

TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Audit Committee held at the Council Offices,
Gloucester Road, Tewkesbury on Wednesday, 25 September 2013 commencing
at 2:00 pm**

Present:

Chairman
Vice Chairman

Councillor A L Mackinnon
Councillor D J Waters

and Councillors:

Mrs K J Berry, Dr A L Carter, B C J Hesketh and A C Tugwell

also present:

Councillor Mrs J M Perez

AUD.13 ANNOUNCEMENTS

- 13.1 The Chairman welcomed Peter Barber, Engagement Lead, and Peter Smith, Audit Manager, both from Grant Thornton.
- 13.2 The evacuation procedure, as noted on the Agenda, was taken as read.

AUD.14 APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

- 14.1 An apology for absence was received from Councillor M G Sztymiak.

AUD.15 DECLARATIONS OF INTEREST

- 15.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 15.2 There were no declarations of interest made on this occasion.

AUD.16 MINUTES

- 16.1 The Minutes of the meeting held on 26 June 2013, copies of which had been circulated, were approved as a correct record and signed by the Chairman.

AUD.17 GRANT THORNTON PROGRESS REPORT

- 17.1 Attention was drawn to Grant Thornton's progress report, circulated at Pages No. 9-21, which set out the progress that had been made in relation to the audit plan together with any emerging national issues and developments that might be relevant to the Borough Council. Members were asked to consider the report.

17.2 Members were advised that all audits were complete but there was still some work to be undertaken on the certification and claims including housing benefits. This work would be completed in October before the submission deadline for audited claims. All that was left to do now was to issue the annual audit letter. This summarised the audit work undertaken and would be circulated to all Members of the Council.

17.3 Accordingly it was

RESOLVED That Grant Thornton's progress report be **NOTED**.

AUD.18 GRANT CERTIFICATION WORK PLAN 2012/13

18.1 Attention was drawn to Grant Thornton's grant certification work plan 2012/13, circulated at Pages No. 22-29, which set out how grant certification work was undertaken and which claims were being audited. Members were asked to consider the report.

18.2 The Audit Manager indicated that various grant-paying bodies required external certification of claims for grant or subsidy and returns of financial information. As the Council's appointed external auditor, Grant Thornton undertook grant certification work acting as an agent of the Audit Commission. He explained that each claim and return was audited and a certificate issued. The certificate would state that the claim was certified without qualification; without qualification but with agreed amendments incorporated by the Council; or with a qualification letter (with or without agreed amendments incorporated by the Council). Where a claim was qualified because the Council had not complied with the strict requirements set out in the certification instruction there was a risk that grant-paying bodies would retain funding claimed by the Council or claw-back funding which had already been provided or had not been returned. In addition, where claims or returns required amendment or were qualified, this increased the time taken to undertake the work which may impact on the certification fee.

18.3 The Audit Manager explained that the most significant claims and returns to be audited in 2011/12 were the housing and council tax benefit claim and national non-domestic rates return. The audit of the housing and council tax benefit claim was still ongoing and this would be reported to Members once it was complete. The national non-domestic rates return had been completed and no issues found.

18.4 Accordingly it was

RESOLVED That the grant certification work plan 2012/13 be **NOTED**.

AUD.19 FINANCIAL RESILIENCE REPORT

19.1 Attention was drawn to Grant Thornton's financial resilience report, circulated separately at Pages No. 1-30, which set out the value for money findings in respect of financial resilience work. Members were asked to consider the report.

19.2 Members were informed that Grant Thornton produced this report as part of its value for money conclusion work. The report demonstrated the evidence obtained to make the assessment and was produced on a red, amber, green basis; whereby red was high risk; amber had potential risks and/or weaknesses; and green was where arrangements met or exceeded adequate standards. The overall conclusion reached was that the Council had adequate arrangements in place to secure financial resilience.

