

SPECIAL AUDIT COMMITTEE

Wednesday, 24th March, 2010 at 6.00 p.m.

Conference Room at the Council House, Walsall

Present

Councillor Martin (Chairman)
Councillor Rochelle (Vice-Chairman)
Councillor Ault
Councillor Chambers
Councillor Robertson
Councillor M. Pitt (substitute for Councillor Sears)
Councillor D. Shires

In Attendance

Councillor Bird
Councillor Towe
Paul Sheehan
Tim Johnson
Jamie Morris
James Walsh
Mr. Jon Roberts (Grant Thornton)
Mr. Harshad Bharakhada (Grant Thornton)

694/10

Apologies

An apology was submitted on behalf of Councillor Sears.

695/10

Declarations of Interest

Both Councillors Robertson and Rochelle reported that they were members of organisations which received funding through the ERDF European Funding Grant. However, following advice obtained from the Monitoring Officer, they intended to contribute to the meeting and would only declare an interest and subsequently leave the room should the organisations they are members of become the subject of the Committee's discussions.

696/10

Deputations and Petitions

There were no deputations submitted or petitions received.

697/10 **Local Government (Access to Information) Act, 1985 (as amended)**

Resolved

There were no items on the agenda which the Committee considered should be dealt with in private session.

Non-Executive Functions

698/10 **Investigation into the European Structural Fund Objective 2 Action Plan**

A report was submitted:-

(see annexed)

The Chair welcomed all who were present at the meeting and thanked them for their attendance, in particular, she thanked Mr. Jon Roberts and Mr. Harshad Bharakhada from Grant Thornton for the comprehensive and balanced report which they had produced.

The Chair went on to introduce the item and highlighted the sensitive nature of the matter.

Councillor Martin then explained how she saw her role as Chair and also clarified the remit of the Committee. She stated that she would allow all Members a fair input into discussions and would accept any questions they may wish to ask. In doing so, however, the Chair requested Members' co-operation in relation to not making reference to individual officers as far as possible as doing so would be premature and could hinder the proper process should any disciplinary action be deemed necessary as a consequence of the findings contained within the Grant Thornton report.

In closing, she stated that she saw her role as overseeing an impartial non-political review of the Grant Thornton report. At this point in the proceedings, the Chair invited Mr. Roberts from Grant Thornton to present their report.

Mr. Roberts explained the background to the report and stated that he did not intend to go into too much detail as the events that had led up to the present situation were well documented and reported.

Mr. Roberts reported that a £2.5 million clawback of European Regional Development Fund (ERDF) European grant funding was required following qualified audit reports and the receipt of a critical Government

Office Article 10 inspection. Essentially, this was money that the Council had already paid out for services received by the community and thus represented expenditure that the Council would now have to fund itself rather than through the European grant. In view of this, Members called for an investigation into the matter in September, 2009.

Fundamentally, the report addressed the following areas:-

- What went wrong?
- What were the key factors which had the greatest impact?
- Who was responsible?
- What can the Council learn from this?

Mr. Roberts went on to highlight the conclusions which were derived in relation to the above key questions as contained within the report. He stated that the identified problems were in no way connected with Elected Members at any level and lay solely with the performance of Council officers.

Mr. Roberts then explained what he expected to happen from this point forward, including discussing with officers the Council's detailed response to the recommendations as set out in the report and producing an action plan for scrutiny by the Audit Committee.

In closing, Mr. Roberts wished to extend his thanks for the co-operation afforded to him and his team for the open and constructive way in which the Council had worked with Grant Thornton.

At this juncture, the Chair invited the Chief Executive to address the Committee.

In opening, the Chief Executive thanked Grant Thornton for the hard work and for the production of a comprehensive, open and transparent report. He explained that draft versions of this report had been submitted to the Council for consultation with various Council officers before the final report was arrived at.

The Chief Executive stated that he accepted the report, its findings and the recommendations contained within it.

He then reported to the Committee that it had recently been found that the actual figure de-committed was higher than previously reported and was now a total of £2,872,144.

