errors, for submission to the auditor.
- b) The Audit Committee thanked staff for their work in bring forward the draft Statement of Accounts for 2011/2012.

139 Outcomes of Internal Audit Activity

Discussion:

The Audit Services Manager introduced this report on the outcome of completed internal audit activity.

Members were advised that the audit of the control environment within 2 key financial systems and 3 governance areas had been found to be satisfactory. An audit of the Corn Exchange had found that financial control at the establishment was uncontrolled, although the risk of loss to the Council as a whole was not significant. It was also noted that there had been 3 follow-up outputs and 3 school probity reviews. Summary information on all the completed audits was attached at Annex C to the report.

In relation to the Corn Exchange audit Members expressed their concern as to the reinstatement, when the management had been restructured in 2010, of earlier financial and operational controls that had previously been found to be poor. They also considered the use of single suppliers for the supply of bar provisions, the selection of contractors for maintenance/repairs and the need for demonstrable evidence of value for

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money. The Assistant Director Customer First, Leisure, Culture, Democracy & Governance and Head of Festivals Arts Theatres and Events responded to Members' questions. In relation to the procurement of goods and services it was noted that the service needed to respond to customer wishes and often needed to act at short notice. The prices for the supply of bar provisions were seen as comparable with other suppliers, whilst also providing greater flexibility. The Assistant Director advised that a lot of work had been undertaken since the audit to address the issues identified, informing Members that systems were now in place for 'overrings', as referred to in the report, and that the Asset Register was on track for completion by the end of July.

Whilst considering the Cash and Banking audit Members discussed the wider implications of staff turnover and the need to update controls restricting access to Council resources. Members were assured that the Council did not hold significant volumes of cash and the Chief Executive undertook to reiterate the message to all staff concerning the importance of maintaining security systems. The Audit Services Manager advised that this could also be included within the school probity reviews.

In relation to the probity review at Temple Mill Primary School Members expressed their disappointment with the findings and the Audit Services Manager undertook to conduct a further follow up in order to provide assurance that these issues were addressed. The Audit Services Manager also undertook to advise the Committee who paid for the Criminal Records Bureau checks referred to within the Transport Procurement Follow-up.

Decision:

The Audit Committee noted the outcome of Internal Audit's work.

140 Internal Audit Annual Report

Discussion:

This report informed the Committee of the overall opinion on control for 2011/2012 based on internal audit's work over current year and previous two years. It was noted that the findings would assist Members when considering the Annual Governance Statement.

The Audit Services Manager advised that overall the internal audit opinion of the central governance arrangements of the Council, along with the processes for managing the key financial systems and the management response to issues identified in operational areas, were satisfactory. Control arrangements in satellite sites and discreet business areas did however represent an area of concern, although on an individual basis these did not represent a significant risk to the organisation.

The report gave details of the key audit assurance gained from the 2011/2012 plan in terms of key financial systems, annual governance reviews and other

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financial system and risk based audits. It was noted that the Committee received regular reports on the outcomes of internal audit activity, which covered audit work and the results of irregularity investigations. Details of internal activity undertaken during 2011/2012 were annexed to the report

Members discussed the report, considering in particular the appointment of the new recruits to the audit team and the need to bring forward the follow-up audit of the civic centre fuel pumps.

Decision:

The Audit Committee endorsed Internal Audit's opinions contained in Annex A to the report and agreed to consider this report when considering the annual governance statement.

141 Internal Audit Work Programme

Discussion:

The Audit Services Manager introduced this report providing an overview of the 2010/2011 and 2011/2012 internal audit work programme, together with details of probity and follow up work undertaken since the last Audit Committee Meeting.

It was noted that the internal work programme was derived from a number of sources including the Council's risk identification process, internal audit's view of risk, requests from Members and officers and predetermined audits that form part of an agreed arrangement with the external auditor.

Decision:

The Audit Committee noted the progress in completing the 2010/2011 programme and delivering the 2011/2012 audit plan and that all key assurance work would be completed to support the needs of the annual governance statement and external audit.

142 Effectiveness of the Internal Audit System

Discussion:

The Chief Finance Officer introduced a report on the effectiveness of the internal audit system. It was noted that the Accounts and Audit Regulations required an annual review of the internal audit system. This formed part of the wider annual review of governance issues, leading to the approval of the Annual Governance Statement.

Members were advised that the key strengths, outlined in the 2010/2011 report of internal audit effectiveness, remained in place and referred Members to the new arrangements in place to strengthen the internal audit arrangements. The

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Chief Finance Officer advised that overall he was confident in the service, noting the synergy between the fraud and audit teams within Audit Services.

The report set out details of assurances obtained under the areas assessed as part of this review. The key issues arising from the review were set out in Annex A to the report.

Decision:

The Audit Committee endorsed the approach to the review of the effectiveness of the internal audit system for 2011/2012 and the outcome of the review, in support of the Committee's consideration of the Annual Governance Statement.

143 Annual Governance Statement

Discussion:

The Monitoring Officer introduced a report that presented the 2011/2012 Annual Governance Statement.

The statement (attached to the report) summarised Medway Council's governance arrangements and key elements of internal control and the sources of assurance. It provided a review of the effectiveness of those governance and internal controls.

Members were advised that section 5 of the Governance Statement set out key areas for the Council to focus on. This included the challenges facing the Council following the reduction in Government grant funding for 2012/13 and 2013/14 and the Better for Less programme.

Decision:

The Audit Committee approved the draft Annual Governance Statement as set out at Appendix 1 to the report.

144 Bribery Act Policy

Discussion:

The Monitoring Officer advised the Committee that the Bribery Act 2010 had modernised the law on bribery and had some limited application to the Council.

