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GENERAL PURPOSES AND LICENSING COMMITTEE

Meeting to be held on Thursday 7 April 2011

Please see the attached report(s) marked "to follow" on the agenda.

12 AUDIT SUB-COMMITTEE: MINUTES OF THE MEETING HELD ON 16TH MARCH 2011, EXCLUDING EXEMPT INFORMATION (Pages 3 - 16)

13 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

The Chairman to move that the Press and public be excluded during consideration of the items of business listed below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

15 AUDIT SUB-COMMITTEE: EXEMPT MINUTES - 16TH MARCH 2011 (Pages 17 - 24) - Any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.

Copies of the documents referred to above can be obtained from
www.bromley.gov.uk/meetings

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AUDIT SUB-COMMITTEE

Minutes of the meeting held at 7.30 pm on 16 March 2011

Present:

Councillor Michael Tickner (Chairman)
Councillor Lydia Buttinger (Vice-Chairman)
Councillors Reg Adams, Nicholas Bennett J.P.,
Simon Fawthrop, Julian Grainger and Stephen Wells

Also Present:

Councillor Peter Fookes and Councillor Ernest Noad.

36 APOLOGIES FOR ABSENCE AND NOTIFICATION OF SUBSTITUTE MEMBERS

No apologies for absence were received.

37 DECLARATIONS OF INTEREST

The Chairman welcomed Mr. Rob Carling, Head of Finance, Children and Young People Services to his last meeting for Bromley Council before moving to a new post. He offered congratulations and thanks to Mr. Carling for all his hard work for the Council.

Councillor Stephen Wells declared a personal interest in relation to the fact that his mother-in-law was a client of the Council's CareLink Service.

Councillors Reg Adams, Simon Fawthrop, Julian Grainger and Stephen Wells declared personal interests in relation to the Local Government Pension Scheme.

Councillors Reg Adams, Lydia Buttinger, Simon Fawthrop, Julian Grainger and Stephen Wells declared personal interests as school governors.

Councillor Simon Fawthrop declared a personal interest as the parent of a child at a Bromley secondary school.

38 CONFIRMATION OF THE MINUTES OF THE MEETING HELD ON 6TH DECEMBER 2010 EXCLUDING THOSE CONTAINING EXEMPT INFORMATION

RESOLVED that the minutes of the meeting held on 6th December 2010 be confirmed.

39 QUESTIONS BY MEMBERS OF THE PUBLIC ATTENDING THE MEETING

No questions were received.

40 MATTERS OUTSTANDING FROM THE LAST MEETING Report LDCS11041

Councillors were advised of matters outstanding from previous meetings and the progress made.

It was noted that those items on Appendix 1 of the report marked “complete” would be removed from the report unless Members stated a reason for that item to remain.

RESOLVED that progress with matters outstanding from previous meetings be noted.

41 INTERNAL AUDITOR NOMINATIONS Report DR11021

The report informed Members of the Internal Auditor nominations for “Auditor of the Year”. The successful winner would be presented the award by the Mayor.

Officers were asked if the three nominees set out in the report had (a) all gone above and beyond the call of duty; (b) had identified something of great significance or (c) had raised the profile of Value for Money (VfM). Councillors were advised by the Chief Internal Auditor that all the nominees had gone above and beyond the call of duty otherwise the officer would not have been nominated. In the officer’s opinion, Nominee B had identified something of great significance and Nominee C had been instrumental in bringing about a new venture in the Greenwich Council partnership.

Councillor Fawthrop proposed, and was seconded by Councillor Wells, that Nominee B be awarded the Auditor of the Year Award for 2010/11. The vote was unanimous.

The Chief Internal Auditor thanked the Chairman for introducing this initiative.

RESOLVED that:

- (a) Nominee B, as set out in the report, be awarded the Auditor of the Year Award 2010/11 by the Mayor at the annual meeting of the Council on 11th May 2011; and**
- (b) all nominees be commended for their excellent work for the Council.**

42 EXTERNAL AUDIT REPORTS Report DR11022

The report advised Councillors of the first annual report summarising the results of the external auditor's 2009/10 grant claim certification work. The purpose of the letter was to provide a high level overview of the results of the certification work that had been undertaken at the Council.