- 19.3 The Audit Manager referred Members to Page No. 7 which set out the conclusions in the four areas of: key indicators of performance; strategic financial planning; financial governance; and financial control. Two of those areas, key indicators of performance and financial control, had been assessed as amber, which meant they were adequate but there was scope for improvement, and the other two were green. In terms of key indicators of performance, the main reason for the amber rating was the budget overspend for the last two years as it was considered that this did not demonstrate good performance. In addition, the sickness absence rate had not been on target. The financial control risk area looked at budgeting, savings, risk management and resourcing. This area was amber partly due to the impact of overspending in the last two years and also due to the fact that the risk register had not been submitted to Committee for review, although it was understood that this had subsequently been done. The audit also recognised the size of the Finance Team and the difficulty experienced in covering staff absences. The risk area in relation to strategic financial planning was rated as green. There were a couple of comments within the body of the report which related to the lack of public consultation on the 2013/14 budget and the fact that the Council needed to improve its scenario planning which it was hoped would negate the overspend on its budget. In terms of financial governance, overall there were strong arrangements in place which meant the risk was also rated as green.
- 19.4 Pages No. 8-11 set out the recommendations made in respect of each area of review along with the management response in each case. Grant Thornton was happy that it had sought responses and that the responses received were adequate to ensure improvements in future.
- 19.5 During the discussion which ensued, a Member felt that it should be noted within the report that the 2012/13 budget deficit had not been solely due to underperformance on savings targets but rather was largely due to a third party not following through on an agreed arrangement and this had not been within the control of the Council. In response, the Engagement Lead explained that inevitably things would change throughout the year after the budget had been set. However, he felt that the Council would benefit from improved scenario planning so that, if an element of the budget was not delivered, the Council had another option, or if there were year on year overspends, a more prudent approach was taken. In respect of the current financial year, the Finance and Asset Management Group Manager explained that in the first quarter the Council had been in line with budget predictions and the early indications for the second quarter suggested a small surplus. However, there was still a long way to go in delivering the more difficult elements of the savings plan. It was understood by Officers that any elements of the budget which involved a third party needed to be more clearly highlighted in future with the risks set out explicitly. Officers were currently working on problem solving and scenario planning and this would be submitted to Members in due course.
- 19.6 In addition to the concerns raised about the need to include a note that some of the previous deficit in the budget was due to the withdrawal of a third party, another Member also felt that somewhere within the report there should be reference to any areas that were due to a change in Government thinking. In response, the Engagement Lead indicated that the withdrawal of the Primary Care Trust's investment had been noted within the body of the report as this was a detailed point and had not been considered appropriate for inclusion within the Executive Summary, however he would be happy to look at this again should Members so wish. Members agreed that whilst this was a detailed point it was an extremely important point and accordingly it was

RESOLVED That Grant Thornton's financial resilience report be **NOTED** but that an amendment be made within the Executive Summary to make reference to the withdrawal of the Primary Care Trust's investment being one of the reasons that the Council's budget had been in deficit in the previous year.

