

Non-Executive Report of the: Full Council 20 th January 2016	 TOWER HAMLETS
Report of: Zena Cooke – Corporate Director of Resources	Classification: Unrestricted
Response to the Recommendations made under S11 (3) Audit Commission Act 1998	

Originating Officer(s)	Kevin Miles – Chief Accountant
Wards affected	All wards

Summary

This report is intended to provide Full Council with a response to the recommendations made by KPMG under S11 of the Audit Commission Act 1998.

Recommendations:

Full Council is recommended to:

1. Accept the recommendations made by KPMG under Section 11 (3) of the Audit Commission Act 1998;
2. Note and endorse the actions already put in place by the Corporate Director of Resources in response to the recommendations made under Section 11 (3) of the Audit Commission Act 1998;
3. Note the issues identified by KPMG under Section 11 (3) of the Audit Commission Act 1998 and the commitment of Members and officers to resolve these.
4. Request that progress against the recommendations is monitored by the General Purposes Committee, alongside the other monitoring arrangements put in place.

1. REASONS FOR THE DECISIONS

- 1.1 Acceptance of the recommendations made under s11 of the Audit Commission Act (ACA 1998) relating to the financial year 2013/14, and implementation of the actions set out in this report and already in progress from the actions of the Corporate Director of Resources, as well as the recommendations made in the ISA260 (Report to those Charged with Governance), will reinforce and supplement the governance framework already in place, improving the robustness of information and protecting the council from potential fraud, error, legal claims and reputational damage.

2. ALTERNATIVE OPTIONS

- 2.1 There are no viable alternatives to this course of action. Failure to satisfy the auditors will result in a further review of the framework. This is likely to undermine progress, incur additional costs and further damage the reputation of the council. Non-compliance would almost certainly result in a qualification to the 2014/15 accounts.

3. DETAILS OF REPORT

- 3.1 The council is required to present its financial accounts to the Audit Committee on or before 30th September each year.
- 3.2 KPMG had substantially finished the audit of the 2013/14 accounts by the end of September 2014, but with the intervention of the DCLG and the subsequent best value investigation undertaken by PricewaterhouseCoopers, they needed to revisit a number of complex areas, gain additional assurance, and obtain officers' responses to a number of practices that had caused PwC concern.
- 3.3 This additional work meant the auditors were not in a position to issue an opinion on the 2013/14 accounts before or by the due date of 30th September 2014.
- 3.4 Following the additional review work, the financial statements were finally in a position to be approved by members of the Audit Committee on 23rd September 2015. At this meeting KPMG tabled their schedule of recommendations in the 'Report to Those Charged with Governance', also known as the ISA260. In this document they stated their intention to issue an unqualified opinion for 2013/14.
- 3.5 Despite the unqualified audit opinion KPMG have raised some concerns with the best value review and have issued an adverse conclusion on the arrangements to secure Value for Money for 2013/14. This has resulted in them invoking section 11 of the Audit Commission Act 1998.

3.6 What is Section 11?

- 3.6.1 A Section 11 recommendation is made under the Audit Commission Act of 1998. It relates to a weakness or issue that is serious enough to call into question the authority's arrangements for challenging how it secures economy, efficiency and effectiveness. This requires the authority to review the recommendation in a public meeting and publish the decisions.
- 3.6.2 In the case of LBTH this relates to the governance framework highlighted by the Best Value inspection in relation to the 2013/14 accounts.
- 3.6.3 Whilst this is a serious finding, it does not mean that the accounts are qualified and KPMG have issued a clean audit opinion on the 2013/14 financial statements.

3.7 Section 11 Recommendation

- 3.7.1 The extract below is the recommendation in full. This is taken from the 'Final Report to those Charged with Governance (ISA260) 2013/14', as presented to the Audit Committee on 23 September 2015.
- 3.7.2 *'In addition to matters raised in the BV Inspection report, comments within the Mayoral election judgment and arising from the other matters raised with us as auditors indicate the governance processes have not always been effective.*

As noted previously in this report various actions are being taken by the Authority (in conjunction with the Commissioners) to address the shortcomings that have been identified. For example the Best Value Action Plans and Mayoral Election Judgement action plan.

Whilst we are satisfied that the Authority is taking sufficient steps to address the specific matters identified to date, the extent of matters raised that impact on governance suggest to us that a wider review of governance should be undertaken.