The Chairman welcomed Ms. Janet Dawson and Mr. Stuart Brown from PriceWaterhouseCoopers (PWC), the Council's external auditors, to the meeting.

Following the Government's announcement of the abolition of the Audit Commission, the Sub-Committee asked about the Commission's current position and, after the abolition, whether the Council would be responsible for appointing its own external auditors. Ms. Dawson responded that the complexity of dismantling the Commission had been severely underestimated. The dismantling would involve redundancies and associated costs and the planning for moving forward into a new regime. A great deal of work was being undertaken together with consultations. The Audit Commission was also fighting a rearguard action in a bid to survive. The local government transfer was not as clear as had been hoped and the remit had yet to be decided. PWC was currently contracted to the Commission but would also be interested in continuing to participate in any future marketplace.

The Chairman asked a question in relation to the fees paid by the Council to PWC and was advised that fees were set by the Audit Commission. However, when the Commission was dismantled, the Council could then negotiate its own fees. For clarity, Ms. Dawson reported that 30% of the fees paid to PWC were passed on to the Commission. In future, this could possibly be a saving benefit for clients.

The Chairman asked about the testing in relation to children in care affordability 1 and 2 grants which had been spent. Mr. Brown elucidated there was a recommended certification specification to be applied during a grant application process which officers needed to be briefed about. However this was not a significant issue.

The contrast in opinions regarding the Housing and Council Tax Benefit Subsidy was raised and the external auditor explained that this arose because of the follow up to recommendations made last year when the system had been improved to allow documents to be more easily retrieved.

The Vice-Chairman asked about the amended value of claims and how the Council benchmarked against other local authorities. She was advised that most councils were very good at putting together grant claims as they were very familiar with the process. Only small errors had been found and this was very encouraging.

RESOLVED that the report be noted.

**43 EXTERNAL AUDIT REPORTS: 2010/11 ANNUAL AUDIT PLAN
AND 2010/11 PENSION FUND AUDIT PLAN Report DR11023**

The Sub-Committee was informed of the external audit activity for 2010/11 annual audit plan and pension fund plan. The External Audit Plan had been prepared to inform officers and Members about the responsibilities the external auditors have and how they planned to discharge them.

In response to a question, the external auditor explained that the annual audit for each local authority complied with national standards. However the approach could be slightly varied based on perceived risk. The external auditors would look at the tri-annual valuation and maybe use this information to reduce the work of the annual audit.

A Councillor asked if PWC would make comment on their methodologies to the Pensions Investment Sub-Committee as it would be significant because of the pension recovery plan. PWC advised that they would comment but only within the scope of audit.

The Chairman thanked Ms. Dawson and Mr. Brown for attending the meeting and answering Members' questions and noted that they would next be attending the September 2011 meeting of the Sub-Committee.

RESOLVED that the report be noted.

44 INTERNAL AUDIT PROGRESS REPORT Report DR11018

The report advised of the recent audit activity across the Council and provided updates on matters arising from the last meeting of the Audit Sub-Committee in December 2010.

(a) Notification of Fraud Prosecutions to Benefits Claimants (Appendix A)

The Chairman drew Members' attention to Appendix A which was a leaflet that would be sent to all residents who received the Council's annual benefit statement. The leaflet, which appeared in the agenda as black and white, would be reproduced in the Council's corporate logo colours.

The Sub-Committee commented on the design and wording of the leaflet and whilst some felt that the wording setting out the risk of prosecution for fraudulent behaviour was not strong enough, many others felt that the leaflet's message was couched in the correct wording, used the right tone, and assumed that most recipients were not of a criminal frame of mind. It was suggested that the line "Help your Council to protect your public funds" be highlighted. After a few more design suggestions, the Chairman asked that Officers change the leaflet as they felt necessary in light of Members' comments.

RESOLVED that officers be authorised to amend the leaflet attached at Appendix A of the report as appropriate.

(b) Reclaiming Staff Costs for Successful Prosecution

The Chairman advised that a progress report on this subject would be submitted to the Sub-Committee at its meeting in March 2012.