AUD.20 GRANT THORNTON AUDIT FINDINGS 2012/13

- 20.1 Attention was drawn to Grant Thornton's report on its audit findings 2012/13, circulated separately at Pages No. 31-65. Members were asked to consider the report.
- 20.2 The Engagement Lead indicated that the purpose of the report was to highlight the key matters arising from the audit of the Council's financial statements for the year ended 31 March 2013; and also to report the audit findings to management and those charged with governance in accordance with the requirements of International Standards on Auditing 260. The audit was substantially complete although work was still being finalised in some areas. The key issues arising from the audit were identified as the financial statements opinion; the value for money conclusion; and the whole of Government accounts. In terms of the financial statements opinion, the audit had identified no material errors in the accounts. However, management had identified one misclassification error, which had been adjusted in the revised accounts, and the auditors had identified a small number of adjustments to enhance disclosures and the presentation of the accounts. It was anticipated that an unqualified opinion would be provided on the financial statements. In respect of the value for money conclusion, it was intended that an unqualified conclusion would be provided which stated that, in all significant respects, the Council had in place proper arrangements to secure economy, efficiency and effectiveness in the use of its resources. In terms of the whole of Government accounts, work on the audit was underway and would be completed in line with the national timetable. So far the auditors had been satisfied that that the return was consistent with the draft accounts.
- 20.3 The Engagement Lead confirmed that the auditors had received excellent communication with staff whilst undertaking the audits and that the draft accounts had been of very high quality. In terms of controls, particular attention was drawn to preliminary work on assessing the Council's IT controls which had identified some weaknesses regarding access controls, in particular the lack of reviews of access to Civica Financial, Revenues and Benefits and CHRIS HR/Payroll systems; consideration of whether network users had appropriate access rights; and the limited segregation of duties of the main administrators of the finance and payroll systems. Whilst these findings were fairly consistent with other Councils it was felt that there was scope to refine the access controls for IT systems and this was the suggestion made within the Action Plan at Page No. 57.
- 20.4 Accordingly it was

RESOLVED That Grant Thornton's audit findings for 2012/13 be **NOTED**.

AUD.21 LETTER OF REPRESENTATION

- 21.1 Attention was drawn to the Section 151 Officer's Letter of Representation on the closure of the accounts for the year ended 31 March 2013, which had been circulated at Pages No. 30-32. Members were asked to consider the Letter.

- 21.2 The Finance and Asset Management Group Manager indicated that he, as the Council's Section 151 Officer, was required to write a Letter of Representation to the external auditors which outlined the principles on which the accounts were based, and confirmed compliance with the Law, as well as disclosing any fraudulent activity that may have taken place. The Letter also confirmed that the Section 151 Officer had not played an active role in the production of the accounts and so could perform his Section 151 duties independently.
- 21.3 It was noted that the date at the end of the Letter was incorrect and the Finance and Asset Management Group Manager indicated that this would be amended. Accordingly it was

RESOLVED That the Letter of Representation be **APPROVED**, and signed by the Section 151 Officer, subject to the amendment of the date at the end of the Letter.

AUD.22 STATEMENT OF ACCOUNTS 2012/13

- 22.1 The report of the Finance and Asset Management Group Manager, circulated separately at Pages No. 66-185, asked Members to approve the 2012/13 Statement of Accounts.
- 22.2 The Finance and Asset Management Group Manager explained that the Statement of Accounts was a statutory document which was produced to demonstrate the Council's financial position at the end of the financial year. In line with the revised Accounts and Audit (England) Regulations 2011 guidelines, approval of the accounts was now made by the Section 151 Officer by 30 June then the accounts were audited and amended, if necessary, by 30 September before the Section 151 Officer signed the accounts again. Those accounts were then approved by the Audit Committee and the Chairman would sign them as well.
- 22.3 The headline issues were set out within the report at Paragraph 2.0 and Members were advised that an overspend of £1,510,000 had occurred due to the savings plans not being met and staff termination costs. The savings plans had not been met due to a combination of delays in implementation and the withdrawal of promised Government legislation on planning fees. This was contrasted against an underspend of £1,172,000 which left a total net overspend of £338,000. In terms of the balance sheet, the total net worth of the Council had decreased by £4.95 million in the year from £11.8 million to £6.9 million. The decrease in net worth was summarised in the Movement in Reserves Statement and the main reason was a £4 million increase in the pension reserve due to a less favourable set of financial assumptions than the year before. A full valuation of the Gloucestershire Pension Fund would take place towards the end of 2013. In respect of capital resources, the total balance, including capital grants, as at 31 March 2013 was £15,855,571. However, after allowing for commitments of £8,129,380 the unallocated budget available for new capital projects was £7,726,191. The Finance and Asset Management Group Manager thanked the Finance Team and the Chairman of the Audit Committee for their hard work in producing the Statement of Accounts and the Committee echoed these sentiments and asked that their thanks be given to the Finance Team.
- 22.4 In response to a query about the Pension Scheme, the Finance and Asset Management Group Manager explained that the actuary was currently looking at the pension fund. It was hoped the contributions would go down but this was unlikely to be the case. There were many scenarios that could change the contributions, and therefore the Council's budget, so this information would be crucial.

