

AUDIT COMMITTEE

5 JULY 2011

ANNUAL GOVERNANCE STATEMENT

Report from: Deborah Upton, Monitoring Officer

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Summary

To explain the requirements for reporting and approving an Annual Governance Statement (AGS) (formerly known as the Statement on Internal Control (SIC)) covering the financial year 2010/11, and to seek comments and approval of the Statement.

1. Budget and Policy Framework

- 1.1 The purpose of the report is to provide Audit Committee with details of the Annual Governance Statement for comment and approval. The Annual Governance Statement is within the budget and policy framework and is a matter for the Audit Committee to consider.

2. Background

- 2.1 The Council's Audit Committee has a strategic role to ensure that the Council's assurance framework is operating effectively. To this end it should seek assurance that key areas that contribute to this framework are operating properly.
- 2.2 The Council approved and adopted a local code of corporate governance, which is consistent with the principles of the CIPFA/SOLACE Framework for Delivering Good Governance in Local Government. This statement explains how the Council has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a statement on internal control.
- 2.3 There is a prescribed layout for the AGS that requires the Council to set out its governance arrangements and key elements of internal control and the sources of assurance; a review of the effectiveness of those governance and internal controls and a requirement to identify significant governance issues. The Council must ensure that it can provide evidence for any of the systems of internal control included in the AGS.

- 2.4 Guidance issued by CIPFA regarding the statement also recommends that a suitable independent management group should review the content of the AGS. The Council's Audit Committee will undertake this role. The Chief Executive and the Leader of the Council will sign the statement once the Audit Committee has approved it.

3. Annual Governance Statement

- 3.1 The AGS (formerly known as the SIC) explains how the council has complied with the local code, how we are complying with regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a statement on internal control. In addition, as before, there is a section setting out any future actions that may be needed to strengthen our corporate governance arrangements. The Annual Governance Statement (AGS) is the formal statement that recognises, records and publishes an authority's governance arrangements.
- 3.2 It is designed not only to give an opportunity for authorities to consider the robustness of their governance arrangements, but also provide an accurate representation of arrangements in place during the year and to identify areas where improvement is required.
- 3.3 Regulation 4 of the Accounts and Audit regulations (2003) (as amended) requires the Council to conduct a review at least once a year of the effectiveness of its system of internal control and to publish a statement on internal control each year with the Council's financial statements

4. Risk Management

- 4.1 Failure to produce an Annual Governance Statement would lead to a serious weakness in the Council's internal controls and would be a breach of its statutory duty.

5. Financial implications

- 5.1 There are no financial implications arising directly from this report.

6. Legal implications

- 6.1 The legal implications arising directly from this report are set out in the main body.

7. Recommendations

- 7.1 Members are asked to comment on and approve the draft Annual Governance Statement.

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Background papers: None.

MEDWAY COUNCIL

ANNUAL GOVERNANCE STATEMENT: 2010/11

1. Scope of responsibility

Medway Council is responsible for ensuring that its business is conducted in accordance with the law and proper standards, that public money is safeguarded and properly accounted for, and used economically, efficiently and effectively. The Council also has a duty under the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having a regard to a combination of economy, efficiency and effectiveness.

In discharging this overall responsibility, the Council is responsible for putting in place proper arrangements for the governance of its affairs, facilitating the effective exercise of its functions, which includes arrangements for the management of risk.

The Council approved a local code of corporate governance at its meeting on 13 November 2008, and this is consistent with the principles of the CIPFA/SOLACE *Framework for Delivering Good Governance in Local Government*. A copy of the current Code is on our website at www.medway.gov.uk and can also be obtained from the Monitoring Officer at Medway Council, Gun Wharf, Dock Road, Chatham (01634) 332133.

This statement explains how the Council has complied with the code and also meets the requirements of regulation 4(2) of the Accounts and Audit Regulations 2003 as amended by the Accounts and Audit (Amendment) (England) Regulations 2006 in relation to the publication of a governance statement.

2. The purpose of the governance framework

The governance framework comprises the systems and processes, and culture and values, by which the authority is directed and controlled and its activities through which it accounts to, engages with and leads the community. It enables the authority to monitor the achievement of its strategic objectives and to consider whether those objectives have led to the delivery of appropriate, cost effective services.

The system of internal control is a significant part of the framework and is designed to manage risk to a reasonable level. It cannot eliminate all risk of failure to achieve policies, aims and objectives and can therefore only provide reasonable and not absolute

assurance of effectiveness. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Council's policies, aims and objectives, to evaluate the likelihood of those risks being realised, and to manage them efficiently, effectively and economically.

