

Committee: Overview & Scrutiny Committee	Date: 9 May 2016	Classification: Unrestricted	
Report Of: Chief Executive Monitoring Officer Corporate Director Resources		Title: Poplar Town Hall	
Originating Officer(s):		Wards Affected: All	

1. SUMMARY

- 1.1 The attached report sets out the observations and recommendations of the Overview and Scrutiny Committee (OSC) following:
- (a) its review of the investigation into the sale of the former Poplar Town Hall, undertaken pursuant to a referral from full Council on 22 January 2014; and
 - (b) publication by Pricewaterhouse Coopers (PwC) on 4 November 2014 of their report into their Best Value Inspection into the Council, including the sale of Poplar Town Hall.

2. RECOMMENDATIONS

- 2.1 Overview and Scrutiny Committee is recommended to adopt the attached report and agree the recommendations contained within it.

**LOCAL GOVERNMENT ACT, 2000 (SECTION 97)
LIST OF "BACKGROUND PAPERS" USED IN THE PREPARATION OF THIS REPORT**

Brief description of "background paper"

Name and telephone number of holder and address where open to inspection

3. BACKGROUND

- 3.1 This matter has been a protracted and complex issue for the Council to progress. In particular, it has involved a number of detailed investigations undertaken by external financial and legal experts and it has been challenging for the Council to reach a consensus and understanding of the status and significance of those investigations.
- 3.2 The attached report to OSC provides a summary overview of the detailed work to date and critically identifies key outcomes for the Council to consider and implement. This is to improve (where not already implemented) the rigour of relevant procedures and provide for the ongoing scrutiny of relevant Council decisions.
- 3.3 On 22 January 2014, full Council resolved to instruct the then three statutory officers, in conjunction with the District Auditor, to undertake an immediate investigation into the marketing and sale of Poplar Town Hall. The resolution included requirements to appoint an independent property valuer and to produce an investigation report to be considered by the OSC on 4 March 2014 and full Council on 26 March 2014.
- 3.4 On 10 February 2014, following consultation with the District Auditor (KPMG), Mazars Public Sector Internal Audit Limited (Mazars) were appointed to carry out an investigation. On 4 March and 1 April 2014, the previous interim Monitoring Officer informed the OSC meetings that the investigation was on going.
- 3.5 On 4 April 2014 the Secretary of State appointed PwC to carry out a best value inspection of the Authority.
- 3.6 On 22 July 2014, the then interim Monitoring Officer reported the outcome of the Mazars investigation to the OSC. Having considered his report, the OSC resolved to receive a draft report to reflect the Committee's response to the Council resolution.
- 3.7 In November 2014, PwC issued their best value inspection report which made findings in relation to property disposals made by the Council, including Poplar Town Hall. On 17 December 2014, the Secretary of State appointed Commissioners to discharge certain specified functions of the Authority, including the approval of property disposals.

4. CURRENT POSTION

4.1 The Council has made significant progress in addressing the concerns identified by Mazars and PwC. In particular a Property Best Value Action Plan (PBVAP) was agreed with the Commissioners and submitted to the Secretary of State in March 2015. The PBVAP is designed to provide greater clarity about the processes for property disposal, including:

- The limited circumstances in which it is possible to accept late offers and/or not to accept the highest offer.
- The marketing approach period.
- Documentation and maintaining records.
- Delegated powers and decision making.
- Declaration of interests – and the need to require declarations from bidders.
- Briefing and training for staff.

4.2 Progress against the PBVAP is strong. An updated asset disposal and lettings protocol was adopted by Cabinet in April 2015 and the Chief Financial Officer has refreshed financial regulations relating to the disposal of assets. The protocol was disseminated through team meetings and in addition briefing sessions were held for relevant financial and legal officers. Compliance testing is underway and will be considered as part of any planned audit reviews. Conflict checks for bidders have been discussed with the Commissioners and further work is being undertaken to explore what mechanisms can be put in place that align with similar processes in planning. In December 2015, the Mayor agreed a new Asset Strategy which sets out a framework of how the Council will determine its future property needs. This is being supported by a series of work-streams, such as an operational property review, to ensure the Council's estate is fit for purpose. The Community Buildings Policy, also agreed in December last year sets out clear principles for the use of Council-owned community buildings and a property by property review of the Council's portfolio is currently taking place.

