

Minutes

REGULATORY AND AUDIT COMMITTEE

MINUTES OF THE MEETING OF THE REGULATORY AND AUDIT COMMITTEE HELD ON WEDNESDAY 28 JANUARY 2015 IN MEZZANINE ROOM 2, COUNTY HALL, AYLESBURY, COMMENCING AT 9.00 AM AND CONCLUDING AT 11.15 AM.

MEMBERS PRESENT

Mr T Butcher (Vice-Chairman)
Mr D Martin
Mr Z Mohammed (Chairman)
Mr R Scott
Mr A Stevens
Mr W Whyte

OTHERS IN ATTENDANCE

Mr J Chilver
Mr I Dyson, Chief Internal Auditor
Ms J Edwards, Pensions and Investments Manager
Ms M Gibb, Risk and Insurance Manager
Mrs C Gray, Committee Adviser
Mr F Hafeez, Grant Thornton
Mrs C Lewis-Smith, Principal Pensions Officer
Mr M Preston, Assistant Service Director (Finance Centre of Expertise)
Mr R Schmidt, Assistant Service Director (Strategic Finance), Assistant Service Director (Strategic Finance)
Mr M Ward, Assistant Manager - Audit, Grant Thornton

1 APOLOGIES FOR ABSENCE / CHANGES IN MEMBERSHIP

Mr B Chapple and Mr R Khan gave apologies for this meeting.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 MINUTES

The Minutes of the Meeting held on 13 November 2014 were agreed as a correct record.



INVESTOR IN PEOPLE



4 TREASURY MANAGEMENT STRATEGY

The purpose of this report is for the Regulatory and Audit Committee to consider the Council's Annual Treasury Management Policy Statement, Treasury Management Strategy Statement, Annual Investment Strategy and the Minimum Revenue Provision Policy Statement for 2015/16, together with the Prudential Indicators for the next three years before it is submitted to Council at its meeting on 12 February 2015.

John Chilver made the following points:-

- The Council's treasury portfolio position as at 31 December 2014 comprised of £44 million of net investments.
- Arlingclose forecasts the first rise in official interest rates in August 2015 and a gradual pace of increases thereafter, with the average for 2015/16 being around 0.75%. Arlingclose believes the normalised level of the Bank Rate post-crisis to range between 2.5% and 3.5%. The risk to the upside (i.e. interest rates being higher) is weighted more towards the end of the forecast horizon. On the downside, Eurozone weakness and the threat of deflation have increased the risks to the durability of UK growth. If the negative indicators from the Eurozone become more entrenched, the Bank of England will likely defer rate rises to later in the year. The Bank of England Base Rate, the official base rate paid on commercial bank reserves, has been 0.5% since March 2009.
- The Council may borrow £15m in advance of need during 2015/16 and a further £15m in 2016/17. The Council will be repaying £10m of Public Works Loan Board borrowing on 14 February 2015, a further £11.732m PWLB borrowing will be repaid during 2015/16.
- The Council will be borrowing £36m on behalf of the Thames Valley Local Enterprise Partnership (LEP) for Aylesbury Eastern Link Road.
- Local Capital Finance Company was established in 2014 by the Local Government Association as an alternative to the PWLB. It plans to issue bonds on the capital markets and lend the proceeds to local authorities. This Council has not committed resources to investing in the company, which offers potential borrowing alternative for the Council. Any decision to borrow from the Agency will be the subject of a separate report to the Council.
- The Authority may, from time to time, borrow in advance of need, where this is expected to provide the best long term value for money. Since amounts borrowed will be invested until spent, the Authority is aware that it will be exposed to the risk of loss of the borrowed sums, and the risk that investment and borrowing interest rates may change in the intervening period. These risks will be managed as part of the Authority's overall management of its treasury risks.

During discussion the following points were noted:-

- A Member referred to prudential indicators and changes which had been proposed to Cabinet following a meeting of the Business Investment Group. The Future Shape Board had discussed revisions to the Financial Regulations and having a commercial approach allowing the Cabinet Member for Finance and Resources further flexibility. In year variations were not normal and it was important that the authority had enough headroom.
- A Member asked about funding the energy from waste plant. In response it was noted that this may require additional borrowing during 2016/17, although in practice much of this may be financed through a combination of earmarked reserves and current cash investments.
- There were no current investments in Greece.

