

CABINET

24 NOVEMBER 2015

SHARED SERVICE – INTERNAL AUDIT AND COUNTER FRAUD

Portfolio Holder: Councillor Andrew Mackness, Corporate Services

Report from/Author: Phil Watts, Chief Finance Officer

Summary

This report asks the Cabinet to agree to assume responsibility for the discharge of Gravesham Borough Council's Internal Audit and Counter Fraud functions. This is permitted under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.

In addition the report asks the Cabinet to delegate authority to Medway's Chief Finance Officer to assume responsibility for the management and delivery of audit and counter fraud services for both Medway and Gravesham and, in consultation with the Monitoring Officers of both Councils, to enter into the necessary agreement with Gravesham.

1. Budget and Policy Framework

- 1.1. The function of Internal Audit and Counter Fraud services is an executive function within the portfolio of the Cabinet Member for Corporate Services. The establishment of shared services arrangements is a matter for Cabinet.
- 1.2. The Audit Committee has been established by the Council as part of the Council's governance framework to provide independent assurance on the adequacy of the risk management framework, the internal control environment and the integrity of the financial reporting and annual governance processes.
- 1.3. In line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in can be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the Public's interests. In this case, the shared service is intended to go live on 1 December 2015, with all of the Gravesham staff transferring to Medway under TUPE on that date. Therefore, the Chairman of the Business Support Overview and Scrutiny Committee has agreed that the decisions proposed are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in.

2. Background

- 2.1. The Audit Committee considered a report on 24 September 2015 regarding proposals for a fully shared Internal Audit and Fraud Service with Gravesham Borough Council.
- 2.2. Gravesham's Cabinet considered a report on 7 September 2015 on these proposals and agreed that that the Assistant Director (Corporate Performance) in consultation with the Assistant Director (Governance & Law) take the necessary practical, financial and legal actions required to enable the new arrangements for a fully shared Internal Audit and Counter Fraud Service between Gravesham Borough Council and Medway Council to be put into effect.
- 2.3. Therefore, this report will set out the necessary actions which are required for the shared service to take effect.

3. Advice and analysis

- 3.1. A project group has been established to implement the shared working arrangements, comprising officers from Legal Services, ICT, Human Resources, Finance and Property Services. Subject to Cabinet's approval of the recommendations in this report, Gravesham's internal audit and counter fraud staff are scheduled to transfer under TUPE regulations to Medway Council on 01 December 2015. A restructured shared service is intended to be in place from 01 April 2016.
- 3.2. The proposed shared services will take the form of a delegation of executive functions from Gravesham's Cabinet to Medway's Cabinet. This report recommends that Medway's Cabinet accept this delegation and further delegate these functions to the Chief Finance Officer, who will take on the responsibility of delivering internal audit and counter fraud functions for both authorities. The Chief Finance Officer will continue to deliver Medway's functions and report to the Audit Committee and will also deliver Gravesham's functions and report to Gravesham's Finance & Audit Committee.

4. Risk management

Risk	Description	Action to avoid or mitigate risk	Risk rating
Either party chooses to terminate the delegation.	Medway council permanently takes on the responsibility for and costs of providing Gravesham's audit and counter fraud functions. Either party may choose to end the shared service or the arrangement fails, leaving Medway with additional costs and Gravesham with no service.	Gravesham's formal delegation and decision to share services approved by their Cabinet. A formal legal agreement will be made to include exit arrangements with appropriate notice periods for seeking to vary or terminate the services.	E3

Failure to deliver effective service	The proposed service is a reduction on existing resources and a new way of working; it may fail to deliver an effective internal audit and/or counter fraud service for Medway and/or Gravesham councils.	A formal legal agreement will be made to include required outputs and how performance will be measured, monitored and reported.	
Staff grievance	Changes to staff terms and conditions may not be introduced appropriately.	HR staff from both councils are involved in the project and are leading on this work-stream.	D2

5. Consultation

- 5.1. As internal audit and fraud services are 'back-office' functions, this change will not impact on the public and so has not been subject to consultation.
- 5.2. Since the implementation of the shared service impacts on staff terms and conditions, informal and formal consultations are in progress lead by HR Services at both councils.

