

## PERFORMANCE AND GOVERNANCE

### Minutes of the meeting of the Performance and Governance held on 28 June 2011 commencing at 7.00 pm

Present: Cllr. M Fittock (Chairman)  
Cllr. R Walshe (Vice-Chairman)

Cllr. K S Bayley, Cllr. C Clark, Cllr Mrs A Cook, Cllr. M Dickins,  
Cllr. Mrs A Firth, Cllr J Gaywood, Cllr. J Grint, Cllr. R Hogarth,  
Cllr. J London and Cllr. P McGarvey

Apologies for absence: Cllr. R Piper

Cllr Mrs J Davison was also present

#### **1. EXTERNAL AND INTERNAL AUDIT (PRESENTATION)**

Members were provided with an informal introduction to the roles of internal and external audit and their relationship with the Committee.

Following questions by Andy Mack, the District Auditor and Lauren Massoud, Auditor, it was noted that the role of the Performance and Governance Committee in relation to audit was to monitor the Council's functions, policies and services in an efficient, effective and pro-active manner in order to add value to the Council's decision making process. It was also noted that an effective audit committee was one that was inquisitive and offered a 'critical friend' challenge in order ensure issues were addressed.

In response to a query, the District Auditor confirmed that briefings between himself and the Chairman of the Performance and Governance Committee could take place every six months.

The Audit, Risk and Anti-Fraud Manager explained that Internal Audit now offered a shared service between the District Council and Dartford Borough Council. He outlined the main responsibilities of the Team including their relationship with the Committee, external audit and the Section 151 Officer. One of the roles of the Committee was to monitor the work of the Team and as such the Committee received a number of monitoring reports throughout the year. It was also clarified that Internal and External Audit worked closely together in order to prevent duplication, but not so close that there was no objectivity when the Council was assessed by the external auditors.

In response to a query, the Corporate Resources Director confirmed that the work of Internal Audit was set each year when the Audit, Risk and Anti-Fraud Manager provided senior Officers with a list of areas he felt would benefit from an internal audit. Key Officers would then suggest any additional areas for review.

2. **MINUTES OF THE MEETING OF THE COMMITTEE HELD ON 19 APRIL 2011 (ATTACHED)**

Resolved: That the minutes of the meeting of the Performance and Governance Committee held on 19 April 2011 be approved and signed by the Chairman as a correct record.

3. **DECLARATIONS OF INTEREST.**

Cllr. Fittock declared a personal interest in Minute No. 15 as a Member of Swanley Town Council who were interested in obtaining the public conveniences in Swanley.

Cllr. Mrs Cook declared a personal interest in Minute No. 15 as a governor of Leigh Primary School who were interested in obtaining the public conveniences in Leigh.

Cllr. London declared a personal interest in Minute No. 15 as a local Member for Ide Hill.

Cllr. Hogarth declared a personal interest in Minute No. 15 as a Member of Sevenoaks Town Council who maintained the public conveniences in Sevenoaks Town.

Cllr. Mrs Firth declared a personal interest in Minute No. 15 as a local Member for Ide Hill.

4. **COMMITTEE TERMS OF REFERENCE**

*Action 1: With regard to paragraph 3(a) of the Committees Terms of Reference, it was agreed that the Committee would receive regular reports from the Finance Advisory Group in the form of the Group's minutes.*

The Committee noted the Terms of Reference. It was also noted that should they consider the Terms of Reference needed revision then the matter could be referred back to full Council.

5. **FORMAL RESPONSE OR CONSULTATION REQUESTS FROM THE CABINET FOLLOWING MATTERS REFERRED BY THE COMMITTEE:**

No items were reported.

6. **FORMAL RESPONSE OR CONSULTATION REQUESTS FROM SELECT COMMITTEES**

No items were reported.

7. **ACTIONS FROM THE LAST MEETING OF THE COMMITTEE (ATTACHED)**

An updated Actions list was tabled for Members' attention.

*Action 2: In response to a suggestion, the Corporate Resources Director undertook to investigate whether it was possible to include more Officer commentaries and notes for items on Covalent.*

For the benefit of new Members, a Member explained the background in relation to Action 3, which related to the performance indicator for incidents of fly-tipping.

Resolved: The actions from the last meeting of the Committee were noted.

## **8. FUTURE BUSINESS, THE WORK PLAN 2011/12 (ATTACHED) AND THE FORWARD PLAN.**

The Committee considered the Work Plan for the coming year and the following comments were made:

- It was noted that Cabinet were given responsibility for reviewing the next phase of the Bligh's redevelopment.
- As set out in paragraph 4.1 of the Committee's Terms of Reference, it was noted that sub-groups could be established to consider specific subjects should the Committee feel it appropriate. The Chairman noted that resources would need to be taken into account when considering whether to establish a sub-group.
- It was brought to Members' attention that some of the Committee's meeting dates were not included in the diary inserts provided to all Members. However, the calendar of meetings as agreed at Council (24.05.11) was correct.

## **9. PERFORMANCE MANAGEMENT - 2010/11 QUARTER 4**

The report provided Members with a summary of Council performance and details of all 'red' performance indicators at the end of Quarter 4 for 2010/11. The Chairman noted that the Committee could refer items of concern to either Officers or the relevant Select Committee as appropriate.