4.3 The attached report of the OSC has been compiled by the current Chair, pursuant to the Committee's resolution made on 22 July 2014. The report takes account of the significant changes that have occurred since the original Council resolution made in January 2014. The report has been compiled with the benefit of officer support and external legal advice and sets out recommendations for further improvements to be considered by the Mayor and the Governance Review Working Group.

5. STATUTORY OFFICER COMMENTS ON FINANCIAL, LEGAL AND STAFFING ISSUES

5.1 As indicated in the timeline of key events contained in the attached report, in July 2014, the then Interim Monitoring Officer reported the

outcome of the Mazars investigation to OSC and the Committee effectively resolved to progress its own report in response to the Council resolution made in January 2014.

- 5.2 The Council and the former Chair of the OSC subsequently received independent legal advice in respect of progressing a report in accordance with the Committee's resolution. That advice was provided by Fieldfisher solicitors and leading counsel.
- 5.3 The content of a draft report was agreed with the former Chair and circulated to relevant officers on a confidential basis for comment in June 2015. Following circulation of the confidential draft report extensive officer comments were received and in September 2015, Fieldfisher solicitors were consulted to provide further advice to the Council and the then newly appointed Chair of the Committee.
- 5.4 Having received advice on the officer comments and having taken into account the various options outlined by Fieldfisher for progressing a draft report to OSC (in light of those comments), the Chair decided to compile a new report which is attached. The aim of the attached report is to highlight the concerns raised in the Mazars report and the areas that OSC believe need further attention and enable the OSC to discuss them in public session.
- 5.5 The Chair of OSC sought advice from the statutory officers on the merits and appropriateness of attaching the earlier confidential draft report and related confidential documents as exempt papers to this report. The statutory officers have considered whether these documents should be included in exempt papers provided to the OSC to supplement the attached report. Fieldfisher advised that adopting this approach would not be risk free; the statutory officers have therefore considered the history and background to this matter including in particular the following:
 - The significant changes that have occurred in Council priorities and the way the Council operates since the original resolution made by full Council in January 2014, requiring the investigation into the marketing and sale of Poplar Town Hall.
 - The forensic investigations already completed by Mazars and PwC and the costs incurred in respect of those investigations.
 - The appointment of Commissioners by the Secretary of State in December 2014 whose remit includes the approval of property disposals.
 - The removal from office of the former Mayor and former Lead Member for Resources as a result of the ruling of the election court in April 2015.

- The election of a new Mayor and the priorities of the new administration.
- An independent report issued by Richard Penn (external investigator) in June 2015, which concluded that the then statutory officers had taken appropriate action to progress the investigation into the marketing and sale of Poplar Town Hall.
- The very limited remit of the OSC in relation to human resources issues.
- The requirement for senior members and senior officers to work together to improve the Council's organisational culture as developed through the Governance Review Working Group.
- That there is little or no prospect of a further circulation of this confidential material enabling a resolution of the issues that have already proved intractable; indeed this is only likely to exacerbate the situation.
- That transparency would best be served by a public discussion, inclusive of this covering report, without recourse to a confidential meeting of the Committee.

5.6 The statutory officers have concluded that on balance the Council's corporate position would be best served and protected by considering the attached report as an unrestricted item of business in public without providing additional confidential background material which if circulated would not add value and would expose the Council to the risk of potential litigation and further considerable costs.

6. ANTI-POVERTY IMPLICATIONS

6.1 There are no specific anti-poverty implications arising from this report.

7. RISK MANAGEMENT IMPLICATIONS

7.1 These are included in the statutory officer comments at section 4 above.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT (SAGE)

8.1 There are no specific SAGE implications arising from this report.

9. CRIME AND DISORDER REDUCTION IMPLICATIONS

9.1 There are no specific crime and disorder reduction implications arising out of this report.