6. Financial implications

- 6.1. From 1 December 2015, the internal audit and counter fraud staff in post at Gravesham will transfer to Medway Council's payroll and be paid from Medway's salaries budgets. However, the cost of Gravesham's staff will continue to be met by Gravesham by way of invoice(s) raised for the same value. The total staffing budget for Medway's internal audit and counter fraud team in 2015-16 is £488,171 while the staffing budget for Gravesham's team in the same period is £305,523, a combined total of £793,694.
- 6.2. From 1 April 2015, the total cost of the shared service will be split between the two authorities on a proportionate basis, to be formally agreed in the legal agreement between the two authorities.
- 6.3. It is anticipated that the new shared service will deliver savings for Medway of around £160,000 compared to the 2014-15 staffing budget, mitigating the reduction in Benefit Administration Grant.

7. Legal implications

- 7.1. Section 101(1) of the Local Government Act 1972 allows local authorities to delegate non-executive functions to other local authorities. The Local Authority (Arrangement for the Discharge of Functions) (England) Regulation 2012 made under section 9EA of the Local Government Act 2000 allows local authorities to delegate executive functions to other local authorities. Under the Local Government Act 2000, the default position is that a function is an executive function unless specific provision provides that they are non-executive. The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 sets out the specific functions that are non-executive. As these Regulations do not specify that internal audit and counter fraud

functions are non-executive, they will be executive functions for the purposes of a delegation.

- 7.2. Gravesham's Cabinet has in effect made a delegation of their internal audit and counter fraud functions to Medway's Cabinet (copy of which is at Appendix A). The delegation must be accepted by Medway's Cabinet, and once accepted, Medway will become statutorily responsible for Gravesham's internal audit and counter fraud functions as though it were its own functions.
- 7.3. A decision needs to be taken as to the structure of governance for Gravesham's delegated internal audit and counter fraud function. Officers recommend that this function be discharged by the Chief Finance Officer in accordance with the delegations to him, set out in s151 of the Local Government Act 1972 and any further delegations made under the Employee Delegation Scheme.
- 7.4. The delegation of Gravesham's internal audit and counter fraud functions to Medway will be documented through a legally binding contract, which both parties must agree and sign. The delegation agreement will cover, but is not limited to:
 - the scope of internal audit and counter fraud functions and services to be provided,
 - governance and staffing arrangements,
 - cost sharing,
 - liability, indemnity and insurance,
 - data protection and information governance,
 - exit provisions.
- 7.5. The delegation agreement will fall outside the scope of the Public Contracts Regulations 2015 so there is no requirement for Gravesham to tender these services. The delegation agreement will implement a co-operation between Gravesham and Medway with the aim of ensuring that Medway provides public services they have to perform with a view to achieving objectives they have in common. The delegation will also give Medway an exclusive right by law to provide the services to Gravesham. Such administrative arrangements are expressly exempted from the EU procurement regime (Regulations 11 and 12 (7) of the Public Contracts Regulations 2015).
- 7.6. The Accounts & Audit Regulations 2015 require that "A relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance." If the recommendations made in this report are accepted, the Chief Finance Officer will discharge this duty on behalf of Gravesham.
- 7.7. A structured shared service managed by the Chief Finance Officer is able to take advantage of support staff and facilities at Gravesham Borough Council through the powers in:
 - section 113 of the Local Government Act 1972 which allows local authorities to place officers at the disposal of other local authorities; and
 - the Local Authorities (Goods and Services) Act 1970 which allows local authorities to make arrangements with each other for the

provision goods, administrative, professional or technical services and vehicle, plant or apparatus.