22.5 Having considered the report and information provided, it was

RESOLVED That the Statement of Accounts 2012/13 be **APPROVED** and that the thanks of the Committee be given to the Finance Team for their hard work in producing the Statement of Accounts.

AUD.23 ANNUAL GOVERNANCE STATEMENT 2012/13

23.1 The report of the Corporate Governance Group, circulated at Pages No. 33-52, set out the Council's Annual Governance Statement 2012/13 which Members were asked to approve.

23.2 In introducing the report, the Borough Solicitor explained that as a matter of best practice, the Annual Governance Statement was normally approved at the same time as the Statement of Accounts and was basically a description of the governance arrangements that the Council had in place for 2012/13. The report attempted to balance the things that the Council did well against those where improvements could be made and Page No. 51 set out those matters which it was felt needed to be addressed throughout 2013/14 so that the Council could report good governance arrangements in its next Statement. The 6 significant governance issues contained within the Statement included delivery of the 2013/14 savings programme; demonstrating effective procurement; delivering effective organisational and cultural change; effectiveness of governance framework to support the new organisational structure; demonstrating effective business continuity; and maintaining adequate health and safety arrangements.

23.3 During the discussion which ensued, a Member noted that reference to the Budget Working Group should be changed to Budget Working Groups as there were now two rather than just one. In addition, a Member referred to Paragraph 4.3.1, Complaints, and indicated that it would be helpful to include the number of complaints received in the previous year as that would allow a comparison and it could be established whether the number had increased or decreased. Referring to the significant governance issues, Members questioned how the Council would deliver effective organisational and cultural change and whether it would be possible to monitor how the Council made money as well as the savings plans. In response, the Borough Solicitor indicated that the Business Transformation Working Group would be looking at organisational and cultural change within the development of the Business Transformation Strategy. In terms of the savings plan, this was raised as a significant governance issue due to the fact that it had not been delivered in its entirety in previous years. The Budget Working Group would be monitoring this and the Corporate Governance Group would periodically review progress of this and other significant governance issues. In terms of income raised, this would be a matter for inclusion within the main body of the report as it would be something that the Council did well. This was certainly something that could be monitored.

23.4 Accordingly it was

RESOLVED That the Annual Governance Statement 2012/13 be **APPROVED**.

AUD.24 UPDATE ON PLAYGROUND INSPECTIONS AUDIT

24.1 The report of the Finance and Asset Management Group Manager, circulated at Pages No. 53-56, updated Members on the implementation of a playground management and inspection scheme. Members were asked to consider the update provided.

- 24.2 In introducing the report, the Asset Manager indicated that an audit of playgrounds had found a number of areas where it was felt improvements could be made to ensure play equipment was safe and fit for purpose and that litigation risks were reduced. Following visits to all sites, and in line with BS EN 1176:2008, risk assessments had been completed to establish the frequency of visits needed based upon location, repair history and the risk of injury from the equipment on the site. This had reduced the number of inspections in a majority of sites to one inspection per week therefore reducing resources required for inspections. A service level agreement had been developed and agreed between Property Services and Environmental Health to provide weekly and quarterly routine and operational inspections. In addition, an annual inspection would be undertaken by an independent body. The risk inspection programme and risk assessment process categorised repairs from very low risk to high requiring immediate attention and this gave clear work programmes, objectives and timescales for the Property Team to provide safe play equipment.
- 24.3 Referring to a playground in Tudor Mead, Churchdown, a Member indicated that the Parish Council already undertook an annual inspection in that area. In response, she was advised that the playground was only under licence to Churchdown Parish Council and as such the Borough Council still had a duty of care in that regard. The Asset Manager had spoken to the Parish Clerk and had indicated that the Borough Council would still need to organise annual independent inspections to meet the requirements placed upon it.
- 24.4 Accordingly it was
- RESOLVED** That the update on the implementation of a playground management and inspection scheme be **NOTED**.