Members expressed concern regarding sickness absence. The Head of Finance and Human Resources explained that short term sickness had reduced from the previous year as new procedures had been put in place to help managers manage sickness absence. However, there was difficulty in getting staff on long term sickness absence back to work if their work was not appropriate for a phased return and no alternative duties were available.

*Action 3: In response to a query, the Corporate Resources Director undertook to inform the Licensing Partnership Manager of Members' concern regarding taxi enforcement checks and enquire about whether the Council could be held responsible if the target was not fulfilled.*

*Action 4: Officers undertook to include in the commentary on the performance indicators the number of staff on long term sick leave as well as the average number of days lost.*

Members felt that the Contact Centre provided an excellent service. However, they were concerned that targets did not reflect the increase in services provided by the Contact Centre and the reduced resources. They felt that Officers should give consideration to reviewing the targets to ensure they reflected the quality of service provided. Members also noted that many customers were happy to wait more than 20 seconds for their call to be answered as long as they were provided with an efficient and effective service.

A concern was raised regarding the average number of days to process new benefits claims. It was clarified that the target was measured in calendar days. The Head of Finance and Human Resources explained that this subject had been reported to the Services Select Committee (21.06.11) along with information on the action plan which had been implemented to address the issue. In addition, the Corporate Resources Director informed Members that the Benefits service would soon be affected by the implementation of the new Universal Credit process. This meant that the service would be provided by Government and as such the Council was having difficulties recruiting appropriate staff.

The Committee discussed in detail the best way for Members to view the most up to date information with regard to performance monitoring.

*Action 5: In response to a suggestion, the Corporate Resources Director undertook to include target trends in the performance monitoring.*

Resolved: That a) the proposal for performance monitoring reports to be by exception only as set out in paragraphs 3 and 4 of the report be agreed; and

b) where appropriate, areas of underperformance be referred to the appropriate Select Committee or relevant Officers for further action.

## **10. PROVISIONAL OUTTURN 2010/11**

The report set out the provisional outturn for 2010/11. The overall result was a favourable variance of £527,000. The variance was made mainly by a one off VAT refund of £364,000 which related to various claims made by the Council since 1978. Other contributing variances were outlined in the report.

In response to a query, the Head of Finance and Human Resources explained that the VAT refund was considered a windfall as the Council had not budgeted to receive it this year.

## **11. ANNUAL REVIEW OF EFFECTIVENESS OF INTERNAL AUDIT**

The Audit, Risk and Anti-Fraud Manager explained that the Council was required to have an internal audit function and to monitor the effectiveness of that function. As such the service was assessed annually against the CIPFA toolkit. The report was then reviewed by the Officers Risk Group and Management Team. As outlined in the report the overall assessment of the service was that it was performing successfully and substantially met the CIPFA code.

In response to a query, the Audit, Risk and Anti-Fraud Manager explained that a response to the draft proposal for the transition process for procurement was being developed by the Team on behalf of the Council.

A Member expressed concern regarding the corporate complaints procedure and that informal complaints were not passed on to local Members for data protection reasons. The Corporate Resources Director informed Members that legal advice and information from the Information Commissioner had been sought and that the Council was very restricted in the information that could be passed on with regard to complaints from an individual without seeking that individual's permission. He noted that Officers were investigating how this concern could be taken forward.

As set out in Paragraph 5 of the Appendix to the Report, the Audit, Risk and Anti-Fraud Manager clarified that the self-assessment report only covered the Committee's relationship with the Internal Audit Team and did not include the committee's wider relationships with other Officers.

*Action 7: The Corporate Resources Director undertook to investigate, in consultation with the Head of Legal and Democratic Services, the issue of complaints being forwarded to local Members and to bring a response back to a future meeting of the Performance and Governance Committee.*

Resolved: That the Annual Self Assessment Review of the Effectiveness of the Internal Audit Service 2010/11 be approved.

## **12. INTERNAL AUDIT ANNUAL REPORT 2010/11**

The Audit, Risk and Anti-Fraud Manager explained that the report set out the achievements of the Internal Audit Team over the last year. Annex 1 and Annex 2 of the Appendix set out the individual audits undertaken and the opinion of each audit review. As set out in the report, the overall assurance opinion was that the Council's systems of internal control contributed satisfactorily to the proper, economic, efficient and effective use of resources in achieving the Council's objectives. The opinion also informed the Annual Governance Statement.

*Action 8: In response to a suggestion, the Audit, Risk and Anti-Fraud Manager undertook to include, for comparison, the previous year's review opinions in the table set out in Annex 2 of the Appendix to the report.*

Resolved: That a) the work of the Internal Audit Team for

2010/11 be noted; and

b) the Audit Manager's annual assurance opinion that the Council had effective internal control and governance arrangements in place for delivering its objectives and the management of its business risks be supported.

**13. ANNUAL GOVERNANCE STATEMENT 2010/11**

The Audit, Risk and Anti-Fraud Manager explained that the Council was required to approve the Annual Governance Statement (AGS) which set out the Council's arrangements for Internal Control, Risk Management and Governance. The AGS also supported the Council's Annual Accounts.