RESOLVED that a report on the Reclamation of Staff Costs for Successful Prosecutions to be submitted to the March 2012 meeting of the Audit Sub-Committee.

(c) Housing Benefit Future Proposals

The Chairman drew Members' attention to a letter he had sent to Lord Freud on this subject and agreed to circulate it to Members of Parliament for the Borough.

RESOLVED that the letter written by the Chairman of the Audit Sub-Committee to Lord Freud be circulated to all Members of Parliament for the Borough.

(d) Officer Expenses

The Sub-Committee was advised that the perceived increase in staff expenses within Children and Young People Services was as a result of payments previously being paid from petty cash and payments now being paid through the payroll system. The Head of Finance (CYP) stated that all managers had been informed that staff expenses should be claimed through payroll in future.

(e) Progress and New Issues Since the Last Meeting

A question was raised in relation to schools applying for academy status and those schools not having internal audits carried out by the Council. The Head of Finance (CYP) advised that the government had discontinued the rules for financial management in schools in November 2010. Schools would still be required to have an audit but they would not be obliged to buy services from the Council. It was noted that private accountants could carry out systems audits. Members asked if schools would save money if they did not use the Council services and whether the Council audit was considered "too tough". The Chief internal Auditor advised that the feedback received from schools had been very positive and there was an obvious need to be competitive with regard to the cost charged for the Council service.

Following a question in relation to schools being charged a proportion of the Dedicated Schools Grant (DSG) administration cost, Members were advised that as a result of Section 251 costs could not be charged to the DSG.

(f) Waivers

A list of waivers across the Council for the period September 2010 to February 2011 was submitted for Members' consideration (Appendices C and D refer).

In relation to paragraph 3.29 of the report, a Councillor drew attention to the fact that the agreement of the Director of Legal, Democratic and Customer Services, the Director of Resources and the appropriate Portfolio Holder were required to sign off contracts (or proposed contracts) exceeding £1 million, and the fact that this did not seem correct. The Chief Internal Auditor agreed to investigate this matter. The Sub-Committee was advised that the approval of the Executive was required for such contracts. The approval for sign off on waivers should not be higher than the limit above which Executive approval was required for contracts.

Members were informed that services and supplies costing under £5,000 did not need competitive quotations. Anything above £5,000 required officers to obtain three quotations unless exempted.

Councillors raised the following questions:

- Whether it was the Council's policy to use local contractors wherever possible to encourage the Borough's economy.
- The lack of tendering process for smaller undertakings.
- Whether waivers were reported to the appropriate Policy Development and Scrutiny (PDS) Committee.

RESOLVED that the Chief Internal Auditor investigate the terms of approval for sign off of contracts exceeding £1 million.

(Would Members note that paragraph 3.29 of the Internal Audit Progress Report was incorrect and should read "Where the value of a relevant contract (or proposed contract) exceeds £1 million the agreement of the Director of Legal, Democratic and Customer Services, the Director of Resources and the approval of the Executive or Council as appropriate shall be obtained.".)

(g) Parking Income

The Vice-Chairman asked if the rationalisation of the car parking charging structure would take into consideration the impact on businesses in the area and not just the number of users of the parking facilities. This issue had been raised at Environment PDS Committee. Another Councillor commented that VfM in this area was problematic and suggested that officers look at benchmarking data. The word rationalise could be taken to mean standardise. There should be a variety of charges based on supply and demand, and local conditions.

RESOLVED that the Chief Internal Auditor email the Audit Sub-Committee giving details of the criteria used when setting car parking charges.

(h) Town Centre Management

Orpington Town Centre had recently enjoyed a £2 million improvement scheme. A Councillor enquired whether a VfM exercise had been carried out since the improvements had been concluded. For example, had the footfall increased as projected at the inception of the project? The same exercise could also apply to Langley Park Boys School concert hall. The Chief Internal Auditor responded that audit did not ask such overt VfM questions but rather looked at the arrangements in place to deliver VfM.

(i) Waste

Officers were congratulated for meeting the criteria fully after a review of VfM arrangements.