We therefore recommend that the Authority should undertake a detailed review of its governance processes across the Authority to satisfy itself that they are appropriate and operating effectively. This should include consideration of the:

- *roles and responsibilities of the various officers and executive committees and the interaction with members and member committees;*
- *delegation and escalation processes; and*
- *the sufficiency of analysis and support in relation to decisions by members, officers and relevant committees.*

This governance review should be co-ordinated with the other actions currently being undertaken and proposed including the programme of cultural change.'

4.0 Progress on S11 Recommendations

4.1 Governance Overview

4.2 The General Purpose Committee's remit covers governance issues, in particular making recommendations to Full Council for changes to the constitution, and their contribution complements the scrutiny role of the Audit Committee. It is to this committee that monitoring on the progress of the Best Value Action Plan and other Section 11 issues will be reported.

4.3 In developing the Best Value action plan the council has embraced the principles of good governance, accountability and transparency. Each of the key themes includes a strong element of governance. Embedding good practice in these specific areas is in addition to the wider programme of organisational transformation and culture change.

4.4 The council has established the Best Value Programme Board, which comprises the Mayor, Commissioners and the Chief Executive. The objectives of this Board are:-

- To act as a joint agency board to review overall progress in the areas of improvement identified by the Secretary of State in his Directions.
- To maintain an overview of performance against the detailed Best Value Action Plan for Tower Hamlets through review of monthly monitoring material and progress updates against actions.
- To assess, challenge and support the robustness of plans and actions for improvement.
- To hold lead Members and officers to account.
- To provide 'trouble shooting' support and 'critical friend' challenge to address and unblock performance limiting issues.
- To sign off (where considered appropriate) the status of individual actions and projects.

4.5 With the new mayoral administration, key changes of committee personnel and the permanent appointment of a Chief Executive, Corporate Director of Resources (S151 Officer) and Director of Law, Probity and Governance (Monitoring Officer), the council is better placed to reinforce the formal lines of authority, delegation and responsibility.

4.6 Closer links between the management team and the committee structure are being established to make the decision making process more transparent. This is addressing some of the concerns raised by PwC and the Commissioners surrounding some of the decisions, specifically around the awarding of grants and disposal of property.

4.7 In addition, the council is making strides in relation to greater openness. The Mayor's Transparency Protocol was agreed at November's Cabinet and the Overview and Scrutiny Committee's Transparency Commission reported in November 2015. The Mayor has committed to a refresh of the council's

Strategic Plan, with an Outline Plan due at Cabinet in February 2016, providing an opportunity to clearly set out a refreshed vision and set of objectives for the council.

5. Reporting Progress

- 5.1 As these plans and reviews develop, progress will be communicated through the Best Value Programme Review Board. It is also proposed that a regular update is taken to the General Purposes Committee to inform members and to invite comment on developments.
- 5.2 In addition to this monthly monitoring, the Best Value Action Plan has been subject to an internal audit exercise of a programme of compliance testing. This audit provides assurance to management that the actions agreed within the BV plans have been implemented and that reports to the Commissioners and the Secretary of State on progress against the Action Plans are accurate.
- 5.3 KPMG is being kept informed of progress, through regular meetings with finance staff as well as the formal notification via committee reports.

6. Summary of the Best Value Action Plan

- 6.1 The Council has been working closely with the Commissioners, its auditors and the DCLG to address the issues raised. To this end a seven point action plan has been formulated, each action plan has a number of milestones and progress in achieving these milestones is monitored monthly and published every six months, the current version was published on the Council's website in September and is attached as Appendix 1. The next scheduled published update will be in March 2016. Significant progress has been made since the last progress update report and a summary of the progress made is set out below for each of the seven areas in the plan.

- 6.1.1 The 7 separate areas are;

- Procurement
- Grants
- Property and Disposal
- Communications
- Organisational Culture
- Recruitment
- Elections

6.2 Summary Update by Action Plan

Procurement

- 6.3 There has been considerable progress over the past 6 months. This includes implementation of a new procurement operating model, completion of a new Supplier Ethical Code of Conduct and publication of an Annual Procurement report. The report highlights a number of areas where revised deadlines have

been agreed with the Commissioners. This includes additional work to broaden the initial intention of a new Procurement Strategy to become a corporate Commissioning and Procurement Strategy.