8. Recommendations

- 8.1. Cabinet is recommended to agree to assume responsibility for the discharge of Gravesham Borough Council's Audit and Counter Fraud functions as permitted under the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 which provide for the executive of one local authority to arrange for a function for which it is responsible to be discharged by the executive of another local authority.
- 8.2. Cabinet is recommended to delegate authority to the Chief Finance Officer of Medway Council, in consultation with the Monitoring Officers of Medway and Gravesham to enter into a legally binding contract between both local authorities setting out the detail of the arrangements for a fully shared Audit and Counter Fraud Service, including a governance framework.
- 8.3. The Cabinet is asked to agree to delegate authority to Medway's Chief Finance Officer to assume responsibility for the management and delivery of audit and counter fraud services for Gravesham Borough Council jointly with the services provided for Medway Council.
- 8.4. The Cabinet is asked to
 - (i) note that the Chairman of the Business Support Overview and Scrutiny Committee has agreed that recommendations 8.1-8.3 are reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in .
 - (ii) agree that recommendations 8.1 – 8.3 are considered urgent and therefore should not be subject to call in.

9. Suggested reasons for decision(s)

- 9.1. The recommended actions will enable the internal audit and counter fraud services of Medway and Gravesham councils to be delivered through a fully shared service, delivering cost savings to both authorities compared to existing arrangements.

Lead officer contact

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Appendices

Appendix A – Gravesham Borough Council Cabinet Report 7 September 2015
Appendix B – Gravesham Borough Council Cabinet Minutes of 7 September 2015, minute 38.

Background papers

Nil

Classification: Public
Key Decision: No

Gravesham Borough Council

Report to: Cabinet
Date: 07 September 2015
Reporting officer: Assistant Director (Corporate Performance)
Subject: Proposed development of a fully shared Internal Audit and Fraud Service with Medway Council

Purpose and summary of report:

To provide Members with an update on the current arrangements in place with Medway Council for Internal Audit and Fraud Services and to seek approval for the progression of a fully shared service between Medway Council and Gravesham Borough Council for the delivery of Internal Audit and Fraud.

Recommendations:

Members are requested to agree to the progression of a fully shared Internal Audit and Fraud Service with Medway Council and give delegated authority to the Assistant Director (Corporate Performance), in consultation with the Assistant Director (Governance & Law), to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place.

1. Background

- 1.1 The shared management arrangement for Internal Audit with Tonbridge & Malling Borough Council ceased on 15 May 2015. In addition the shared management arrangement for Fraud with Tonbridge & Malling Borough Council ceased on 19 June 2015. In its place, a shared management arrangement was implemented with Medway Council for Internal Audit & Fraud from 1 June 2015.
- 1.2 A report outlining this approach was considered by the Performance and Administration Committee at its June meeting, with this report detailing the shared commitment by both organisations to explore the potential for a fully shared Internal Audit and Fraud service between the two organisations by 1 April 2016. This same report was also considered at the June Finance and Audit Committee meeting. Both committees gave their support to the exploration of a fully shared service.

- 1.3 As Members will be aware, the benefit fraud investigation function, currently carried out by the Fraud team, will be transferring to the Department for Work & Pensions (DWP) Single Fraud Investigation Service (SFIS); Gravesham is due to transfer this element of the service in March 2016 while Medway is due to transfer in February 2016. The government have announced that the grant funding received by local authorities will reduce; for Gravesham this cut represents £60,000 and for Medway £155,000.