AUD.25 INTERNAL AUDIT PLAN MONITORING REPORT

- 25.1 The report of the Policy and Performance Group Manager, circulated at Pages No. 57-72, summarised the work undertaken by the Internal Audit Team for the period April-August 2013. Members were asked to consider the report and the assurance given on the adequacy of internal controls operating in the systems audited.
- 25.2 The Policy and Performance Group Manager explained that the report was overall a positive one with no unsatisfactory levels of control found. The audits completed included National Fraud Initiative; Data Quality; Planning Fees; Housing Benefit Debtors; Recycling; and Land Charges. A number of follow-up audits had also been undertaken which included One Legal; Out of the Hat; and the Business Grant Scheme. All recommendations from the previous audits had been found to have been implemented except one at the Out of the Hat Shop which was to be addressed with an appropriate programme of stock taking being introduced based on the cost value of the items involved.
- 25.3 In terms of corporate improvement work, Members were advised that a pot of days to undertake this work had been included within the 2013/14 internal audit plan and so far work had been undertaken on business continuity and the tree inspection programme. In respect of business continuity, the update of the corporate business continuity plan had been completed during the audit period. The plan had been presented to the Audit Committee in June for comment and had subsequently been approved by the Executive Committee. It was anticipated that the Internal Audit Team would now help review and update individual service continuity plans. In relation to the tree inspection programme, the Internal Audit Team had helped to develop a Tree Management Policy on behalf of the Environmental Services Manager and this had been approved by the Executive Committee in October 2012. The Grounds Maintenance Team was to have carried out inspections of all high risk locations by March 2013 but there had been slippage in the programme and a

programme would now be implemented to ensure delivery by March 2014. The Policy and Performance Group Manager understood that this issue was of concern to Members and he indicated that when the final audit report was brought to Members he would ensure the up to date position on the tree inspection programme was provided.

25.4 Accordingly it was

RESOLVED

1. That the audit work undertaken, and the assurances given on the adequacy of internal controls operating in the systems audited, be **NOTED**.
2. That, when Members received the final audit report, an update would be provided on the tree inspection programme.

AUD.26 REGULATION OF INVESTIGATORY POWERS 2000 (RIPA)

- 26.1 The report of the Borough Solicitor, circulated at Pages No. 73-99, updated the Committee on the changes to the Regulation Investigatory Powers Act 2000 (RIPA) and codes of practice; summarised the new duties and responsibilities the legislation placed on Local Authorities, Officers and Members; and recommended amendments to the procedural guide to meet those. Members were asked to consider the amended RIPA procedural guide and recommend it to the Executive Committee for approval; to approve the designation of the Borough Solicitor and Monitoring Officer as the Council's Senior Responsible Officer for the purposes of RIPA; and to note the Office of Surveillance Commission inspection due on 21 November 2013.
- 26.2 The Borough Solicitor indicated that RIPA provided the legal framework for the control and regulation of surveillance and information gathering techniques which public authorities undertook as part of their duties. The use of covert surveillance by the Council was rare and since 2010 the Council had not undertaken any covert surveillance or information gathering techniques that would fall under the scope of RIPA. However there may be cases, such as benefit fraud cases, where the use of such surveillance was both necessary and proportionate and it was therefore necessary for the Council to have an up to date procedural guide to ensure that Officers complied with RIPA requirements.
- 26.3 The Home Office had carried out a review of Counter-Terrorism and Security Powers and the Outcomes were included in the Protection of Freedoms Act 2012. That Act had changed the Council's RIPA Powers, most notably that approval was now required from the Magistrates Court before any authorisation granted by authorised officers within the Council could take effect. In addition, urgent oral authorisations were no longer available and RIPA directed surveillance could only be authorised when the offence carried a maximum custodial sentence of 6 months or more or the offence related to underage sales of tobacco and alcohol. Referring to the list of designated officers, contained at Page No. 92, the Borough Solicitor advised that she would like to amend that list so that only those most likely to require use of the powers were included. This would mean the removal of the Development Services Group Manager, the Business Transformation Group Manager and the Policy and Performance Group Manager.
- 26.4 During the brief discussion which ensued, a Member questioned when the Council might need to undertake covert surveillance. In response, the Borough Solicitor indicated that often this would apply to cases of benefit fraud or breaches of licensing etc. However, most of the Council's information gathering was done overtly so the covert surveillance powers were rarely used. The Council had Fraud Investigation Officers and they would carry out the surveillance if authorised and this could involve following people or using strategically placed CCTV etc. In terms of the time it would take for a Magistrate to authorise surveillance, Members were

