

**BOROUGH COUNCIL OF KING'S LYNN & WEST NORFOLK**

**RESOURCES AND PERFORMANCE PANEL – AUDIT AND RISK COMMITTEE**

**Minutes of a Meeting of the Resources and Performance Panel – Audit and Risk Committee held on Tuesday 25 November 2014, 6.50 pm, in the Committee Suite, King's Court, Chapel Street, King's Lynn**

**PRESENT:**

Councillor P Beal (Chairman)  
M Chenery (*substitute for Councillor de Winton*), J Collop,  
C J Crofts (*substitute for Councillor H Humphrey*), I Gourlay,  
G Hipperson (*substitute for Councillor C Manning*), Mrs K Mellish,  
J M Tilbury, A Tyler, D Tyler, G Wareham, A Wright and Mrs S Young

Apologies for absence were received from Councillors N Daubney, T de Winton, H Humphrey, A Morrison and C Manning

**Present under Standing Order 34:** Councillor J Moriarty for ARC71

ARC63: **APPOINTMENT OF VICE-CHAIRMAN**

**RESOLVED:** That Councillor C J Crofts be appointed Vice-Chairman.

ARC64: **SUSPENSION OF STANDING ORDER 36 – RECORDING OR BROADCASTING OF MEETINGS**

**RESOLVED:** In order to comply with Statutory Instrument 2014 no 2095, The Openness of Local Government Bodies Regulations 2013, Standing Order 36 be suspended for the duration of the meeting.

ARC65: **MINUTES**

The Minutes of the Resources and Performance Panel – Audit and Risk Committee meetings held on 28 October 2014 were confirmed as a correct record and signed by the Chairman.

ARC66: **DECLARATIONS OF INTEREST**

There were none.

ARC67: **URGENT BUSINESS UNDER STANDING ORDER 7**

There was no urgent business to report.

ARC68: **MEMBERS PRESENT PURSUANT TO STANDING ORDER 34**

Councillor J Moriarty for ARC71.

ARC69: **CHAIRMAN'S CORRESPONDENCE**

The Chairman had no correspondence to report.

ARC70: **MATTERS REFERRED TO THE COMMITTEE FOR OTHER COUNCIL BODIES AND RESPONSES MADE TO PREVIOUS COMMITTEE RECOMMENDATIONS/REQUESTS**

The Committee noted the responses made by Cabinet at its meeting held on 4 November 2014 to the recommendations made by the Resources and Performance Panel – Audit and Risk Committee at its meeting held on 28 October 2014 in respect of the following item:

- Mid Year Treasury Report 2014/2015.

ARC71: **CORPORATE RISK REGISTER MONITORING REPORT**

The Deputy Chief Executive explained that the report presented the changes to the Risk Register since the last monitoring report in April 2014 and gave details of the risks falling into the 'Very High' category and the associated work to mitigate the effects.

The Committee was informed that a summary of the changes to the Risk Register since the last monitoring report were detailed in section 2. Details of the 'Very High' risks were given in Appendix 1 together with a list of the 'High' risks.

The Deputy Chief Executive advised that the full Risk Register, as agreed by Management Team, was placed on InSite, within the Risk Management section on the Corporate Documents tab.

Members' attention was drawn to section 2 of the report which set out the changes – items added and items to be removed as set out below:

**Changes to the Register: Added**

**1.14 Individual Electoral Registration (IER)**

The Panel was advised that the deadline was 1 December 2014. It was noted that to date the Register could have potential entries totalling 115,000. To date, 113,000 registrations had been completed. The Deputy Chief Executive explained that the Elections Team had worked extremely hard to get to the current position. The Panel was informed that after the deadline date of 1 December there would be a monthly rolling process in place for additional registrations to be entered onto the Register. The deadline for registration for the forthcoming May Elections was 20 April 2015. The Electoral Services Manager would consider undertaking a "mini canvass" to increase the number of entries on the Register. This risk was now deemed to be medium risk.

### **4.3 Capacity**

The Deputy Chief Executive explained that the staffing levels had reached a point where routine absences such as holidays and long term sickness were creating significant issues in maintaining adequate cover for operational matters. It was noted that there were a number of long term sickness absences as well as those staff on maternity leave.