(j) CareLink

Members noted that there would be a report to the next meeting of the Sub-Committee in relation to CareLink. The officer advised that there had been teething problems in the methodology of these audits and the issue needed to be moved forward. CareLink would be referred on to the Improvement Team.

RESOLVED that a report on CareLink audit issues be submitted to the June 2011 meeting of the Audit Sub-Committee.

(k) Planning

It was noted that compared to other local authorities the Borough Planning service was considered to be low cost. Officers were asked what was being done to engage and enthuse departments into accepting the audit process. The Chief Internal Auditor responded that although it was early days, the response from officers had been fairly positive. It was intended to develop and refine the matrix and Audit would start to share accrued knowledge and details of benchmarking clubs and arrangements with the relevant clients.

(l) Risk Register

RESOLVED that an updated Risk Register be submitted to the June 2011 meeting of the Sub-Committee.

(m) Previous Priority One Recommendations – Appendix B

Following a question from the Chairman the Sub-Committee was advised that the Chief Cashier was investigating parking income reconciliations and the Audit Team would be following this up with a report back to the Sub-Committee. A credit card reconciliation would also take place within the next three to six months.

RESOLVED that a report on parking income reconciliation be submitted to the June 2011 meeting of the Audit Sub-Committee.

In relation to FMSIS Assessment of Primary School C 2010-11 and staff salaries at the school being paid twice in one month, concern was expressed that some teachers had not brought the double payment error to the School's attention. Members were advised that some of the double payments had still not been returned, mainly from staff that had since resigned or retired from the school. Arrangements were being made for them to pay back the outstanding amount over a six month period.

(n) Waivers (Appendix C)

Concern was expressed that although the information contained in Appendix C, especially in the "Reason" column, was sufficient for the Audit Sub-Committee, should the PDS Committees be advised of this information, then the "Reasons" were not good enough.

Following a question regarding the Christmas lights, the Deputy Chief Internal Auditor explained that a full tendering process for the supply of Christmas lights for three consecutive years had been undertaken. A tender for £197,000 for three years had been considered but because of current budget constraints it was felt that a year at a time at £65,000 per year would be prudent so therefore a waiver had been permitted.

(o) Waivers (Appendix D)

Rule 13, as mentioned in the Appendix, was clarified as Contract Procedure Rule 13.

RESOLVED that:

- (a) the report be noted;**
- (b) the continuing achievements of the counter fraud benefit partnership with Greenwich Council be noted;**
- (c) the action proposed for publicising to claimants the successes in prosecuting benefit fraud cases be noted; and**
- (d) the findings of the review of VfM arrangements be noted.**

**45 THE GOVERNMENT'S ACADEMY PROGRAMME:
DEVELOPMENTS WITHIN BROMLEY**

The Director of Children and Young People (CYP) Services had submitted a series of report updates on the Government's reform agenda for education, schools and wider children's services to meetings of the Children and Young People Policy Development and Scrutiny (PDS) Committee (20.07.10, 07.09.10, 30.11.10, 24.01.11 and 22.02.11). The reports provided an overview of the policy direction and key areas for reform with particular focus on the academies agenda.

Members received a report that provided an update on the Academy Programme, developments within Bromley and the potential strategic implications for the Council.

The Chairman asked why so many schools were applying for academy status in Bromley. The Director explained that there were five main drivers:

1. the overall good performance of schools which placed Bromley in the top quartile nationally;
2. ranking by Ofsted as Outstanding or Good with Outstanding Features gave schools the automatic right of conversion from the Secretary of State for Education;
3. the Borough already had the highest percentage of Grant Maintained (GM) schools and it was a relatively short step to gaining academy status from GM;
4. a high number of head teachers in Bromley were accredited as National Leaders of Education;
5. the autonomy and perceived increased funding offered by academy status were seen by many schools as very attractive.

The Director confirmed that the momentum of academy conversions during 2010/11 had placed the Borough in a unique position in the UK with a very high number of schools pursuing both individual academy conversion and 'clusters' of schools forming academy trusts.

The Borough's Chief Executive advised the Sub-Committee that so far 16 out of 17 secondary schools and 7 primary schools had applied for academy status.