2. Proposal for future arrangements

- 2.1 As the Audit & Assurance Manager has now commenced her shared management role between Gravesham and Medway Council, and with that arrangement very much seen as a precursor to the launching of a fully shared service between the two organisations, the Audit & Assurance Manager has been able to more fully explore the potential for a fully shared service.
- 2.2 There are a number of synergies between the two organisations which lend themselves to a sharing of resource;
 - 2.2.1 The two organisations share a large common boundary and a similar population demographic, with significant migration of residents between the two areas.
 - 2.2.2 There are a number of existing partnership arrangements between the two councils including STG Building Control and CCTV.
 - 2.2.3 Both councils have housing stock, and therefore experience similar issues with regards to attempted Right to Buy fraud and unlawful sub-letting of HRA accommodation.
- 2.3 It is proposed that one combined Internal Audit and Fraud team would support both authorities. Detailed financial analysis needs to take place in order to fully understand the financial benefits of such an arrangement for both authorities.
- 2.4 In addition to any financial savings realised from the shared arrangement, there are also a number of non-financial benefits for both organisations:
 - 2.4.1 Added resilience across the two authorities. There will be a larger pool of officers covering both authorities providing additional resilience to cover sickness absence/vacancies or increased workload should this be required.
 - 2.4.2 Availability of specialist skills across both authorities, leading to increased efficiency through the potential for one auditor to complete the same audit at both authorities or for investigators to work on similar investigations.
 - 2.4.3 Sharing of best practice in the delivery of Internal Audit and Fraud functions resulting in improvements in the service delivered to both councils. The team will be better placed to provide advice to clients prior to issues arising. In addition this will also provide an improved quality of service to clients as more value can be added through sharing of best practice in service areas identified through audit and fraud teams at either council.
 - 2.4.4 Sharing of best practice in the delivery of other council services identified through audit work being done by the same auditor at both councils.

- 2.4.5 Expansion of knowledge base of individual auditors ensuring audits can be conducted within short time with little impact on the services being audited i.e. auditors become more experienced.
- 2.4.6 Greater development opportunities and exposure for the staff within the partnership, resulting in improvements in the service.
- 2.5 On the basis of the need to realise savings to offset the loss of government grant funding outlined at paragraph 1.3, and improvements to service and staff development outlined above it is considered that a shared service arrangement is a viable option for both authorities in order to cover the savings that are required by both authorities. It is therefore felt appropriate that a decision be requested of the Cabinet for officers to take appropriate action to progress to a fully shared service.

3. Next steps

- 3.1 If Members are supportive of the proposal set out in this report, it is proposed that formal consultation commence immediately with a view to bringing this arrangement into effect from 1 December 2015, ensuring Gravesham staff are included alongside those of Medway in the DWP SFIS scoping exercise and transfer.
- 3.2 Given the timescale for implementing this arrangement, Members are requested to approve the proposal set out in this report and, subject to this, give delegated authority to the Assistant Director (Corporate Performance), in consultation with the Assistant Director (Governance & Law), to take the necessary practical, financial and legal actions required to enable the arrangement to be put in place.

4. BACKGROUND PAPERS

- 4.1 Background papers pertaining to this report are held by the Assistant Director (Corporate Performance).

Anyone wishing to inspect background papers should, in the first place, be directed to Committee & Electoral Services who will make the necessary arrangements.

IMPLICATIONS**APPENDIX 1**

<p>Legal</p>	<p>The Transfer of Undertakings (Protection of Employment) Regulations (TUPE) is a law designed to protect the rights of employees when a business transfers from one owner to another. These will need to be taken into consideration as the arrangement progresses as it is anticipated that the employment of GBC officers will transfer to Medway Council.</p> <p>Any resulting partnership arrangement will be made pursuant to Section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.</p> <p>Section 151 of the Local Government Act 1972 requires the council to “make arrangements for the proper administration of their financial affairs”. Funding received via a Central Government Administration Grant requires Local Authorities to maintain arrangements to prevent fraud and error in the welfare benefits that they administer.</p> <p>Further to this, the Accounts & Audit Regulations 2011 require a relevant body to “undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control.” Proper practice has been defined as that contained within the Public Sector Internal Audit Standards and the CIPFA Local Government Application Note to the Public Sector Internal Audit Standards.</p> <p>The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against them</p> <p>Section 151 of the Local Government Act 1972 requires the council to “make arrangements for the proper administration of their financial affairs”.</p> <p>It is considered that the changes to Internal Audit & Fraud services outlined within this report will still enable the authority to meet its statutory obligations as outlined above.</p>
<p>Finance and Value for Money</p>	<p>As set out in section two of the report, there is the potential for both authorities to benefit financially from this arrangement in terms of covering the loss of grant funding received by local authorities; for Gravesham this cut represents £60,000 and for Medway £155,000.</p>
<p>Risk Assessment</p>	<p>The risks associated with this arrangement are considered to be ‘low’ at this time. A shared management arrangement has been in place across the Internal Audit and Fraud services for some time and the arrangement set out in this report is a natural progression of this arrangement.</p> <p>It should be noted however that risks will be reviewed regularly throughout the implementation of this arrangement to ensure they are identified and, where required, managed/mitigated as necessary.</p>