RESOLVED

The Committee RECOMMEND to Council the Treasury Management Policy Statement, Treasury Management Strategy Statement, Annual Investment Strategy and the Minimum Revenue

5 DEBT MANAGEMENT STRATEGY

Mark Preston presented the report on the Debt Management Strategy which forms part of the Annual Governance Statement Action Plan. The Strategy will provide the overall framework for debt management but each Business Unit will develop their own specific strategies that reflect how the Business Unit will discharge its debt management responsibilities.

The Council took proactive action in terms of recovering debt. Default payment terms are 30 days and therefore service areas should make every effort to ensure that all debts are collected promptly. However, if the debt remains outstanding for more than 90 days, then the debt will automatically be referred to the Shared Services Business Unit for recovery unless there is a good reason why the debt remains outstanding. Training was being developed and the Strategy will be reviewed on an annual basis.

During discussion the following points were noted:-

- A Member stated that he thought that the two different types of debt should be separated and clarified whether debt from residents should be treated differently from commercial companies. The Assistant Head of Finance reported that debt should be treated in the same way and not written off lightly but there would be a different approach in terms of customer care particularly relating to social care. The Member suggested that this should be approached differently in the Strategy.
- Reference was made to point that debts under £5,000 could be written off by the relevant Service Director and over £5,000 needs additional approval from the Director of Assurance and the Monitoring Officer. There should be further detail on the different types of debt and whether it was significant.
- A Member asked for a quarterly report on all debt written off being submitted to this Committee. The level of outstanding debt will be reported to Cabinet on a quarterly basis. The Cabinet Member would look at debt relating to their portfolio. The Chief Internal Auditor reported that if the amount of debt written off exceeded the expected amount the Committee could request a report at that point.
- A policy would be written about writing off debt.
- Would debts be sold? The Assistant Head of Finance reported that if some debts were difficult to recover they could be bundled together and sent to an external organisation to administer. The longer a debt remained the more difficult it become to recover.
- What was the process for debt? An invoice was sent with a reminder letter followed by a legal letter. Processes would be enhanced to maximise recovery. Some debt could be tied against property.
- The total debt outstanding could run into millions as this was a big organisation. A Member commented whether this was reported in the Annual Accounts.
- Energy needed to be focused on debt.
- A report would be submitted to this Committee in a year's time to review the effectiveness of the Strategy. This would be included in the Forward Plan for January 2016.

The Regulatory and Audit Committee noted the report which would be submitted to the Cabinet Member for Finance and Resources for approval.

6 LOCAL GOVERNMENT PENSION SCHEME (LGPS) - LOCAL PENSION BOARD

Claire Lewis Smith attended the meeting to inform Members about the requirements for an administering authority to establish a Local Pension Board by 1 April 2015 set out in the Local Government Pension Scheme (Amendment) (Governance) Regulations 2014. The Board must ensure the effective and efficient governance and administration of the Scheme and the remit of the Board should be interpreted as covering all aspects of governance and administration of the LGPS, including funding and investments.

The draft terms of reference should be approved by full Council and the Board will consist of four employer representatives and four member representatives. The appointment of Board Members will be via an open and transparent recruitment process with a role specification. The Board will meet three times a year with the quorum being one half of the total number of members and must consist of two employer and two member representatives. There would be training for Board Members. The Board would report annually to the Regulatory and Audit Committee and to the Pension Fund Committee via minutes after each Board Meeting.

During discussion the following points were noted:-

- A Member emphasised the importance of proper training for Board Members. He asked whether the Board had a purely administrative function or whether they could be involved in investment decisions. In response it was noted that the Pension Fund Committee would make investment decisions through advice from their Managers but the Board would have a role in ensuring the effective and efficient governance and administration of the LGPS, including funding and investments.
- A question was asked about the three year term as Members were elected for four years. He also commented that the draft terms of reference were too specific about meeting on a weekday between 10am and 12 noon.
- Another Member expressed concern that this Board was adding another layer of bureaucracy as it was not making decisions on the Pension Scheme. He emphasised the importance of the Board providing value for money and not creating unnecessary extra work. In response it was noted that there was a small allowance for representatives available but this could not be claimed if they were employees or Members of an organisation participating in the administering authority's pension fund. The Chairman of the Board would be paid an allowance (£3,785) which was similar to allowances paid to other Chairmen. There would only be three meetings a year. The current Consultative Committee looks at quarterly statistics, benchmarking and customer service issues. The new Board would have a 'scrutiny' function.
- An independent Chairman could be appointed. If the Chairman was an employee representative they would still be paid an allowance. A Member emphasised the importance of having an independent Chairman to give the Board opportunity for external scrutiny. Another Member expressed concern about an independent Chairman and the need to have expertise in the field, which could cost a considerable amount of money.
- The costs of administering the Board would come from the Pension Fund not the taxpayer.
- The Board's terms of reference should be reviewed annually.