The following section of the statement summarises Medway Council's governance framework that has been in place for the year ended 31 March 2011 and up to the date of approval of this Statement. The framework described reflects the arrangements in place to meet the six core principles of effective governance.

3. The Council's framework for ensuring compliance with the core principles of effective governance

(a) Focusing on the purpose of the authority and on outcomes for the community, and creating and implementing a vision for the local area

The council works with its partners through the Local Strategic Partnership to set the vision and priorities for the area. The council manages, on behalf of the LSP, a process of bringing together performance data, demographic information and consultation findings to determine key shared priorities.

Medway's sustainable community strategy for 2010-26 was approved by the LSP board in March and full Council in April 2010. This sets the medium to long term strategic framework for the area.

The council's well established 'framework for managing performance' at Medway Council sets out how the community strategy helps to inform and shape the council's own priorities.

In 2011 the council again produced the council plan, its corporate business plan, to an aligned timetable with the resources strategy and budget. In February 2011 the council refreshed the council plan to agree the version for 2010-13. The plan was informed by consultation including the 2010 residents opinion poll. It forms an essential part of the council's governance framework, setting out the council's priorities and the measures against which success will be judged.

(b) Members and Officers working together to achieve a common purpose with clearly defined functions and roles.

The Council has ensured that the necessary roles and responsibilities for its governance are identified and allocated so

that it is clear who is accountable for decisions that are made. The Council has done this by:

- Appointing a four year Leader of the Council, and executive Members (Cabinet Members), with defined executive responsibilities, including appointing a lead member for Children's Services, with responsibility for making sure the statutory functions for Children's Services are carried out.
- Agreeing a scheme of delegated executive responsibilities to directors and senior officers, and protocols that make clear the respective roles of Members and officers and ensure effective communication between them.
- Annually appointing committees to discharge the Council's regulatory responsibilities
- Annually appointing committees to discharge the Council's overview and scrutiny responsibilities
- Setting clear role definitions for chairs of committees and councillors in their different roles
- Ensuring that the Constitution is regularly reviewed
- Making the Chief Executive (the Head of Paid Service) responsible and accountable to the Council for all aspects of operational management.
- Making a senior officer (the Monitoring Officer) responsible to the authority for ensuring the lawfulness and fairness of decision-making, and that agreed procedures are followed and that all applicable statutes and regulations are complied with.
- Making a senior officer (the Section 151 officer) responsible to the authority for ensuring that appropriate advice is given on all financial matters, for keeping proper financial records and accounts, and for maintaining an effective system of internal financial control.
- Making a senior officer responsible to the authority for ensuring that the statutory functions of children's services and adults services are carried out
- Ensuring significant partnerships and contracts with other public bodies, voluntary and community organisations, and the private sector have clear governance accountabilities, including effective and equitable financial arrangements
- Having in place effective and comprehensive arrangements for the scrutiny of services including a Scrutiny Officer

(c) Promoting values for the authority and demonstrating the values of good governance through upholding high standards of conduct and behaviour

The Council promotes and maintains high standards of ethical conduct of members and officers through the work of its Standards

Committee. The Council fosters a culture of behaviour based on shared values, ethical principles and good conduct.

The Council has done this by establishing and keeping under review:

- The Council's Constitution
- A Members' Code of Conduct
- An Officers' Code of Conduct
- A protocol governing Member/Officer Relations
- A Members' Planning Code of Good Practice
- A Members Licensing Code of Good Practice
- Monitoring Officer Protocol
- Media Guidelines
- Contract Standing Orders and Financial Regulations

The Monitoring Officer is responsible for the review of the constitution, and for ensuring that it is kept up to date.

Conduct of Members is monitored by the Standards Committee, which also investigates allegations of misconduct by Members. The Council's Standards Committee has always had an independent chairman, and it has a total of six independent members. The Standards Committee has produced an annual report of its work for 2010/11, which was considered by the Council in April 2011. The Committee has also introduced guidance on ward work, and member use of council resources.

The Council takes fraud and corruption very seriously and has the following policies that aim to prevent or deal with such occurrences:

- An anti-fraud and corruption policy
- A whistle blowing policy

The outcome of complaints made under the whistle blowing policy is reported to the Audit Committee on an annual basis, in order that they can keep it under review. This has recently been refreshed and strengthened by the Council, and the Monitoring Officer has responsibility for reporting all whistle blowing, including data protection breaches, to Members.