Equality Impact Assessment	Screening for Equality Impacts		
	Question	Answer	Explanation
	a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision in this paper relates to the delivery of a back office function and as such, will not impact directly on the community.
	b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	No	As above
	c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		N/A
	<i>In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above</i>		
Corporate Plan	The work of Internal Audit, Fraud and Investigations contributes to the delivery of Priority 5: Managing the council's business responsibly.		
Crime and Disorder	<p>Internal Audit provides an independent and objective opinion to the organisation on the control environment, by evaluating its effectiveness in achieving the organisations' objectives. The work of Internal Audit combined with a sound internal control environment has a positive contribution to community safety in its broadest sense.</p> <p>The counter fraud arrangements of the council acknowledge that the council can be exposed to fraud and are intended to, as far as possible, prevent fraud occurring and pursue criminal action if needed when fraud is detected. Working with partners to combat crime and disorder has a positive contribution to community safety in its broadest sense.</p>		

Cabinet

Monday, 7 September 2015

7.30pm

Present:

Cllr David Turner (Vice-Chair)

Cllrs: Gurjit Kaur Bains
Julia Burgoyne
Sandra Garside
Leslie Hills
Samir Jassal
Alan Ridgers
Anthony Pritchard

Note: Cllrs John Burden, Lee Croxton, Susan Howes and David Hurley were also in attendance

David Hughes	Chief Executive
Nick Brown	Director (Finance & Environment)
Kevin Burbidge	Director (Housing & Regeneration)
Melanie Norris	Director (Communities)
Julie Gibbs	Assistant Director (Finance)
Stuart Bobby	Assistant Director (Corporate Performance)
Wale Adetoro	Assistant Director (Housing)
Daniel Killian	Parking Services Manager
Sarah Parfitt	Service Manager (Finance)
Sue Hill	Committee & Elections Manager

21. Apologies

Apologies for absence were received from Cllrs John Cubitt and Jordan Meade.

22. Minutes

The Minutes of the meeting held on 6 July were signed by the Chair.

23. Declarations of Interest

No declarations of interest were made.

24. Delegated Decisions - Cabinet Members

No decisions had been notified.

25. Minutes of meeting Wednesday, 17 June 2015 of Gravesham Joint Transportation Board

The Minutes of the Gravesham Joint Transportation Board were noted.

26. Budget Monitoring Report 2015/16 - Quarter One

Cabinet noted the information provided on performance:-

- against approved Revenue and Capital budgets for 2015/16, including known variances agreed or identified through budgetary control activity;
- and other key areas of financial performance that may impact on the Council's Medium Term Financial Strategy, Medium Term Financial Plan, the Housing Revenue Account Business Plan or Financial statements.

Members acknowledged officers views that the current austerity measures put in place by Government would undoubtedly have an impact on the Medium Term Financial Plan and the Housing Revenue Account Business Plan. The Autumn Statement in November 2015 would help to clarify the position and provide an opportunity to determine the best way forward.