The Regulatory and Audit Committee note the report, dissolved the Pension Fund Consultative Group and approved the establishment of the Local Pension Board, its composition, its code of conduct and its terms of reference in accordance with its constitution for submission to full Council.

7 UPDATE REPORT ON ACADEMIES, BLT, SEN AND AMEY CONTRACT

Chris Munday, Service Director Learning and Skill informed Members that the Parliamentary Select Committee had published a report that academies had been raising standards but he commented that the evidence in Buckinghamshire was mixed. He made the following points:-

- The Council was responsible for the deficit of academies and one school had a substantial deficit on transfer.
- The Council was required to pay for the deficit and resources had been set aside from the dedicated schools grant.
- No further risks had been identified.
- There were savings targets for next year and the year after which was challenging for schools as well as the Council.

In relation to Amey:-

- The Notice to Improve was still in place but progress had been made.
- There was still some concern around safeguarding issues and it would be premature at this point to remove the Notice.
- A new set of targets had been set which were not agreed by Amey and they were continuing to have discussions at a senior level.

In relation to SEN they had recruited some new Educational Psychologists and they were more confident that risks were mitigated. It was difficult to attract Educational Psychologists and match salaries in the national market. They were a key part of the statutory function.

There had been 130% increase in referrals since the introduction of education plans which should reduce.

The Chief Executive of Bucks Learning Trust had left the organisation which was now being run by the Director of Education. They had published the first year of their accounts and their performance was being closely monitored which was generally good. It always took some time for new organisations to get up and running. They had a clear business continuity plan.

During discussion the following points were raised:-

- What are the financial implications if Amey continue to not improve? Chris Munday reported that they had already given up their management fee since October to January which was starting to affect them financially. They had given the management fee up on a voluntary basis. Amey have also compensated individual schools that have been impacted by performance, this was a small amount of funding. An apology had been received from Amey and the Council had saved money. They were working with Amey to address any outstanding problems.
- In response to a question asked about Educational Psychologist they were in short supply because they were highly qualified with a teaching qualification and a Psychology doctorate. There was no short term fix to address the deficiency in supply except to look at the attractiveness of working for the Council which included salary and terms and conditions. If they could not recruit they would have to pay agency workers which would be expensive for the Council. If this position continued there would be a risk and early action would be taken to address this issue.
- A Member asked if the annual accounts for BLT were available. Richard Schmidt reported that they were tabled at the Education, Children Services and Skills Select Committee recently. A Member asked that they be circulated to all County Councillors.

- Chris Munday was asked whether he was happy that performance was on track and that control mechanisms were in place. He responded positively and that the requirements of the business case had been met.
- There were two vacancies in the BLT and Chris Munday was working with the Cabinet Member to fill those posts.
- Ian Dyson expressed concern about the safeguarding issues relating to Amey and asked how risk was escalated. Chris Munday reported that risk was escalated to the Director and then the Safeguarding Board.

The report was noted and this item would be revisited in nine months time.

8 CONTRACT MANAGEMENT APPLICATION/ COMPLIANCE REPORT

Tricia Hook Senior Procurement Manager provided an update summary in relation to compliance with the Council's Standing Orders relating to Contracts and compliance with the use of the Council's Corporate Contract Management Application. Members noted that the volume of exemptions had reduced which related to the change to thresholds in the Constitution.

The Contract Management Application went live in September 2014 and Contract Managers are in the process of uploading contract information into the system. The focus to date has been on Platinum and Gold contracts. This system should further reduce the need for exemptions. Legal Services have worked in conjunction with the Chief Internal Auditor to clarify some of their advice in relation to managing the exemption process in circumstances where the value of the Contract to be exempted is in excess of the EU Threshold for goods and services (currently £173k). As a result of this advice service areas were advised that exemptions for contracts over this value are not permitted, regardless of the type of service in question.

There will be occasions when a service area does not comply with EU Procurement Regulations and a Breach will occur. Any such Breach must now be reported to the statutory officers group who will advise on the potential consequences for the organisation.