The Director of CYP replied to a question about financial liability by advising that the Council retained statutory responsibility for a number of functions including place planning, admissions, children out of school, Special Educational Needs (statemented children) and Pupil Referral and Behaviour Support Services. The Council would retain these functions irrespective of schools' status.

Members were advised that a Commercial Transfer Agreement (CTA) must be completed to include the transfer of liabilities relating to staff, pensions, land and building assets and, in the case of some schools, dual use facilities and Special Educational Needs (SEN) units. The purpose of the CTA would be to protect the Council against any risks or financial liabilities and secure the Council's future interests in the case of dual use and SEN provision.

It was noted that in the case of the five schools that had already received formal approval to convert to academy status, the CTA's had yet to be signed off to the satisfaction of the Council. Officers were asked if it was appropriate for the Children and Young People PDS Committee to consider the risk

analysis relating to academy status. The Director confirmed that regular reports on the academy programme had been submitted to the CYP PDS Committee and the Portfolio Holder for CYP. In addition, the CTA's relating to conversions were the subject of decision by the Executive, given the Council-wide implications.

A Member commented that the numbers of secondary and primary schools converting individually were only the tip of the iceberg as there were 38 primary schools which may convert as part of academy clusters. The Councillor asked for assurance that a termination audit would be carried out if a CTA was not in place. The Head of Finance (CYP) stated that Internal Audit had a probity of closure process and the Council became a joint signatory on the final account. There were three main areas of risk – dual use facilities, pension liabilities and schools which had outstanding loans.

The Chief Executive confirmed that the Council had not signed any CTA's as yet. However the government continued to press ahead with conversions. Bromley was in the vanguard of academy policy development and was being tested on a daily basis.

The Director of CYP advised that given the Council's unique position it was necessary to press the Department for Education (DfE) officials on a range of issues arising from the volume of academy conversions. Following further questions about protecting the Council's interests, the Director explained that the Council had substantive experience in securing tight contract arrangements for schools transferring to former Grant Maintained status in the 1990's whereby dual use facilities at secondary schools needed to be 'protected' for community/public access to the facilities.

Following a question regarding the requirement for converting schools to continue to pay towards the pension deficit, the Head of Finance (CYP) stated that schools would be required to continue to contribute and would take the deficit with them.

A Councillor highlighted a concern about capital programme schemes being planned or committed at schools such as Langley Park School for Boys being a potential risk to the Council and the question was asked as to how the Council could have right of audit over capital programmes including any unfinished projects on conversion of such schools to academy status. The Head of Finance (CYP) advised that all but three of the capital schemes in secondary schools had been completed. Of these three, one had been shelved and two were incomplete but both schools were contractually committed. The Chief Executive said that it would cost the Council more to withdraw from a project such as the rebuild programme at Langley School for Boys than to complete it.

A Member commented that under the former system for 'academy conversion' a failing school could wipe clean its deficit and the liability for it would fall upon the local authority. Five primary schools had been identified as being on the performance ground floor over a three year period. Would there be an issue

that sponsors might not want to take on such a deficit? Would Audit look at schools like this?

The Director clarified that originally advice from the DfE had indicated that all academy conversions would be under the new Academy Act. The Secretary of State had the right to determine conversions for any school in Ofsted category of 'failing' or 'notice to improve'. In the case of any school converting using that route, the liabilities for any redundancies arising from the conversion under a sponsor partner or budget deficit would fall to the local authority. The 'schools below floor target' represented a new category of performance that DfE were considering, with an expectation that local authorities consider academy conversion for such schools.

The Portfolio Holder for Children and Young People advised Members that he had sought a meeting with Ministers to highlight the range of strategic implications and risks arising for Bromley from the fast pace of academy conversion. A meeting with Lord Hill – Parliamentary under Secretary for Schools was scheduled in early April.

It was suggested by a Member that officers look at the 2010 Academy Act as it should list the statutes that were made extant or were repealed by the Act. The Sub-Committee was advised that the Head of Legal, Democratic and Customer Services was looking into this matter.