The AGS was required to set out any significant issues arising during the year and as such Members' attention was drawn to paragraph 6. It was explained that the Council had lodged an appeal against an Improvement Notice issued by the Health and Safety Executive and for legal reasons was unable to discuss the issue so as not to prejudice the appeal.

Resolved: That the Annual Governance Statement for 2010/11, which supports the Council's Accounts, be approved.

**14. BENEFITS FRAUD REPORT 2010/11**

The Audit, Risk and Anti-Fraud Manager explained that the Benefits Fraud Team had joined with the Internal Audit Team as part of the shared service agreement with Dartford Borough Council. In view of the new arrangements the Committee assumed responsibility for monitoring the work of the Audit, Risk and Anti-fraud Team and received the report as part of its wider remit. The report set out details of activities of the Benefits Fraud Team for 2010/11 and the Team's work plan for 2011/12.

In response to a query, the Fraud Manager explained that with regard to the number of successfully attained sanctions 2009/10 had been an exceptional year. He felt that, although fewer sanctions had been obtained in 2010/11, the year had been successful despite the disruptions of beginning a new shared service. He also noted that the Team was currently ahead of target for 2011/12.

Following a concern, the Fraud Manager responded that he felt the formal interview under caution procedure successfully deterred repeat benefit fraud offenders.

*Action 6: When the Constitution was next amended, the Corporate Resources Director undertook to update the Committee's Terms of Reference to take into account their extended remit with relation to Audit, Risk and Anti-Fraud.*

Resolved: That the contents of the report and work of the Benefits Fraud Investigations Team carried out in 2010/11 and the work proposed for 2011/12 be noted.

**15. PROPERTY REVIEW - DISPOSAL OF PUBLIC TOILETS (IDE HILL, KEMSING, LEIGH, SWANLEY)**

The Property Manager explained that as part of the Budget Process a number of public toilets had been closed to public use and were being considered for disposal. He noted that the situation with regard to the conveniences in Kemsing had recently changed due to a fire at the Wheatsheaf Public House which owned the land. Where possible, the Council sought to keep operation of the conveniences within the appropriate town/parish.

The Committee discussed each public convenience and the following comments were made:

Ide Hill Toilets

Resolved: That it be recommended to Cabinet that the Ide Hill public toilets and lay-by be transferred to the Parish Council at nil cost subject to any other conditions that the Council's legal advisors considered necessary to protect the Council's interests.

Wheatsheaf Car Park, Kemsing

The Property Manager explained that the Wheatsheaf Public House had the right to the land should they redevelop following a fire in the Pub.

Resolved: That, subject to any other conditions that the Council's legal advisors considered necessary to protect the Council's interests, it be recommended to Cabinet that the Wheatsheaf Car Park public toilets in Kemsing continue to be maintained by the Parish Council until it was known whether the Public House would be redeveloped, at which time the toilets be transferred to the Parish Council if appropriate.

Leigh Toilets

The local Member for Leigh explained in detail the situation of Leigh Primary School. She said that for some time the School had hoped to acquire the area which the toilets were situated in. She felt that there were opportunities to re-house the charity, Time to Talk, which currently occupied the site, but that the school did not have any further opportunities to expand and asked that Members give the school this opportunity.

The Committee discussed in detail the situation of the toilets, school, charity and whether it was within their remit to decide how the toilets were disposed of. The Property Manager noted that the policy for disposal of property did not take into account situations when two parties were in competition for a site. A Member felt that if the figure of the District Valuer was equal in relation to the two parties, that social benefit was a crucial factor in deciding the transfer. It

was noted that Time to Talk had a lease which was protected by the Landlord and Tenant Act.

Resolved: That, subject to any other conditions that the Council's legal advisors considered necessary to protect the Council's interests, it be recommended to Cabinet that the Leigh public toilets be transferred to Leigh Primary School at the District Valuers figure.

Public Toilets, Station Road, Swanley

Resolved: That, subject to any other conditions that the Council's legal advisors considered necessary to protect the Council's interests, the Public Toilets, Station Road, Swanley be offered to the Town Council at a negotiated figure to be agreed with the relevant Portfolio Holder and if this was not successful, to dispose of to the tenant at the District Valuers figure or by auction.

**16. CONSIDERATION OF EXEMPT INFORMATION**

Resolved: That under section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following item of business on the ground that likely disclosure of exempt information is involved as defined by the relevant paragraph as defined by Paragraph 3 of Schedule 12(A) to the Local Government Act 1972.

**17. ARGYLE ROAD OFFICES - ACCOMMODATION FOR MOAT HOUSING (EXEMPT)**

The Committee considered an exempt report relating to accommodation for Moat Housing at the Argyle Road Offices.

Resolved: To recommend to Cabinet that the capital reserves are used to provide office accommodation for Moat Housing on the terms and conditions detailed in the report and to such other conditions as the Council's legal advisors consider necessary to protect the Council's interests.

THE MEETING WAS CONCLUDED AT 9.45 pm

Chairman