During discussion the following points were noted:-

- Ian Dyson commented that there had been confusion over EU Regulations and the use of exemptions and the challenge was the issue of compliance over low EU Regulations and no exemption from the law. It was now the responsibility of the Monitoring Officer and the Section 151 Officer to take appropriate action to correct that situation.
- Members noted Part B services are those to which the full weight of the EU Procurement Regulations do not apply and include most social care and Public Health functions. Ian Dyson reported that there was some ambiguity over the advice given in this area.
- A Member asked what penalties would be imposed on the event of a breach. The Statutory Officers Group would take legal advice and the EU could undertake an investigation into the breach. The Council would need to focus on the higher value/profile contracts which would tend to lead to more major breaches. The EU could impose sanctions and stop the contract being awarded.
- The reason for exemptions sometimes related to lack of resources and planning so that tenders were not submitted in good time. Some markets may also not be ready to bid in a competitive way.

Contract Management Application

The Contract Management Application was now producing reports for meetings such as the One Council Board. However, there were still some gaps in the system. Members find the Dashboards very informative and give a good overview of the commercial partnerships. 100 officers were now trained on contract management and are using the system to manage the contract more effectively.

During discussion the following questions were asked:-

- Members were informed that the CMA was being used for the Ringway Jacobs contract. This was one of the first contracts to be inputted because of its high value, statutory importance and profile.
- There were expert service users in each area and they met together as a Group to develop the system. There was training to familiarise staff with the new system.
- Each time a report was issued the information was becoming much more complete.
- Information could be extracted from the system and there was a forward plan in place for contract renewals.
- A Member asked if all the information would be inputted by April for the Future Shape go live. It was important for Business Units to use this system from the start. Tricia Hook reported that every effort would be made to do this but all Platinum and the majority of the Gold contracts were on the system. Bronze contracts would not be entered on the system as they are often short lived and there was no active contract management issues linked to them. The Member emphasised the need for a strong message to go out to officers to ensure that the information was up to date for each service area before April 2015.
- Would there be no overview of Bronze contracts? Tricia Hook reported that there would be of some Bronze contracts but most of them related to maintenance contracts which were for a short period of time and there would be no value in entering them into the system. Any ongoing contracts would be put on the system.
- Ian Dyson reported that this was an assurance tool and would provide targeted information on what contracts were not performing well and when they should be renewed.
- Could the system produce an overall report on which contracts were not performing well? Tricia Hook reported that this was not possible but there was an ability to drill down into individual contracts. They were however looking at this issue in the next phase of development to exploit the enhanced functionality.
- A discussion was held about partial access to the system, for example this system had not been made available to Amey. The reason for this was for contract managers to have visibility across the board to understand how each service area was operating, information on similar services and suppliers. They had not envisaged allowing contractors to use the system.
- Members asked for a report back on which contracts were outside of the system such as Amey administration contracts, other major contracts and Capital Projects.
- If there were any concerns this could be fed into the Annual Governance Statement.

A further report was requested for mid June 2015.

9 INTERNAL AUDIT PROGRESS REPORT

Ian Dyson Chief Internal Auditor gave a progress report and informed Members that it had been necessary to amend the audit plan due to available resources. As planned the 170 outsourced audit days from Mazars have been committed and their work commenced during November 2014. A new full time Senior Auditor joined the Team in November. He would present a draft report for Members at the next meeting for 2015/16. They would need to look at Section 256 monies and speak to the Finance Business Partner for Adults and Family Wellbeing and also look at SAP roles and access permissions.

Preliminary discussions have started with the Managing Directors of the Business Units to plan the Assurance Framework activity to be carried out during Q4.

The audit of Treasury Management concluded 'substantial' assurance as there is a strong system of internal control in place and risks are being managed effectively. The review of the system of assurance to the Chief Finance Officer in relation to financial management in Schools has been delayed following the change in personnel. This is on track to be completed by end of March 2015. Detailed risk assurance reviews have been carried out for the Bucks Law Plus and Care Act Projects. The summary by Directorate of status of management actions was attached as an Appendix to his report. There are six high priority actions outstanding from the 2013/14 AFW of which 3 have exceeded the revised completion dates. There is one high priority action from the 2011/12 Contract Management Transport for Bucks audit – this action has a revised completion date of October 2014 and has been revised further to 31 January 2015. There are three High Priority actions in CYP relating to the SEN audit in 2012/13 that remain open which have exceeded their revised completion date.