Another question was raised on how business continuity would be achieved given the range of services which have been provided by the Council to schools. Given the financial top-slicing of central services by academy conversions, this could limit the Council's ability to move into a competitive position. The Chief Executive responded that, from a corporate perspective, this was a significant issue and the Council had not as yet mapped out the full consequences. A shake up of those services previously provided to schools by the Council would be unavoidable. However, given that the budget process for 2011/12 was now complete, the Council had the year to work issues through and would look at the scope to establish social enterprise models.

The Director confirmed that local authority funding would be affected in two ways. Bromley Council's Revenue Support Grant (RSG) had been top-sliced by the Government by £800k for 2011/12 based on a national formula of anticipated academy conversions. An indicative figure of £640k had been set for 2012/13.

The methodology for recoupment from the Dedicated Schools Grant (DSG) would be through an in-year adjustment. This would have a direct and immediate impact on central CYP services funded through the DSG including Behaviour Support, Respite and Early Intervention services. The pace of academy conversions and in-year recoupment from DSG funded services could prevent the Council from delivering statutory support functions to those schools remaining with the Local Authority because of an insufficient critical mass of services remaining. It could also limit the scope for sold services being offered to academies in the future.

RESOLVED:

- (a) that the Government's Academy programme, developments with Bromley and local strategic implications for policy and planning be noted; and**
- (b) that the specific financial implications, as outlined in section 8 of the report, be noted.**

46 INTERNAL AUDIT PLAN 2011/12

The Sub-Committee considered the internal audit plan for 2011/12.

The issue of not having to provide an audit service to those schools converting to academy status was raised. The Chief Internal Auditor responded by confirming that the Council's Audit team would carry out the closure audit on these schools. If the schools no longer required the services of the Audit Team then resources would be redirected accordingly. The officer felt that redundancies could be avoided as the service had already had to find 25% cuts as part of the savings options so had already reduced staff numbers. If the service could not provide a certain minimum number of audit days then the service could not provide an appropriate level of assurance. The officer was always happy to receive suggestions regarding issues that required an audit.

The Deputy Chief Internal Auditor pointed out that in addition to the 25% savings, a further cut of £30k was being clawed back by Children and Young People Services from the audit budget due to the abolition of FMSiS.

The Chairman asked if anyone would like to be sent a link to the comprehensive Audit Manual. It was suggested that a paper copy be placed in the Members' Room. This was agreed subject to Members understanding that information contained in electronic links within the document would not be available.

With regard to Appendix A and the number of audit days allocated, it was noted that some subjects seemed to attract a disproportionate number of days. The Chief Internal Auditor advised that the number of days allocated to each subject was built up from previous experience where available.

The Sub-Committee was advised that a Councillor had noticed that the Hospitality Register and the Members' Interest register were not always completed correctly. This was especially true of the Members' interest form with subjects such as owning a property within the Borough and political party membership often being left blank. The Chief Internal Auditor agreed to look into this matter.

RESOLVED that the Internal Audit Plan for 2011/12 be noted.

47 LOCAL GOVERNMENT ACT 1972 AS AMENDED BY THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) (VARIATION) ORDER 2006 AND THE FREEDOM OF INFORMATION ACT 2000

RESOLVED that the Press and public be excluded during the consideration of the items of business referred to below as it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the Press and public were present there would be disclosure to them of exempt information.

48 EXEMPT MINUTES OF THE MEETING HELD ON 6TH DECEMBER 2010

The exempt minutes of the meeting held on 6th December 2010 were confirmed.

49 INTERNAL AUDIT FRAUD AND INVESTIGATION PROGRESS REPORT

The Sub-Committee considered a report informing Members of recent Internal Audit activity on investigations across the Council and providing an update on matters arising since the last meeting of the Audit Sub-Committee. The report detailed new areas investigated, expanded on cases of interest, detailed the cases on the fraud register and provided a further update on the results of the National Fraud Initiative (NFI).

The Meeting ended at 11.27 pm

Chairman

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Agenda Item 15

By virtue of paragraph(s) 7 of Part 1 of Schedule 12A
of the Local Government Act 1972.

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