(d) Taking informed and transparent decisions which are subject to effective scrutiny and managing risk

The Council has ensured that the decision-making process includes a rigorous risk assessment including:

- Financial, legal and staffing implications
- Diversity and racial impact assessment
- Risks, mitigations and opportunities

All reports to the Council or Cabinet are checked by the Chief Finance Officer and the Monitoring Officer for financial and legal implications. The Council has been rigorous and transparent about how decisions are taken and recorded. Cabinet reports now also include a mandatory paragraph on risk to enable the Council to consider the implications of its decisions.

The Council has:

- Ensured the Cabinet make decisions in an open and transparent way and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise
- Ensured that all decisions of regulatory committees of the Council are made in public and that information relating to those decisions is made available to the public, unless statutory rules allow otherwise
- Ensured that legal, financial and risk implications are recognised in all reports on which decisions are based
- Recorded all decisions that are made by committees.
- Rules and procedures, which govern how decisions are made.
- Developed and maintained an effective overview and scrutiny function which encourages constructive challenge
- Maintained an effective Standards Committee and Audit Committee

The Council has continued to develop its risk management strategy to enable the Council to manage and control risks in order to maximise the quality of its service provision and uphold its reputation, making a powerful contribution to continuous service improvement and the achievement of best value. The strategy is reviewed annually.

The Council has ensured that under the risk management system:

- Officers formally identify and manage risks
- Elected Members are involved in the risk management process
- A risk assessment of every key or strategic decision is undertaken
- Risks to financial and other key internal controls are mapped
- Business continuity planning is reflected; and

- The Cabinet reviews and, if necessary, updates its risk management processes at least annually
- Detailed risk assessment of budgets are carried out with signed acceptance form from managers highlighting risk areas

(e) Developing the capacity and capability of Members and officers to be effective.

The Council has ensured that those charged with the governance of the Council have the skills, knowledge and experience they need to perform well.

The Council has done this by:

- Retaining the Member Development Charter
- Developing leadership skills and capacity across the Council through an annual learning and development programme for staff
- Ensuring that the Chief Finance Officer and Monitoring Officer are both members of the Corporate Management Team
- Developing our approach to workforce planning
- Obtaining Gold status for Investor in People accreditation across all directorates
- Encouraging quality mark accreditation for services
- Maintaining and developing our personal development review system
- Cascading regular information to Members and staff by paper and electronic means, having regard to diversity issues
- Holding a full induction programme for all members to attend

(f) Engaging with local people and other stakeholders to ensure robust public accountability.

The Council is committed to increasing public involvement in decision-making and devolving power to individuals and local organisations. We have sought and responded to the views of stakeholders and the community. The Council has done this by:

- Improving effective corporate consultation including maintaining effective mechanisms for ongoing engagement eg community cohesion group, Children in Care Council, Young Commissioners, Learning Disability Partnership Board, Tenants Forums, Medway Ambassadors Scheme and community profiling in Luton
- Carrying out in depth consultation exercises as required to inform policy development and service change – eg Maintaining effective data exchange through the Corporate Research and

Information Group to plan and coordinate consultation and to share findings

- Making use of local forums at ward, parish and neighbourhood level to maintain communication with all the Council's communities and other stakeholders e.g. rural liaison committee with parishes, community futures workshops in our most deprived areas to inform the development of community owned action plans, participation in Partner and Communities Together (PACT) meetings
- Maintaining and reviewing an effective complaints procedure

4. Review of effectiveness

Medway Council annually reviews the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the Corporate Management Team who have responsibility for the development and maintenance of the governance environment, the Head of Internal Audit's annual report, and also by comments made by the external auditors and other review agencies and inspectorates.

The Authority has responsibility for conducting at least annually a review of the effectiveness of its governance framework including the system of internal control. The review of effectiveness is informed by the work of the internal auditors, the corporate management team, the Chief Finance Officer, the Monitoring Officer and by comments made by the external auditors and other review agencies and inspectorates.

Throughout 2010/11 the Council has received and considered a number of reports including:-

- (a) Sustainable Community Strategy 2010-16
- (b) Changes to the Executive arrangements under the Local Government & Public Involvement in Health Act 2007
- (c) The annual report of the Monitoring Officer
- (d) Exemptions to standing orders
- (e) Statement of Accounts 2009/10
- (f) Budget report 2011/12 and Medium Term financial strategy
- (g) Addressing in year grant reductions
- (h) Appointment of a Scrutiny Officer
- (i) Review of the Council's procurement processes
- (j) Petitions Scheme

Cabinet has considered and approved a number of reports in its role as the executive:-

- (a) Revenue budget monitoring
- (b) Capital programme monitoring
- (c) Annual performance assessment of adult social care
- (d) Children's Services assessment
- (e) Annual Audit Letter 2010
- (f) Six monthly review of the risk register
- (g) Annual Review of the Risk Management Strategy
- (h) Medium Term Financial Plan
- (i) Statement of Accounts
- (j) Report on Woodlands School

The Audit Committee have considered a wide variety of issues including:-

- (a) Annual review of the whistle blowing policy to include breaches of data protection
- (b) Internal Audit Annual Plan 2010/11
- (c) Audit Commission Audit and Inspection Plan
- (d) Annual Governance Statement
- (e) Report on Woodlands School

The Standards Committee have considered a number of issues relating to members, in particular have had a larger number of referrals for the year 2010/11. A further round of training for members was provided as part of the induction process in May 2011 and all members were invited.