In terms of investigations the Council has received an FOI request and complaint regarding a planning decision. The investigation at the Registrar's Office has concluded and the intention was to recover the money through the individual's pension, but they had opted out. They are now seeking alternative ways to try and recover the money through civil action. A whistleblowing allegation received alleging the sharing of personal data was reopened after a second case was reported. An employee was loading false clients on to the system. The employee was dismissed.

During discussion the following points were made:-

- A Member expressed concern about the number of audits that had been deferred and whether the Plan should be reviewed. Ian Dyson commented that it was not ideal but his Team had to spend 60-70 days on a fraud case which was unplanned. In addition 50 days was spent on the payment to providers audit.
- There were skills and resources available to look at Contract Management and Commissioning even though it was a complex area.
- Reference was made to the Counter Fraud exercise and the result of the Audit Commission's matching exercise. He asked if there would be any financial implications. Ian Dyson reported that this would not impact on internal audit resources but may impact on the service area where it originated. Ongoing checks should be carried out within the resources available.
- A bid had been made to CLG for money to combat fraud. CLG were looking for initiatives that involved collaborative working such as with District Councils to create a fraud expert. The bid had not been successful. Fraud was a national problem. The bids had been approved on a random basis – one Authority had received £1million. BCC had made a bid of £75,000.
- In response to a question it was noted that Mazars had replaced Deloitte's.

The report was noted.

10 UPDATE ON RISK AND ASSURANCE STRATEGY

Maggie Gibb Risk and Insurance Manager gave a presentation on the Risk and Assurance Strategy making the following points:-

- The new Operating Framework was in place and the new Headquarters would look at strategic risk and the most appropriate way to escalate risk.

- The Chief Internal Auditor and herself were facilitating workshops to support and challenge the Business Units in the design of their control and assurance frameworks under the Future Shape model and will be providing a tool to enable the critical services and activity assurance data to be captured, monitored and reported.
- She had shared the new approach to the Assurance Framework with the Chief Officers Management Team, Risk Management Group and Leadership Group using best practice from CIPFA.
- They were looking to appoint a Business Assurance post and appointments would be carried out shortly. An Awayday was also planned.
- A workshop was being held with Transport, Economy and Environment on 13 February and Shared Services and HQ at the end of February.
- The draft Strategy should be available on 15 April 2015.
- Toolkits would be available at the end of March 2015.
- In terms of accountability there would be the Regulatory and Audit Committee, the Risk Management Group, One Council Board and Member and Officer Risk Champions. There were corporate leads for the Assurance Function.
- The RAG status would be used to ensure that the assurance provided was adequate.

During discussion Members made the following points:-

- That the presentation slides be circulated.
- Maggie Gibb reported that information would be circulated to all Managing Directors first for comment before being submitted to Members.
- There were a number of new risks with the development of Business Units but these could be controlled through the Assurance Framework. The new processes and controls were robust.
- There had been a fundamental change with the new Operating Framework and there could be an increase in non-compliance. Therefore it was important to have a Strategy in place to act quickly so that any concerns could be identified and addressed. The governance process needed to be transparent.

The report was noted.

11 RISK MANAGEMENT GROUP UPDATE REPORT

Maggie Gibb Risk and Insurance Manager gave an update on the Risk Management Group meeting on 9 December 2014 which covered the energy from waste risks, transformation and the new Shared Services Business Unit and TEE Business Units.

Members noted that risks had also been a key theme running through Budget Scrutiny which had met in January 2015. A Member asked if Risk Management papers could be sent earlier to Members.

The report was noted.

12 FORWARD PLAN

The Forward Plan was noted and the following changes were made:-

April

- Add - Risk and Assurance Strategy /Draft Assurance Framework
- Add - Risk Management Group Update
- There would be an external audit briefing for Members on this date. A private session would be held to look at good practice.

June

- Add Contract Management Application and Exemptions
- Move to November – Update on Amey contract, Academies etc

Jan 2016

- Debt Management Strategy

13 DATE AND TIME OF NEXT MEETING

15 April 2015 at 9am – Mezzanine Room 2

14 EXCLUSION OF THE PRESS AND PUBLIC

The press and public were not excluded.

15 CONFIDENTIAL MINUTES

The Confidential Minutes of the Meeting held on 13 November 2014 were agreed as a correct record.

16 CONFIDENTIAL APPENDICES RELATING TO THE INTERNAL AUDIT PLAN PROGRESS REPORT

The Confidential Appendices were noted.

CHAIRMAN