advised that this could be done very quickly and as such should not cause a problem in terms of timing. Another Member questioned whether the phrasing used within the Policy should be 'authorised' or 'authorising'. In response, the Borough Solicitor indicated that she would ensure the Policy was checked and was consistent before it was circulated to the Executive Committee.

26.5 Having considered the report, it was

RESOLVED

1. That the amended RIPA Procedural Guide, as set out at Appendix 1 to the report, be **RECOMMENDED TO EXECUTIVE COMMITTEE** for **APPROVAL**, subject to the Guide being checked for consistency in terms of the use of 'authorising' and 'authorised'; and the Development Services Group Manager, the Business Transformation Group Manager and the Policy and Performance Group Manager being deleted from the list of designated officers.
2. That the Borough Solicitor and Monitoring Officer be designated as the Council's Senior Responsible Officer for the purposes of RIPA.
3. That it be **NOTED** that the Office of Surveillance Commission would undertake an inspection on 21 November 2013.

AUD.27 REVIEW OF DATA PROTECTION POLICY

27.1 The report of the Borough Solicitor, circulated at Pages No. 100-117, asked the Committee to consider, and to recommend to the Executive Committee, any changes to the revised Data Protection Policy; and to note the Personal Data Investigation Guidance Notes which would assist Officers to investigate potential breaches of the Data Protection Act 1998.

27.2 The Borough Solicitor explained that, since the adoption of the current Policy in 2002, the Information Commissioner had introduced robust monitoring processes and had increased the level of enforcement against Local Authorities and, in view of those changes, it was felt prudent to develop guidance notes for Officers to assist them in the event of a potential breach of the Data Protection Act. The Policy itself only required minor changes and those were set out within the Policy attached to the report at Appendix 1.

27.3 Over the last 3 years, only one formal complaint had been made to the Information Commissioner about the Council and the complaint related to the manner in which personal data had been made available to the complainant/data subject. The data subject had requested copies of her personal data and the Council had decided, given the quantity of the data, to make her personal data files available at the Council rather than copying the contents of each file. The information Commissioner had found against the Council on the basis that the data subject's request was reasonable. The personal data had accordingly been copied and provided to the data subject as required.

27.4 Accordingly it was

RESOLVED

1. That the revised Data Protection Policy, as set out at Appendix 1 to the report, be **RECOMMENDED TO COUNCIL** for **ADOPTION**.
2. That the Personal Data Investigation Guidance Notes, as set out at Appendix 2 to the report, be **NOTED**.

AUD.28 TIMING OF FUTURE MEETINGS

28.1 A Member indicated that she had asked for this item to be placed on the Agenda as a number of Members found it difficult to attend the meeting at the usual time of 2.00pm. A brief discussion ensued whereby different views were raised but it was decided that the start time of the meeting should remain at 2.00pm.

28.2 Accordingly it was

RESOLVED That the meeting continue to commence at the usual time of 2.00pm.

The meeting closed at 3:40 pm