An annual review of the code of corporate governance checks the control environment within the two directorates and the business support department, and the results of this review has been used to inform our assessment of significant control issues for the Council.

The following is an extract from the Head of Internal Audit's annual report for 2010/11.

"Key Financial Systems – 4 out of the 7 key systems examined had opinions of good or satisfactory (Appendix A). However 3 of the systems audited were assessed as 'Insufficient', exhibiting weaknesses in debt recovery processes (including creditor/salary overpayments) and the current work on the Care Director system has raised concerns that similar issues exist there too. No other significant issues have arisen to date on the audits that are still in progress.

Corporate Governance – Our audit work has confirmed that this is satisfactory.

Risk Management – Our audit work has confirmed that this is satisfactory.

Fraud & Prevention of Corruption – Our audit work has found this to be Insufficient (i.e. Controls are in place to mitigate identified risks and they are complied with to varying degrees. However, there are one or more gaps in the control process that leave the system exposed to significant residual risk. Action is required to mitigate material risks.)

Internal audit reviews the effectiveness of controls to minimise risk and the results of these are reported to the Audit Committee together with any action plan to address risks.

The Council also undertakes an annual review of corporate governance. The detailed findings indicate that, in general, Medway's Constitution, political and management structure and decision-making processes address the requirements of the revised CIPFA/SOLACE framework and demonstrate the Council's commitment to openness and transparency. The six core principles set out in the CIPFA/SOLACE framework were assessed as "satisfactory".

Assurances have been provided from the Corporate Management Team that key elements of the control framework were in place during the year in their divisions and control weaknesses were identified and addressed.

5. Governance: Key Areas of Focus

In September 2010 the Cabinet and Audit Committee received a report from the Monitoring Officer on Woodland School and its procurement of an extension to the school buildings. The report highlighted weaknesses in rigorous oversight of the project by the Council, principally in the Learning and Achievement division, which led to a significant overspend. In order to address the control weaknesses by ensuring that robust procedures are in place, the Cabinet has set up a cabinet advisory group, chaired by the Portfolio Holder for Children's Services, which will assist the Cabinet to monitor capital schemes in the Children's and Adults Directorate.

In 2010/11 we identified a number of areas where employee fraud had taken place and reports were brought to the Audit Committee. We have commissioned PKF, our external auditors, to check our internal systems to ensure that our anti-fraud and corruption measures are robust and we will implement any findings from their report.

Homes and Communities Agency funding of £37m was allocated for regeneration work in Medway (2008 - 11). A small number of schemes remain to be completed but all are nearing completion. Work is on-going to quantify the likely total spend but funding is received once work is completed, sometimes several months in arrears and our claims have not all been submitted. The accounts as of 31 March 2011 accurately reflect the situation at that time that the total expenditure for all projects was inside approved budgets. Should any overspend materialise as projects are completed these will be investigated and a report brought to Audit Committee and Cabinet

The Authority faces an extremely challenging year in 2011/12 as it seeks to manage significant budget reductions, increasing demand for some services and new ways of working, whilst ensuring it complies with its statutory duties. The following represent the key issues to be addressed in relation to significant governance issues:-

(a) A significant reduction in Government grant funding for 2011/12 totalling £20.6m. The Council has plans in place to respond to this challenge but the budget reductions in 2011/12 will require careful monitoring and immediate action if they fall behind during implementation.

(b) Better for Less, the Council's transformation programme, is ongoing and in 2011/12 we will move into the implementation phase to improve our customer contact and administration across the Council. The programme is challenging and ambitious and will deliver substantial savings to the Council of £13.9M (cumulative), as well as transforming and improving our services.

6. Certification

To the best of our knowledge, the governance arrangements, as defined above, have been effectively operating during the year 2010/11 although we recognise the areas for additional focus identified in section 5.

We are satisfied that these enhancements will address the need for improvements that were identified in our review of effectiveness and will monitor their implementation and operation as part of our next annual review.

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Leader of the Council

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Chief Executive