Members were advised that the Act created four new offences: offences of bribing another person, offences relating to being bribed, bribery of a foreign official, and failure of a commercial organisation to prevent bribery. A draft Anti-Bribery Policy was attached at Appendix 1 to the report, which set out the Council's approach to preventing bribery and for mitigating risk of liability in failing to prevent bribery by an officer or other representative. It was noted that the Council had a number of relevant existing policies and procedures, which should be read alongside the policy.

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It was proposed that that Anti-Bribery Policy be included within the Constitution and it would be considered by the Employment Matters Committee on 18 July 2012 and then submitted to Council on 26 July 2012 for approval. A Diversity Impact Assessment (DIA) screening form has been undertaken and was attached at Appendix 2 to the report. It was reported that it was not necessary to undertake a full assessment on the draft policy.

Given Member comments on the greater emphasis being placed on collective working, the Monitoring Officer undertook to strengthen the role of partners within the policy by reinforcing their role in protecting against bribery. Consideration was given as to, as a minimum, expecting other organisations to have a similar anti-bribery policy.

Decision:

The Audit Committee referred the Anti-Bribery Policy, as set out in Appendix 1 to the report, to the Employment Matters Committee for comment and Council for approval, subject to the Monitoring Officer reinforcing the role of partners in protecting against bribery.

145 Covert Surveillance

Discussion:

The Monitoring Officer introduced this report on the Covert Surveillance Policy and Guidance, which sets out the legal framework and authorisations needed for the Council to obtain and use evidence covertly.

It was noted that the Cabinet had agreed the policy earlier on 10 July 2012, with the following amendments:

- Amendments to the Covert Surveillance Policy to take account of recent changes in the law and to more accurately reflect how the Council obtains communications data.

para 17.3 and 17.4 should read

"Judicial Approval for obtaining or disclosing communications data

17.3 Chapter 2 of Part 1 of RIPA (as amended by the Protection of Freedoms Act 2012, Part 2) sets out the specified grounds for authorising the acquisition and disclosure of communications data

Judicial Approval for directed surveillance and covert human intelligent sources

17.4 Part 2 of RIPA (as amended by the Protection of Freedoms Act 2012, Part 2) specifies the grounds for which authorisations can

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be granted for carrying out directed surveillance and for the use of CHIS.”

Para 17.7 – The threshold has now been introduced by SI 2012/1500 The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) (Amendment) Order 2012

- Amendments to the Guidance – Communications data

Para 11.1 Delete “within the council”

Para 11.2 Delete all after “SPOCs currently having.....” and replace with

“Medway Council currently uses the National Anti-Fraud Network (NAFN) as their SPOC. NAFN is a membership organisation open to all public sector bodies providing key benefits that support members to protect the public purse and deliver effective financial governance. It is recognised by the Home Office as an expert single point of contact for data requests under the Regulation of Investigatory Powers Act 2000 for the acquisition of Communications Data.”

Members were given a presentation by the Monitoring Officer and Paralegal Officer explaining that the Council had at its disposal a number of means of investigating and prosecuting offences and in some specific and very limited circumstances it may be necessary to undertake covert investigations. The methods used to obtain evidence and their usage for the last 3 years were outlined. Members were also informed that the law that covered covert surveillance was changing and the report detailed the law and the changes.

It was noted that a Diversity Impact Assessment screening form had been undertaken on the Covert Surveillance Policy and was attached at Appendix 2 to the report. This had shown that it was not necessary to undertake a full assessment on the draft policy.

During the discussion on this item the Monitoring Officer undertook to publicise the new policy and the use of these powers on the Council’s website and within Medway Matters.

Decision:

- a) The Audit Committee noted the noted the Covert Surveillance Policy attached the report (as amended by Cabinet on 10 July 2012).
- b) The Audit Committee agreed to provide quality assurance of the process used to obtain any covert surveillance evidence for the year 2012/13.

146 Outcome of Counter Fraud Investigations

Discussion:

The Audit Services Manager advised Members of progress in investigating allegations of Housing and Council Tax Benefit fraud and other non-benefit fraud during the quarter ending 31 March 2012 and responded to Members' questions.

It was noted that there had been 33 successful prosecutions, 17 administrative penalties and 14 cautions for benefit offences. Details of these cases were set out in an appendix to the report.

Members were also advised that in the 2011/2012 financial year the investigations team had identified £804,000 of fraudulent overpayments of Housing and Council Tax Benefit and £663,000 of Department for Work and Pensions paid benefit.

It was noted that the format of this report would be reviewed. It was also noted that the Committee would receive a report on the new Single Integrated Fraud investigation Service (SIFIS) once the Government's proposals were made clear. SIFIS will have powers to investigate and sanction all benefit and tax credit offences.

Decision:

The Audit Committee noted progress in investigating benefit fraud in accordance with the approved sanction policy.

147 Annual Review of Terms of Reference

Discussion:

The Audit Services Manager introduced a report on a review of the terms of reference for the Committee. She explained that it was good practice for the Committee to annually review the terms of reference to see whether any amendments were needed and it was reported that the only proposed change related to the Audit Committee receiving reports in line with policies relating to Bribery and Covert Surveillance, which had been presented elsewhere on the agenda.

These proposed changes were shown in Appendix A in bold and underlined.

Decision:

- a) The Audit Committee noted the Committee's current terms of reference and the proposed amendment and confirmed that they meet current and expected future needs.

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- b) The Audit Committee recommended to the Council the amendment as set out in Appendix A to the report.

Chairman

Date:

Anthony Law, Democratic Services Officer

Telephone: 01634 332008

Email: democratic.services@medway.gov.uk