- 6.4 The council is moving beyond the specific and immediate actions set out in the Procurement Action Plan, the majority of which have been delivered, towards a Procurement Transformation Programme. This is being developed around 3 clear outcome areas, milestones for which are set out in the narrative accompanying the action plan:
- Delivering savings and ensuring compliance and value for money;
 - Modernising procurement; and
 - Supporting local economies

Grants

- 6.5 Over the last 6 months a number of key actions have been completed. This includes completion of service agreements with providers as part of the Mainstream Grants Programme; consolidation all 3rd Sector grant giving, monitoring and evaluation into one service; and improvements to grant approval processes. Work to better evaluate the impact of grant programmes is taking place and is now scheduled for completion in May rather than March 2015.
- 6.6 Over the next few months, there will be a strong focus on finalising a new Voluntary and Community Sector Strategy and establishing new governance arrangements, including ensuring that the priorities, knowledge and views of the Executive and non-Executive Members appropriately inform the grant making process.

Property and Disposal

- 6.7 Progress is strong against the agreed action plan. The Community Buildings: Allocation and Charging policy as well as the Asset Strategy: Scoping, Principles & Priorities paper were adopted by Cabinet in December. The Asset Strategy sets a framework for how the Council will determine its ongoing and future property needs, and move to a more fit for purpose, effective and efficient estate for the future. It will initiate a series of workstreams which will include a high level operational property review. This is anticipated to take place within three months of Cabinet's adoption of the paper.
- 6.8 One of the key challenges for the council will be the delivery of a new civic centre. The council purchased the Royal London Hospital site in February 2014 for this purpose and this site was confirmed as the preferred location by the Mayor in Cabinet in November 2015. Cabinet agreed to the procurement of a multi-disciplinary design team to progress the design development to detailed planning level.

Communications

- 6.9 Considerable work has been undertaken to address the issues raised in the Best Value report and in line with the agreed action plan. The review of communications undertaken by the Local Government Association has been completed. The recommendations from this review are being used to develop a new strategic communications plan.
- 6.10 Following discussion with the Commissioners, a Mayoral decision has been taken in January 2016, to confirm that the date by which the council will comply with the code of recommended practice on local authority publicity will be 18th May 2016. This extension will enable the council to pursue a managed transition from the current way of working to the delivery of the new communications model, taking into account the recommendations arising from the communications review undertaken by the Local Government Association.

Organisational Culture Action Plan

- 6.11 The Commissioners' letter responding to our six month progress report recognised the Mayor's commitment to cultural change. The Mayor and the new Chief Executive will continue to drive forward this work which goes beyond the specific actions within the Best Value Plan. To this end three priority workstreams have been developed. These are:
- Governance Review overseen by joint officer/cross-party member Working Group. This will also pick up the recommendations of external auditors in relation to the need for a review of the organisation's governance processes. As part of this, work is underway to refresh the council's whistleblowing policy, promote and communicate it widely and ensure there is clear management guidance to support its implementation; (The Terms of Reference for the group are attached as Appendix 2)
 - Solace development work with members and senior officers which will culminate in a joint forum which will be used to develop a shared vision, outcomes and forward plan with milestones and timelines;
 - Organisational transformation - the Chief Executive and Corporate Management Team are bringing together the various strands that will define the shape of the organisation in the years to come.

Recruitment

- 6.12 The council has confirmed completion of all of the activities within the Action Plan for Recruitment which related to the council making permanent appointments to the three statutory posts of Corporate Director of Resources, Director of Law Probity and Governance (Monitoring Officer) and Chief Executive. All three post holders are now in post.

Elections

- 6.13 The Terms of Reference for the General Purpose Committee include responsibility for election issues.
- 6.14 The Elections Plan focused primarily on the delivery of the elections in May and June 2015, and the first 6 monthly update made clear that the agreed actions had been completed. A report detailing lessons learned from the elections held in 2015 was considered by the Best Value Board which identified the challenges ahead in ensuring the success of future elections as resources available to the council and the police are limited. The Chief Executive has been appointed as the new Returning Officer and has welcomed the recommendations in the report. The Chief Executive is a member of the London's Election Management Board and their support will be sought as required.