27. Draft Corporate Plan 2015/19

Cabinet received the latest version of the Draft Corporate Plan. The Plan, which is an integral part of the policy framework, outlined commitments being made by the Council over a four year period. In addition to providing information about the vision for the Borough, the plan provided a suite of performance indicators against which the Council could be tested.

Members of the Cabinet who sought to make amendments to the plan and/or its appendices were requested to advise officers of any changes as soon as possible before the report was considered by Council in October.

Resolved that

- (1) the Draft Corporate Plan 2015/19 be endorsed;
- (2) the Assistant Director (Corporate Performance) in consultation with the Leader of the Executive be given delegated authority to make any necessary updates prior to its submission to Council.

28. Proposed development of a fully shared Internal Audit and Fraud Service with Medway Council

Cabinet considered the possibility of having a fully shared Internal Audit and Fraud service between Gravesham and Medway commencing in December 2015.

This proposal had come about as a way of dealing with the forthcoming changes in benefit whereby the DWP would take over the fraud investigation service and Government grant funding would be significantly reduced. It had also been seen as having the potential to reduce two teams to one central team that could support both authorities.

Further analysis of any potential benefits in terms of finances would need to be taken but the opportunities that could be offered to members of the team would need to be taken.

Resolved that the Assistant Director (Corporate Performance) in consultation with the Assistant Director (Governance & Law) take the necessary practical, financial and legal actions required to enable the new arrangements for a fully shared Internal Audit and Fraud between Gravesham Borough Council and Medway Council to be put into effect.

29. Redress Scheme Report

As of 1 October 2014 the Council had been under a statutory duty to ensure that any person engaged in lettings agency or property management work was a member of a Government approved redress scheme. Such schemes would allow tenants, landlords and agents in the private rented sector as well as leaseholders and freeholders to lodge a complaint about bad service. The scheme did not however apply to private landlords.

The Council had been given the responsibility of enforcing this scheme but had yet to determine the level of fine that should be imposed and providing the opportunity for right of appeal.

Resolved that

- (1) the implementation and enforcement arrangements for The Redress Schemes for Lettings Agency Work and Property Management Work (requirement to Belong to a Scheme etc.) (England) Order 2014 (SI 2014/2359) be delegated to the Director (Housing & Regeneration);
- (2) the penalty for non-compliance with the Order will be £5,000 unless extenuating circumstances apply;
- (3) the Assistant Director (Housing) in consultation with the Assistant Director (Governance and law) determine, where necessary, the extenuating circumstances and what alternative penalty is appropriate in each case.

30. Parking Review in Support of Businesses and Shoppers

Cabinet was updated on the outcome of an exploration of the options for the introduction of a free parking period on Saturdays.

Previous experience of operating free all day parking on Saturdays had led to some unintentional consequences including shortage of parking spaces early in the day – instead of the intended outcome of providing spaces for shoppers on the basis that they benefited the local economy.

Research into four potential schemes in other areas and the confirmation of the benefits that came from operating a two-hour free period to all users demonstrated that:-

- there would be a regular turnover of vehicles;
- the Council would have the ability to control and monitor usage;
- no advantage would be given to those parking in the borough and travelling outside.

It was concluded that the introduction of a two-hour free parking period on Saturdays, with the proposed changes to the current parking tariff structure, would support local businesses and be financially sustainable.

Resolved that

- (1) the implementation of a free two-hour parking period on Saturdays for all users of the Council's Pay and Display vehicle parks be implemented;
- (2) the current tariffs be restructured at the proposed levels across the week as a means to facilitating a free two-hour period of parking on Saturday and to encourage short-term usage of the vehicle parks;
- (3) the change to the parking tariff structure outlined above be reviewed after one year to ensure it is achieving its purpose of promoting business growth, improving the local economy and increasing the opportunity of short term parking whilst being financially sustainable.

Close of meeting

The meeting ended at 8.00 pm.