### **5.14 VAT – Trust Arrangements**

Members were advised that a significant amount of savings to be achieved from the Trust arrangements were based on VAT savings. It was highlighted that whilst every effort had been made to ensure the arrangements were valid, until the HMRC had carried out its first inspection, it could not be guaranteed that they would agree.

The Deputy Chief Executive explained that the Council had commissioned a top quality QC to provide the Council with specialist advice. An annual audit would be undertaken to ensure that the arrangements recommended by the QC continue to be adhered to in future years.

Changes to the Register: Removed

### **1.9 Incinerator**

The risk was that the Council's reputation would suffer if the public perceived that the Council did not oppose the Incinerator project sufficiently. The Deputy Chief Executive advised that the Council had completed the necessary work to support the views of the residents of the Borough.

### **5.9 Local Council Tax Scheme Model**

It was noted that the new scheme had now been in place for 6 months and the model appeared to be working satisfactory and that the Council was now consulting to keep the same scheme for next year. The risk could therefore be removed for the present time, but if the scheme changed in the future the risk may return.

### **5.10 Local Council Tax Scheme Equality Challenge**

The scheme had been operating for 6 months and no challenge had been made on equality grounds. The risk could therefore be removed, but if the scheme changed in the future the risk may return.

Councillor Wareham enquired if the Borough Council had made financial provision should the HMRC find the arrangements put in place not to be satisfactory. In response, the Deputy Chief Executive explained that the QC the Borough Council commissioned for specialist VAT advice had an indemnity insurance of £5m and he confirmed that the VAT Adviser also

had similar insurance arrangements in place to protect both the Leisure Trust and the Borough Council.

Under Standing Order 34, Councillor Moriarty addressed the Panel. Councillor Moriarty expressed concern of the sequence of events relating to the VAT issues associated with the Leisure Trust and asked for an explanation on the timeline of the process. In response, the Deputy Chief Executive explained that the biggest saving from the Leisure Trust was Business Rates totalling circa £300,000. He outlined the timeline and process, etc when the Council had sought specialist advice from a QC and VAT advisers. The QC appointed had expertise relating to charitable organisations and VAT issues and had been providing advice nationally to several local authorities. Both the QC and VAT advisers had confirmed that the arrangements for setting up a Leisure Trust were entirely valid under the European Regulations. HMRC had not given the same confirmation as a visit had not yet been undertaken. It was highlighted that the HMRC had not yet advised of a visit. The Panel was advised the VAT adviser contract had come to an end and the Council was therefore currently out to tender to appoint a VAT Adviser for the next 3 years.

Councillor C J Crofts asked if there were any lessons to be learnt from any other local authorities who had formed a Leisure Trust. The Chief Executive explained that the model the Borough Council was operating was unique to West Norfolk. The model contained elements of the traditional Leisure Trust model operated by other local authorities, but the Council's model had included elements deployed by the private sector which provided for a similar vehicle to minimise tax outgoings. The QC had confirmed that the model was fit for purpose within the public sector and the Council's in-house Audit Team would carry out an annual audit to ensure that it remained so in future years.

The Deputy Chief Executive added that the "normal model" was that an organisation would allow the use of its buildings on a 25 year lease. However, the Borough Council had formed a Local Authority Company with a joint employee arrangement. All employees would therefore benefit from the Council's Pension Scheme which provided a benefit to staff. The Chief Executive added that staff that had transferred to the Leisure Trust had remained on the same terms and conditions of employment.

In response to questions from Councillor Gourlay on employees understanding the process of transferring to a Leisure Trust in the future once current senior staff had left the authority, the Deputy Chief Executive explained that the same arrangements would be put in place as had occurred when the Council undertook the Housing Transfer. The Committee was informed that the Internal Audit Manager was drawing up a file setting out the decisions taken together with an explanation of reasons why decisions had been taken. The next step in this process was that the Audit Manager would look at the implications on all agreements and ensure all necessary information was documented.

Following a comment from Councillor Wareham., the Chief Executive explained that if other local authorities wished to use the Borough Council's Model for Leisure Trust a fee would be charged.

Councillor Tilbury stated that he was satisfied that all the necessary work had been undertaken to ensure that the current arrangement was watertight, however he added that there were no future guarantees. HMRC could undertake an audit and deem that the arrangement was not satisfactory and the Borough Council would then incur cost. In response, the Deputy Chief Executive advised that business rates was likely to cause the most damage, Alive Leisure received 80% business rates relief. However, if HMRC did take a view that satisfactory arrangements were not in place this could potentially cause damage to all charitable organisations across the country. An annual audit would be undertaken to identify any risks.

**RESOLVED:** The Committee noted the report

ARC72: **ANNUAL AUDIT LETTER**

The Deputy Chief Executive presented the Annual Audit Letter and explained that its purpose was to communicate to the Members of the Borough Council and external stakeholders, including members of the public, the key issues arising from the External Auditor's work, which were considered should be brought to the attention of the Committee.

The Committee's attention was drawn to the following sections of the Annual Audit Letter:

- Executive Summary
- Key Findings: Financial Statement Audit, Value for Money Conclusion, Whole of Government Accounts, Annual Governance Statement, Certification of grants claims and returns.
- Control themes and observations.
- Fees update.

The Deputy Chief Executive advised that a letter dated 18 November had been received from Ernst and Young, the contents of which are set out below.

**2013/14 Audit Scale Fee – Update and Late Variation**

*Further to our recent email correspondence regarding the proposed scale fee variation of £6,510 we have recently received approval from the Audit Commission for the proposed amount.*

*As you are aware, we issued our formal 'Annual Audit Letter' on 20 October 2014, to formally report the outcome from our work in respect of the 2013/14 audit year. Within this report, we set out the 'final' audit fees,*

as required by the Audit Commission. This referred to the 36,510 included within the reported 'final fee.'

However, the Audit Commission had recently consulted on a supplement to the 2014/15 audit scale fees. In that consultation, the Audit Commission applied a permanent variation of £900 to the base scale fee. This reflects the additional audit procedures required to gain sufficient audit assurance around business rate income and expenditure within the Collection Fund.

This additional work is required because the certification work on Business Rates (the NNDR3 grant claim) is no longer within the Audit Commission's grant regime – it was withdrawn for 2013/14. Auditors were previously able to use the certification work on the NNDR3 claim as the required assurance for the audit opinion on the financial statements (including the Collection Fund). As a result, the 2013/14 grant certification scale fee was reduced to reflect this.

The Audit Commission has now acknowledged that auditors were required to undertake these additional audit procedures to be able to gain assurance for the 2013/14 financial statements opinion. Indeed, business rates were included as a significant audit risk within our Audit Plan. In recognising that this applied equally to 2013/14, the Audit Commission has asked us to agree a further scale fee variation of £900 to that audit fee with you.

Consequently, the revised final scale fee in respect of the 2013/14 audit is set out in the table below.

	2013-14 Reported final fee (within Annual Audit Letter)	2013-14 Amended final fee (revised and final)
Audit Code Scale Fee	£73,998	£74,898

I appreciate that any additional increase to the audit scale fee is unwelcome news, but I hope that the narrative above sets out the Audit Commission's rationale for the increase. I think that this increase should be seen in the content of the Audit Commission reducing the 2015/16 scale fee by a future 25% as a result of its latest procurement exercise.

If you wish to discuss this in more detail please do let me know, so we can arrange a call or a meeting. Otherwise, I would be grateful if this letter could be included within the agenda for the next Audit and Risk Committee, as we are required to report the final audit fee to 'those charged with governance' of the Council.

Rob Murray  
Director  
Ernst & Young LLP

Councillor Tilbury commented that throughout the process the Borough Council had been presented with a “Clean Bill of Health” which was a credit to the Borough Council’s staff. The Deputy Chief Executive that the outcome was down to the hard work undertaken by the Chief Financial Officer and her team.

**RESOLVED:** The Committee noted the Annual Audit Letter.

ARC73: **DATE OF NEXT MEETING**

Committee Members noted that the next meeting of the Resources and Performance Panel – Audit and Risk Committee would take place on **Tuesday 24 February 2015** at 6 pm in the Committee Suite, King’s Court.

**The meeting closed at 7.19 pm**