7. Audit Recommendations in the ISA 260

- 7.1 When reporting to the council the auditors also included 8 other recommendations in the ISA260. Progress has been made on all 8 recommendations and full details the recommendations, progress to date, responsible officers and timescales can be found in Appendix 3.

8. COMMENTS OF THE CHIEF FINANCE OFFICER

- 8.1 Consideration of this report at Full Council will permit KPMG to complete their 2014/15 audit work. It will also demonstrate to the Secretary of State that the council has taken and will continue to take appropriate and effective action.
- 8.2 There are no direct financial implications arising from this report.

9. LEGAL COMMENTS

- 9.1 The Council is required to prepare a statement of accounts in accordance with the Accounts and Audit (England) Regulations 2011 ('the 2011 Regulations').
- 9.2 The 2011 Regulations specify a procedure for signing, approval and publication of a statement of accounts. The chief finance officer is required to sign and date the statement of accounts by 30th June each year, certifying that it presents a true and fair view of the Council's financial position at the end of the relevant financial year and of the Council's income and expenditure for the year. The Audit Committee must approve the statement of accounts by 30th September each year and the statement must be signed by the chair of the meeting at which the accounts were approved. The accounts were approved by the Audit Committee at its meeting on 23rd September 2015.
- 9.3 At the meeting on 23rd September 2015 however, the Council's Auditor advised of the intention to issue a formal recommendation under section 11 of Audit Commission Act 1998 ('the 1998 Act'). Section 11 of the 1998 Act requires the Council to consider the auditor's recommendations at a meeting

within one month of receipt of the auditor's report, and decide whether to accept the recommendations and what, if any action to take. The auditor is able to extend this timescale if they are satisfied that this is reasonable. In that regard, an extension was agreed so that the Council needs to consider the recommendation at a meeting to be held before 31st January 2016.

- 9.4 Notice of the meeting must be published in a local newspaper at least 7 days before the meeting, and the auditors notified of the outcome of the meeting. The relevant notice has been published.
- 9.5 It should be noted however that the Local Audit and Accountability Act 2014 ('the 2014 Act') abolished the Audit Commission and repealed the 1998 Act. The Act and supporting regulations (which replace the 2011 Regulations) came into effect on 1st April 2015 but due to transitional savings contained within the Local Audit and Accountability Act 2014 (Commencement No. 7, Transitional Provisions and Savings) Order 2015, the 2014 Act applies only to accounts for financial years starting 1st April 2015 and for the purposes of accounts for financial years beginning before 1st April 2015 then Part II of the 1998 Act continue to have effect and which includes section 11. Therefore the Auditor can make the recommendation in relation to the Accounts ending 31st March 2014 and therefore the Council is required to consider the auditor's recommendations and decide whether to accept the recommendations and what, if any action to take.
- 9.6 The report recommends that the recommendations be accepted and advises as to the progress to date. The report also requests that progress against the recommendations be monitored on a regular basis by the General Purposes Committee, alongside the other monitoring arrangements put in place. The functions of the General Purposes Committee would permit this monitoring.

10. ONE TOWER HAMLETS CONSIDERATIONS

- 10.1 There are no specific One Tower Hamlets Considerations in the report.

11. BEST VALUE (BV) IMPLICATIONS

- 11.1 All best value implications are dealt with in the report.

12. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 12.1 There are no specific sustainable action for a greener environment implications in this report.

13. RISK MANAGEMENT IMPLICATIONS

- 13.1 Accepting the recommendations in this report will mitigate the risk of not complying with our legal obligations under section 11 of the Audit Commission Act 1998. Failure to do so could result in financial, legal or reputational damage.

14. CRIME AND DISORDER REDUCTION IMPLICATIONS

14.1 There are no specific 'Crime and Disorder reduction' implications in this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None – although progress is discussed as part of the Best Value Programme Group.

Appendices

- Appendix 1 - Best Value Action Plan (published September 2015).
- Appendix 2 - Terms of Reference and focus of the Governance Working Group.
- Appendix 3 - Progress on ISA260 Recommendations.

Local Government Act, 1972 Section 100D (As amended)

List of "Background Papers" used in the preparation of this report

List any background documents not already in the public domain including officer contact information.

- None.

Officer contact details for documents:

- Kevin Miles – Chief Accountant ext. 6791 or Brian Snary – Accountant ext. 5323