The Chief Executive went on to state that Members should expect better from their officers and the findings of the report were very disappointing. The systems in place were not adequate and risks were not avoided.

He sought the Committee's view on whether it wished for him to convene a meeting of the Appointments Board as the proper body with delegated

authority to consider the performance of senior officers in relation to this issue and whether any disciplinary action should be pursued.

In closing, the Chief Executive said that he supported the recommendation to produce an action plan for the Audit Committee to consider at a future meeting on this matter.

At the conclusion of these introductions, the Chair then invited Members to address the Committee. Councillor M. Pitt explained that he felt the Committee should accept the findings of the report and supported the Chief Executive's suggestion to call a meeting of the Appointments Board to consider officer performance and any possible disciplinary action accordingly.

Councillor Pitt asked if the circumstances surrounding the extensive changes to the Council coming out of special measures and the timing of the ERDF and creation of the Walsall Partnership were contributory factors in the failings identified within the report. Mr. Roberts responded by explaining that the events highlighted by Councillor Pitt were not disconnected with the failings identified but were also not the sole reason for them. Mr. Roberts posed the question had the Authority moved on and was it still susceptible to similar occurrences in the future.

Councillor Pitt then asked a second question to help him ascertain when Members became aware of the failings.

Mr. Bharakhada confirmed that it was September, 2009 previous audit reports prior to September, 2009 had suggested that everything was in order.

Councillor Pitt then sought clarification as to whether any evidence had been found of officer bullying or that officers were nervous of providing information.

Mr. Bharakhada confirmed that no evidence of officer bullying was found or any reluctance to provide information requested.

The Chair then invited Councillor Robertson to address the Committee.

Councillor Robertson wished to thank Grant Thornton for their report. In doing so, however, he expressed his disappointment at its findings and the numerous failings of senior officers which were highlighted in the report. He also stated that he felt it was sad that opportunities to rectify the situation had been missed and the importance of ensuring that the chances of anything similar happening again in the future were drastically minimised.

Councillor Robertson wished to understand the complexities of ERDF funding and whether some officers were out of their depth in dealing with them.

Mr. Roberts referred Members to the report which detailed the findings on this matter.

Councillor Robertson followed up by asking whether it was found that Walsall had adopted a culture where Directorates failed to take responsibility for major issues leading to the identified failures. He also questioned whether the considerable staff changes also contributed to the shortcomings.

Mr. Roberts reported that the processes in place were sufficient but the lack of compliance with them caused the problems which pointed to errors on behalf of the individuals involved. He also stated that there seemed to be a culture where help and support amongst other Directorates in the Council when problems were identified did not exist and should have been. The problems faced should have been shared and thus highlighted the lack of communication amongst Directorates.

The Chair then invited Councillor Rochelle to address the Committee.

Councillor Rochelle wished to know if the changing goalposts and complicated terms of agreement had an effect on the failures.

Mr. Roberts confirmed that they were contributory factors but not the sole reasons for the problems.

The Chair then invited Councillor Chambers to address the Committee.

Councillor Chambers opened by commending the report for being comprehensive. He also felt that there was one good point arising from the report in relation to the work officers undertook to mitigate any costs to the Council.

Councillor Chambers then proceeded to highlight the numerous sections within the report which caused him great concern in relation to the evident failures by officers, in particular, Councillor Chambers requested answers to the following questions:-

- How much did it cost the Council to employ the contractors referred to in 4.33 of the report?
- How much did the Council pay in the out of court settlement referred to in 4.50 of the report?
- Does the Council have insurance which offers cover for the incompetence of officers?
- What effect, if any, had there been on the performance related pay of the officers in question?

The Chief Executive reported that he did not have the information to hand in order to answer those questions accurately. He agreed, however, to find out the answers and report them back.

Councillor Chambers further requested the Chief Executive to clarify if the de-commitment figure he reported of £2,872,144 was still an estimate and if the figure could be even higher.

