

MAIDSTONE BOROUGH COUNCIL

AUDIT COMMITTEE

MINUTES OF THE MEETING HELD ON 21 MARCH 2011

Present: Councillor Horne (Chairman) and
Councillors Butler, Nelson-Gracie, Mrs Smith and
Warner

Also Present: Mr Steve Golding and Ms Emily Hill –
Audit Commission

77. APOLOGIES FOR ABSENCE

There were no apologies for absence.

78. NOTIFICATION OF SUBSTITUTE MEMBERS

There were no Substitute Members.

79. NOTIFICATION OF VISITING MEMBERS

There were no Visiting Members.

80. DISCLOSURES BY MEMBERS AND OFFICERS

There were no disclosures by Members or Officers.

81. DISCLOSURES OF LOBBYING

There were no disclosures of lobbying.

82. EXEMPT ITEMS

RESOLVED: That the items on the agenda be taken in public as proposed except that any questions relating to delays in the Maidstone Museum East Wing project construction programme should be taken in private as to discuss these matters in public could prejudice the Council's position in any proceedings to recover additional costs.

83. MINUTES OF THE MEETING HELD ON 17 JANUARY 2011

RESOLVED: That the Minutes of the meeting held on 17 January 2011 be approved as a correct record and signed.

84. MATTERS ARISING FROM THE MINUTES OF THE MEETING HELD ON 17 JANUARY 2011

Minute 67 – Implementation of IFRS in Local Authority Accounts

The Chairman advised the Committee that a response was awaited to the representations he had made to the House of Lords Select Committee on Economic Affairs which was undertaking a review of the effectiveness of IFRS.

85. REVIEW OF THE BUSINESS TRANSFORMATION PARTNERSHIP - UPDATE ON THE RESPONSE TO THE COMMITTEE'S FINDINGS AND RECOMMENDATIONS

The Head of Business Improvement updated the Committee on the response to the findings and recommendations arising from the review of the Business Transformation Partnership undertaken by the Sub-Group. It was noted that:-

- The findings of the review had been referred to the Leader of the Council and Cabinet Members who had raised a number of queries. At the request of the Leader of the Council, the Head of Business Improvement and the Chairman of the Committee had attended the Cabinet Away Day on 23 February 2011 to discuss the findings and recommendations.
- The Director of Regeneration and Communities, as Section 151 Officer, had referred the findings of the review to colleagues in the other MKIP authorities, but no comments had been received to date.
- The recommendations to the MKIP Programme Board had been endorsed by the Board at its meeting held on 28 January 2011 and would be taken into account by the Officers working on the current reviews of the Legal Services Partnership delivery model and future ICT delivery across MKIP.

RESOLVED: That the position be noted and that the Committee be kept informed of developments in relation to partnership working.

86. ELECTRONIC TENDERING - AMENDMENT TO CONTRACT PROCEDURE RULES

The Committee considered a report by the Assistant Director of Environment and Regulatory Services setting out a suggested amendment to the Contract Procedure Rules within the Constitution arising out of the introduction of electronic tendering.

It was noted that following the purchase of an electronic tendering system, the procedure for the submission of tenders required minor changes to be made to the Contract Procedure Rules within the Constitution to ensure compliance. The proposed amendment related to the deletion of the specific reference to an email address as the new system was web-based. It was the intention that the new system would be used for the submission of tenders in respect of contracts in excess of £75,000.

The Committee asked a number of questions of the Officers relating to, inter alia, the arrangements for storing, opening and recording the tenders; the safeguards in place; and the possibility of smaller businesses being disadvantaged by the new system.

Having received replies to its questions, the Committee:-

RESOLVED:

1. To RECOMMEND to the Council: That the Contract Procedure Rules within the Constitution be amended by the deletion of Rule 11.3 and the insertion of the following:-

11.3 Where the Council has indicated in the Invitation to Tender that a tender can or must be submitted electronically, then those tenders shall be:

- 11.3.1** in the format specified in the Invitation to Tender
- 11.3.2** stored securely with a secure method of opening
- 11.3.3** retained unopened until the date and time specified for their opening

2. That the Standards Committee be requested to evaluate the proposed amendment to the Contract Procedure Rules prior to it being considered by the Council.
3. That the Officers be requested to submit a short report to the Audit Committee in six months time setting out any issues arising from the first six months of e-tendering, including any concerns raised by local traders about using the system.

87. TRAINING FOR AUDIT COMMITTEE

RESOLVED: That the report of the Head of Democratic Services regarding the level and type of training required to undertake the role of Member/Substitute Member/Independent Member of the Audit Committee be noted and considered in conjunction with the report of the Head of Internal Audit Partnership setting out an Action Plan to bring about the improvements to the operation of the Audit Committee identified by the peer review.

See Minute 88 below.

88. REVIEW OF AUDIT COMMITTEE

The Committee considered the report of the Head of Internal Audit Partnership setting out a detailed Action Plan to bring about the improvements to the operation of the Audit Committee identified by the peer review exercise undertaken by Local Government Improvement and Development (LGID). It was noted that:-

- LGID was commissioned by the Council to undertake a peer review of the Audit Committee. The review was commissioned jointly by Ashford, Maidstone, Swale and Tunbridge Wells Borough Councils and included interviews and discussions with Councillors, Officers and partners.
- The objective of the review was to allow each Audit Committee to be benchmarked against examples of best practice and thereby help the Committee to become more effective in undertaking its functions. The final report identified six main areas of development for the Maidstone Audit Committee as follows:-
 - ✓ A more robust training programme was needed for Committee Members.
 - ✓ Greater challenge of reports/issues was needed.
 - ✓ Better tracking of the Committee's recommendations was required.
 - ✓ The governance assurance role of the Committee could be expanded, avoiding any unnecessary duplication with overview and scrutiny.
 - ✓ The Committee should seek to measure its effectiveness and produce an annual report.
 - ✓ There was scope for the Committee to expand its role to support the Council in its broader partnership working, particularly in terms of governance arrangements and risk, both financially and generally in delivering key outcomes.
- The Action Plan had been drawn up following an informal session between Members and Officers to identify the actions to be taken in relation to the report's findings and recommendations.

In conjunction with this report, consideration was given to the report of the Head of Democratic Services concerning the level and type of training required to be a Member/Substitute Member/Independent Member of the Audit Committee. The Head of Internal Audit Partnership suggested that there were two elements to the training required: induction training for new Committee Members and a broader range of continuous professional development for existing Members. Subject to Members' agreement, a skills and experience matrix would be developed for the Audit Committee. This matrix could be used to analyse the skills and experience of the existing Committee Members, identify any gaps and then develop a training programme for existing Committee Members and an induction programme for newly appointed Committee Members. The minimum level of training required would cover the induction element, including an explanation of the role of the Committee and its terms of reference together with an overview of the Council's activities and the financial and risk environment. This should, if possible, be undertaken before a Member attended his/her first meeting of the Committee.

The Committee asked a number of questions of the Officers relating to the development of the skills and experience matrix and the arrangements for assessing Members against it. It was suggested, and agreed, that

consideration should be given to "succession" training and joint training with the other Internal Audit Partnership authorities.

Arising from the discussion and in response to a question by a Member, the Head of Finance and Customer Services updated the Committee on the position with regard to the appointment of an Independent Member. It was noted that the post had been advertised but only one application had been received. In view of the circumstances, the decision had been taken, in consultation with the Chairman, to re-advertise.

RESOLVED: That the detailed Action Plan to bring about the improvements to the operation of the Audit Committee identified by the peer review be approved and that the Officers be requested to develop the proposed initiatives and report back to the Committee in the new Municipal Year.

89. EXTERNAL AUDITOR'S GRANTS CLAIM WORK 2009/10

The Committee considered the report of the External Auditor summarising the findings from the certification of the Council's grant claims and returns in 2009/10. It was noted that:-

- The Council received funding for specific activities from various grant paying central government departments. In the case of National Non-Domestic Rates (NNDR), the Council was responsible for paying over monies collected from ratepayers on behalf of a central government department.
- The Council was responsible for compiling grant claims and returns in accordance with the requirements and timescale set by the relevant departments. The Audit Commission was required to certify some claims and returns, depending on the value; for example, the Commission did not make certification arrangements for claims and returns below £100,000.
- In 2009/10, the Audit Commission certified three claims/returns with a total value of £97.1 million. Of these, the Commission carried out a limited review of the disabled facilities grant (£405,000) and a full review of both the housing and council tax benefit claim (£45,548,781) and the NNDR return (£51,193,154, being the pooled amount payable to central government). There were no significant issues arising from the audit.
- The Audit Commission had certified the disabled facilities grant and the NNDR return without any amendments being necessary. The adjustments required as a result of the identification of errors in the housing benefit and council tax benefit claim had all been made by the Council.

The Committee asked a number of questions of the Officers and the representatives of the Audit Commission relating to, inter alia, the reasons for the detailed level of testing required in respect of the NNDR return;

the approach taken to housing benefit fraud and the number of prosecutions; the action which would have been required if additional testing of the benefits cases initially tested had found further errors; the arrangements for the audit of smaller grant claims internally; the wording of paragraph one of the report; and the reasons for the difficulties in obtaining the data required for auditing the new NNDR deferral scheme.

RESOLVED: That the report of the External Auditor on the certification of grant claims and returns be noted.

90. EXTERNAL AUDITOR'S AUDIT PLAN 2010/11

The Committee considered the External Auditor's Audit Plan for 2010/11 setting out the work it was proposed to undertake for the audit of the Council's financial statements and the value for money conclusion on the Council's arrangements to secure economy, efficiency and effectiveness. The report also included details of the fee proposed for the 2010/11 audit. It was noted that:-

- The Audit Plan was risk based and had been developed following consideration of both local and national risks and the audit work completed to date. The additional risk areas identified in the Plan as being relevant to the current opinion audit were the implementation of IFRS and related party transactions.
- In terms of the audit fee, the Audit Commission had issued a rebate for the cost of the one-off first year audit of IFRS and the Council would receive a further rebate reflecting the new approach to local VFM audit work. The External Auditor was unable to recommend any specific actions the Council could take that would result in a reduced fee at the moment.

The Committee asked a number of questions of the Officers and the representatives of the Audit Commission relating to, inter alia, the arrangements for assessing the IT control environment, including the use of a specialist IT auditor; the impact on audit fees of any additional requirements arising from the changes to the International Standards on Auditing; the co-ordination of internal and external audit work to avoid duplication; the Audit Commission's new approach to its value for money assessment and the areas to be focused on to provide an opinion; the contact details for the Audit Team; and the possibility of having a more detailed breakdown of the audit fee.

RESOLVED: That the content of the External Auditor's Audit Plan for 2010/11 and the revised fee for the audit be noted.

91. EXTERNAL AUDITOR'S PROGRESS REPORT - MARCH 2011

The Committee considered the report of the External Auditor on the progress to date against the 2010/11 Audit Plan. It was noted that, in general, the progress of the External Auditor was in line with the original

Audit Plan. The External Auditor had raised no concerns with the Council in the report on progress to date.

RESOLVED: That subject to the deletion of reference to the East Kent Partnership Review in Appendix 1, the External Auditor's report on progress to date against the 2010/11 Audit Plan be noted.

92. ACCOUNTS & AUDIT REGULATIONS 2011

The Committee considered the report of the Head of Finance and Customer Services summarising the proposed amendments to the Accounts and Audit Regulations 2003 and outlining the implications for the Council. It was noted that, inter alia, the amended regulations removed the requirement for Members to approve the Statement of Accounts prior to it being submitted for external audit. Instead, the Statement would need to be signed by the Director of Regeneration and Communities, as the responsible financial officer, by 30 June and then approved by Members by 30 September following the external audit. Other more minor changes included a requirement for the Statement of Internal Control to accompany the Statement of Accounts rather than be part of it and for the notes to be part of the Statement of Accounts rather than accompany it.

The Committee indicated that it would wish to review the Statement of Accounts after it had been signed by the Director of Regeneration and Communities and submitted for external audit.

RESOLVED: That the proposed amendments to the Accounts and Audit Regulations 2003 be noted and that arrangements be made for the Committee to meet in July each year in order to review the Statement of Accounts after it has been signed by the Director of Regeneration and Communities, as the responsible financial officer, and submitted for external audit.

93. AUDIT COMMITTEE - WORK PROGRAMME

RESOLVED:

1. That the Work Programme for the period January 2011 to April 2012 be noted.
2. That as a consequence of the decision set out in Minute 92 above, the meeting of the Committee scheduled to be held on 20 June 2011 be rearranged to take place in July.
3. That consideration of the impact of savings and efficiencies upon other major public sector organisations should be raised as a topic for discussion at a future meeting of the Committee.

94. MAIDSTONE MUSEUM EAST WING REDEVELOPMENT

The Committee considered the report of the Assistant Director of Regeneration and Cultural Services updating the position with regard to the remaining risks associated with the East Wing redevelopment project; these being the potential failure to secure full match funding from external sources and programme delays resulting in increased costs. The report included details of the fundraising activities to date and of the implications of the delays in the construction programme. It was noted that the application to the Heritage Lottery Fund for additional funding of £500,000 had been refused.

The Committee asked a number of questions of the Officers relating to, inter alia, the shortfall in funding; the approach to fundraising, including the associated costs; the potential mitigation of risk through the Capital Programme; and the income generating elements of the project.

The Committee, wishing to ask questions of the Officers relating to the delays in the Museum extension construction programme in private:-

RESOLVED: That the public be excluded from the meeting for the following item of business because of the likely disclosure of exempt information for the reason specified in Minute 82 above, having applied the Public Interest Test:-

**Head of Schedule 12 A and
Brief Description**

Maidstone Museum	3 - Financial/Business Affairs
East Wing Project – Delays in Construction Programme	5 - Legal Professional Privilege/Legal Proceedings

The Committee asked questions of the Officers relating to the delays in the Museum extension construction programme, including the involvement of solicitors.

RESOLVED: That the report be noted and that a special meeting of the Committee be arranged to take place in the near future to review matters relating to the management of the Maidstone Museum East Wing project construction contract, including the involvement of solicitors and their brief.

95. DURATION OF MEETING

6.30 p.m. to 8.40 p.m.