The Chief Executive explained that the figure stated was what was known at present and that he could not offer assurances that the figure would not rise.

In closing, Councillor Chambers reported that he was in favour of the Chief Executive's suggestion to call a meeting of the Appointments Board to consider officer performance in the matter.

The Chair then invited Councillor D. Shires to address the Committee.

Councillor Shires wished to know if officers were afforded the opportunity to undertake training on ERDF processes and, if so, was it mandatory and at what stage was it offered.

Mr. Roberts reported that there was in fact training offered but he did not have the details of which officers undertook the training or at which point it was offered.

Councillor Shires commented that there did not appear to be written records of such things which she considered was not good practice and only added to the conclusions of the findings in the report.

The Chief Executive interjected at this juncture to remind Members of the timing of such events when officers in the management positions in question had changed and that some of those officers had since left the Authority.

Councillor Martin then sought if the Committee wished to ask any further questions.

Councillor Pitt referred to the similar situation with regard to the ERDF issues at both Cornwall and Liverpool Councils and wished to know if those Councils had also struggled along the same lines that Walsall had.

Mr. Roberts reported that he did not have the information to answer that question although he could report that Walsall were not the only Council who had experienced problems.

Councillor Pitt considered that it would be useful for the Committee to receive information on how other Authorities had coped with ERDF so that a comparison can be drawn on a national level.

The Chair then invited the Leader to address the Committee.

The Leader thanked Grant Thornton for their report which he felt was fair and transparent.

The Leader proceeded to report that at the time in question, the Council were in special measures and thanked Grant Thornton for acknowledging that Members were not aware of the situation until later stages and as a result, were at no fault. The Leader also pointed out that the Audit Commission had signed off the Council's accounts during this period. Furthermore, they had not produced a report on the matter until 2009 which was five years after the event. In this respect, he felt that both the Government Office for West Midlands and the Audit Commission had also failed the Council. The Leader proceeded to explain that the Council had been afforded very little time by the Government Office for West Midlands (GOWM) in which to address the problems. As a direct result of this, the Council could not move to mitigate the situation or produce the required evidence as much as it would have liked to.

The Leader went on to express his dismay that Members were not informed of the situation until a very late stage and that the behaviour exhibited by officers was unacceptable.

In closing, the Leader reported that his Cabinet had now introduced stringent measures and processes to ensure accountability for all funding matters for which the Council was the accountable body to try and ensure that such occurrences did not happen again.

The Chair then invited the Director of Neighbourhood Services to address the Committee. The Director opened by agreeing with the comments of the Chief Executive relating to the Council being let down.

He acknowledged that the Grant Thornton report had identified the shortfalls and he accepted the findings. He wished to re-assure Members, however, that it was not a case that the Directorate did not do anything to attempt to resolve the issues, it was the case that they were doing the wrong thing. It was only after the Article 10 inspection that this was brought to light. Unfortunately, however, there was little time after the inspection to rectify the situation.

Following further deliberations, it was **moved** by Councillor M. Pitt, duly **seconded** by Councillor Ault and subsequently carried by a unanimous vote that:-

- (1) The Committee accepts the Grant Thornton report;
- (2) An action plan be produced in the light of the findings of the report and be submitted to a future meeting of the Audit Committee for consideration;

- (3) The Committee agree that the Chief Executive convene a meeting of the Appointments Board to consider officer performance in the matter and any subsequent disciplinary action as deemed necessary.

Resolved

That:-

- (1) The Committee accepts the Grant Thornton report;
- (2) An action plan be produced in the light of the findings of the report and be submitted to a future meeting of the Audit Committee for consideration;
- (3) The Committee agree that the Chief Executive convene a meeting of the Appointments Board to consider officer performance in the matter and any subsequent disciplinary action as deemed necessary.

At the conclusion of the meeting, Mr. Roberts reported that he was now happy to issue the Council's audit certificate 2008/09 in light of the Committee's resolution.

Termination of meeting

There being no further business, the meeting terminated at 7.15 p.m.

Chair:

Date: