

Review of governance arrangements

Essex County Council

Audit 2010/11

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Summary report

Introduction

1 Effective corporate governance is essential to the good management of organisations in all sectors of the economy.

2 This report summarises previous reviews of the governance arrangements at Essex County Council. It sets out the issues identified by those reviews and the action taken by the Council in response. It provides an up to date assessment of the position as at October 2011.

Background

3 Essex County Council is a large and complex organisation, responsible for key public services for the 1.4 million residents of the County.

4 The Audit Commission's Audit Practice was appointed as the Council's external auditor in 2007/08. As part of our 2008/09 audit work at the Council we carried out a review of members' expenses payable under the Members Allowances Scheme in place at the time. We also reviewed expenditure incurred by members using corporate credit cards. A number of control weaknesses were identified and reported to senior officers in 2009.

5 At the same time, the Council's Internal Audit Service carried out reviews on a number of other governance issues, including the use of corporate credit and purchase cards by members and officers. The issues identified by Internal Audit were reported to the Council's Audit Committee in March 2010.

6 As part of the 2009/10 external audit, we reviewed the Council's arrangements for ethical governance. The findings of this work, together with the previously identified weaknesses in internal controls over member expenses, led to the qualification of the 2009/10 value for money conclusion on the grounds that the Council's arrangements for that year did not meet minimum standards of good governance.

7 Lord Hanningfield was the Leader of the Council from 1998-1999 and then from 2001 until his resignation in February 2010. In May 2011 Lord Hanningfield was convicted of false accounting relating to expense claims made in relation to his membership of the House of Lords. He lost his appeal against this conviction in July 2011 and was no longer eligible to be an elected member for Essex County Council. Essex Police are currently investigating expense claims submitted by Lord Hanningfield to Essex County Council.

External audit work in 2010/11

8 As part of our work on the Council's value for money arrangements in 2010/11, we reviewed:

- progress against recommendations made by Internal Audit on governance and expense issues;
- the Council's progress in implementing its corporate governance action plan; and
- the current health of the Council's governance arrangements. In order to do this, we followed up our 2009/10 work on ethical governance.

9 In addition we tested member expenses against the revised scheme within the Council constitution. We tested the claims for compliance with policies and reasonableness.

Main conclusions

10 The Council has recognised the need to improve ethical governance arrangements and has invested significant resources in order to achieve this. Since his appointment in 2010, the new Leader of the Council has overseen the implementation of a range of policies and procedures which have improved the quality of governance. The Council recognised a real and sustainable culture change is required and some progress has been made towards this.

11 The vast majority of agreed recommendations arising from Internal Audit's reviews of governance arrangements are now in place. A small number are still being implemented.

12 The Council has made significant progress in implementing its corporate governance action plan in 2010/11. A number of actions remained outstanding at the end of the year, largely due to the long term nature of the changes required. Progress has continued since then and I will continue to monitor this during 2011/12.

13 The Council now has a robust process in place for member expenses and the claims being approved are appropriate and for Council business..

14 Given the improvements in governance arrangements I was able to issue an unqualified value for money opinion for 2010/11.

Detailed report

Members' expenses

15 The external and internal audit reviews of members' expenses in 2009 identified significant control weaknesses as reported to the Audit Committee in March and September 2010.

16 The findings included:

- the absence of basic systems, controls and procedures, including for proper scrutiny of expense claims;
- difficulty in some cases demonstrating that expenditure incurred was appropriate, or that it was properly and necessarily incurred on legitimate Council business; and
- a failure to publish members' allowances and expenses promptly after the year end, which is a statutory requirement.

17 The guidance in the Council Constitution on members' expenses was not clear in a number of areas. We recommended it should be strengthened and clarified so that Council members and the public could be confident that all expenses were properly claimed.

18 The Council responded to the audit findings by clarifying its guidance on members' expenses and strengthening the approval process prior to payment.

19 Our testing of member expenses submitted in 2010/11 concluded that:

- the revised guidance and approval process is working well;
- expenses are now published regularly on the Council's website;
- the expenses we tested were accurately published and had been appropriately authorised. We are satisfied that the expenses were appropriate and incurred on Council business.

20 In conclusion I am now satisfied the Council now has a robust process in place for member expenses and the claims being approved are appropriate and for Council business.

Other internal control issues

21 In addition to members' expenses, internal audit work in 2009/10 identified concerns with the following areas of internal control:

- corporate credit and procurement cards;
- chauffeured cars;
- gifts and hospitality; and
- corporate governance summary report.

22 Internal Audit has an established follow-up procedure for all its recommendations which we have used to review progress against the recommendations made in these areas.

23 Overall the Council has made significant progress against internal audit recommendations in relation to governance issues reported in 2009/10. However some issues remain which are highlighted below.

Corporate Credit and Procurement Cards

24 The 2009/10 internal audit reports on corporate credit and procurement cards identified weaknesses in the controls over these cards. In response, the Council has ceased using corporate credit cards and introduced a new electronic system to control procurement cards, known as Spendvision.

25 Internal Audit reported on the controls operating within Spendvision in October 2010, issuing a 'substantial assurance' opinion.

26 One remaining issue of concern is that, in some cases, receipts in support of procurement card expenditure are not obtained.

Recommendation

R1 The Council should issue further instructions to staff explaining they must submit receipts with claims and consider withdrawing procurement cards in response to expenditure being incurred with no receipt repeatedly.

Chauffeured Cars

27 Internal audit reviewed arrangements for chauffeured cars in the Council in 2009. They highlighted a number of concerns including:

- the chauffeurs were working excessive overtime hours;
- the lack of a clear policy on when the cars should be used combined with a lack of detailed records on how they had been used made scrutiny of their use difficult; and
- cars were being taken home by drivers without this being reflected properly in taxable benefits.

28 Internal Audit reviewed progress against the agreed recommendations on chauffeured cars in July 2011. All actions had been completed except revised contractual arrangements for the chauffeur to avoid excessive working hours and overtime payments were not in place. The revised deadline for this was October 2011 but this has not been completed.

Gifts and Hospitality

29 Internal Audit followed up a previous review of arrangements for gifts and hospitality in 2009. They concluded arrangements were generally sound but identified some issues of concern.

- Some areas within the Council did not have a register for gifts and hospitality.
- Some registers did not comply with the template issued and therefore did not include all required information.

- Managers did not always evidence their review of the registers.
- Few business interests were being recorded suggesting a lack of awareness of the need to do so.

30 Internal Audit issued a 'limited assurance' report again in May 2011. Recommendations made as a result of findings in the 2009 follow up have been implemented except:

- the Information Services gifts and hospitality register was incomplete compared to the declarations made and the wrong template was used; and
- a number of registers did not evidence regular managerial review.

In addition Internal Audit noted that:

- gifts and hospitality is not approved in advance;
- sometimes there is insufficient detail recorded to enable the declarations to be considered properly;
- managers do not consistently evidence their risk assessment of the declarations;
- declarations of interest forms were not found for 54 per cent of interims and consultants sourced through Capita;
- declarations were being destroyed too quickly when officers were removed from the scheme of delegation; and
- there was confusion with filing arrangements for staff who had moved between directorates.

Recommendation

R2 Any outstanding findings from Internal Audit Governance Reports should be addressed by the Head of Audit and Risk Management or the Monitoring Officer by the end of the financial year.

Corporate Governance Summary Report

31 Internal Audit's summary report in 2010 made a number of recommendations relating to corporate governance as shown in table 1. The position as at October 2011 is shown against each one.

Table 1: **Internal audit recommendations**

2010 recommendation	Current position (October 2011)
Internal Audit findings and recommendations on governance issues should be consolidated into a robust action plan.	A corporate governance action plan is in place and being actively monitored at an appropriate level.

2010 recommendation	Current position (October 2011)
A wide range of policies, procedures and protocols should be updated in light of the issues identified these should be effectively communicated to officers and members.	The Council has revised The Constitution and a number of policies, procedures and protocols. These have been effectively communicated to members and officers.
An intranet site should be established for Governance with appropriate endorsement from the Leader and Chief Executive.	The intranet site has been established and is being used by staff. A governance officer has been given responsibility for keeping the site updated on a regular basis. Most areas have been completed and previous delays in updating the site have been addressed.
A project Manager is appointed to manage the delivery of the action plan.	A project manager was appointed and is still actively managing the corporate governance project.
The refreshed Corporate Governance Group should oversee the timely delivery of the action plan with the Monitoring Officer as the Sponsor.	The Corporate Governance Group is overseeing the delivery of the action plan and includes the Monitoring Officer along with other senior staff. The sponsor is the Executive Director for Finance..
<i>Source: Corporate Governance Summary Report September 2009</i>	

The Council's Corporate Governance Action Plan

32 The Council recognised the significance of previous findings both from our work and those of Internal Audit. A Corporate Governance Group comprising senior officers, including the Monitoring Officer; the Chief Financial Officer and the Head of Internal Audit and Risk Management was tasked with overseeing the implementation of actions in response to our findings and those of Internal Audit.

33 The Group agreed a Corporate Governance Action Plan that included clear and specific actions in response to our findings and recommendations as well as those made by Internal Audit. The audits carried out by Internal Audit and the Corporate Governance Action Plan were also considered by the Council's Audit Committee in March 2010.

34 Specific actions in the Plan included:

- reviewing travel and subsistence to include explicit and clear policies on what activity constitutes legitimate Council business and the need to provide receipts to support expenditure;

- establishing a clear, independent process for the review and sign off of expenses claims; and
- ensuring that an appropriate communications and training plan is developed and rolled out to departments and members within the Council to ensure that they are aware of the new governance policies, procedures and requirements.

35 We assessed the progress made against the action plan in 2010/11 and since. The Council has made significant progress in a number of areas such as:

- agreeing and implementing a new Constitution;
- Issuing revised policies, procedures and protocols in a number of key areas;
- establishing the 'How we get things done' intranet site which collates documents relating to governance in one place for ease of access to officers and members;
- the Council has implemented a dedicated reporting line for staff and others called 'Speak Up' which means that whistleblowing complaints are managed and tracked by the system;
- decision making is now more transparent with agendas and papers for meetings available in advance; and
- the Scheme of Delegation for Officers has been updated and will be kept under review by the Monitoring Officer.

36 A number of key areas identified within the action plan remained outstanding for 2010/11. Progress has been made in some areas in 2011/12.

- The review of how the Council deals with requests for information from external sources to meet statutory regulations such as the Freedom of Information Act is still ongoing but steps have already been taken to improve performance on timeliness of responses.
- A training programme for members and staff at all levels with links to the corporate induction process has now been developed and delivery has started for officers in October 2011.
- The review of policy development is still ongoing but the review and restructure of the corporate Policy and Strategy team is now complete.
- Governance champions were not actively promoting governance across the Council in 2010/11 but have been in 2011/12.
- The review and implementation of Cabinet and Committee governance is still underway but performance reporting in relation to the publication of formal reports has already been introduced.
- Work is currently underway to further develop a transparent process for dealing with inappropriate member and officer behaviour. The newly appointed Monitoring Officer is responsible for taking a lead on promoting high standards of ethical behaviour across the Council.
- Specific governance training for the most senior members and officers was not delivered in 2010/11 but has now started for officers. The Council expects governance training to have been delivered to all members and officers by March 2012.

37 The newly appointed Monitoring Officer is responsible for taking a lead on promoting high standards of ethical behaviour across the Council.

38 I will continue to monitor the Council's progress against the Corporate Governance Action plan in 2011/12.

Recommendation

R3 Progress against the Corporate Governance Action Plan should continue to be monitored and the Audit Committee should be updated regularly on progress and any slippage against agreed actions.

Ethical governance

39 Our review of ethical governance in 2009/10 involved a self assessment, document review, interviews with members and officers, focus groups and an anonymous survey to members and officers.

40 The purpose of the work was to assess if:

- the Council was complying with the law (Local Government Act 2000 and Local Government and Public Involvement in Health Act 2007);
- the Council was promoting the ethical agenda;
- members and officers understood and were aware of ethical issues; and
- members were abiding by the Code of Conduct.

41 From this work we highlighted areas for consideration and actions for the Council to take.

42 The review was structured around four themes.

- Balancing rules and trust.
- Independent overview.
- Leadership.
- Transparency.

43 Our findings were reported to senior officers and members in September 2010.

- Although many members and officers demonstrated a clear commitment to good governance we found areas of concern that needed to be addressed.
- The relationships between members and officers were not always constructive and effective with confusion about roles and boundaries. As a result there was a lack of trust and confidence in some areas.
- As a result of a lack of leadership on the ethical governance agenda, some members did not understand the need for strong arrangements and high standards amongst all members.
- The Council did not have sound systems in place to ensure that contractors and interim staff, particularly those at a senior level, understood the importance of good governance in the context of a public body.

- Strong ethical governance was not seen as a route to effective working and appropriate levels of transparency.
- There was a lack of confidence that inappropriate behaviour would be dealt with properly.

44 My follow-up review of ethical governance arrangements in 2010/11 was structured around three themes.

- Demonstrating good governance.
- Transparency about the way the Council and its people do business.
- Promoting a proper culture and appropriate behaviour in the Council.

45 Eighty one members and 205 officers responded to a confidential electronic survey on ethical governance arrangements. This was a 56 per cent improvement on the previous year. It was a valuable check of progress against the Council's Corporate Governance Action Plan.

46 The results of the survey, document review and interviews showed that:

- there is a clear commitment by the Council's leadership to improve governance across the Council and this is recognised by officers and members;
- there are clear signs of improved arrangements;
- officers and members feel they perform their duties with honesty, integrity, fairness and objectivity;
- transparency is improving;
- new governance policies and arrangements are now in place;
- officers are keen to know more about effective governance;
- there is more to do to change the culture of the organisation and ensure sustainable improvements in governance;
- arrangements need to be more proportionate to risk; and
- some senior members are unclear about ethical standards.

47 It is recognised by members and officers that the Leader, Councillor Peter Martin, who has been in place since February 2010, promotes the importance of the ethical agenda and provides a positive role model. There has been clear and regular communication to staff on the importance of good ethical governance and how it can be achieved. As a result of this leadership and new policies, procedures and protocols, members and officers know how they should behave. In order to maintain this knowledge and expectation, member and officer induction should include specific training on ethical standards.

48 Communication between members and officers is improving and the process to deal with unacceptable behaviour is well understood. There have been examples of improper behaviour being dealt with but there is still a feeling that more consistency is needed for everyone to feel confident that appropriate action will be taken when concerns are raised.

49 Transparency is improving. Council, Cabinet and other Committee agendas, reports and minutes are now published in a timely manner.

50 Scrutiny arrangements need to be reviewed. Internal Audit issued a limited assurance opinion on the arrangements in place in October 2010. Not all recommendations have been implemented within the agreed timescales. In survey responses and interviews, scrutiny arrangements were highlighted as an area for further improvement.

51 Although there is a clear steer from the Leader on ethical governance issues it is essential that this is reinforced by a similar message from every member of the Cabinet. It is important for officers and the public to see that high standards do not depend on individuals but are systematic and secure.

52 The Council needs to move from changing policies to embedding cultural change. This is recognised in the corporate governance action plan but is the most difficult element to achieve. The Council should develop systems to monitor progress in securing cultural change (for example by regular tracking surveys).

53 There is a particular need to ensure that the induction of interim and temporary staff, including those at senior levels, includes adequate coverage of the governance standards required of all employees.

54 The Council's vision of the future is that it will commission a greater proportion of services rather than providing them directly. The Council needs to ensure that adequate attention is paid to securing the required ethical standards regardless of service provider.

55 The Council has invested significant resources into addressing governance issues. As cultural change is secured it will be important to ensure processes are proportionate to risk and facilitating effective delivery of services while ensuring standards of behaviour are maintained. This will mean consolidating and streamlining governance policies and procedures.

Recommendations

R4 Induction arrangements for members and officers (including interim and contract staff) should include specific training on ethical standards.

R5 Review scrutiny arrangements to instil confidence in the process from members, officers and the public.

R6 Demonstrate that the Leadership's commitment to high standards of governance is shared by the whole cabinet.

R7 Monitor progress in achieving cultural and behaviour change in relation to ethical standards.

Appendix 1 Characteristics of good governance

Corporate governance has become increasingly important throughout society, since effective governance is the cornerstone of well-managed organisations whether they are in the public, private or voluntary sectors.

The Chartered Institute for Public Finance and Accountancy (CIPFA), the Society of Local Authority Chief Executives and Senior Managers (SOLACE) and the Audit Commission have agreed:

'Governance is about how local public bodies and partnerships ensure that they are doing the right things, in the right way, for the right people in a timely inclusive, open, honest and accountable manner. It comprises the systems and processes for the direction and control of local authorities through which they account to, engage with and lead their communities.'

The function of governance is to ensure that an organisation or partnership fulfils its overall purpose, achieves its intended outcomes for citizens and service users, and operates in an effective, efficient and ethical manner. This principle should guide all governance activity.

All organisations spending public money, either in commissioning services or providing them directly, have a duty to strive for economy, efficiency and effectiveness in their work. Citizens and taxpayers have an important and legitimate interest in the value for money provided by organisations that use public money.

Good governance requires all concerned to be clear about the functions of governance and their own roles and responsibilities and those of others, and to behave in ways consistent with those roles. Being clear about one's own role, and how it relates to that of others, increases the chance of performing the role well. Clarity about roles also helps all stakeholders to understand how the governance system works and who is accountable for what.

Councils need to be clear about the nature of their relationship with the public. The Council's role is to direct and control the organisation in the public interest and to ensure accountability to the public.

Good governance flows from a shared ethos or culture, as well as from systems and structures. It cannot be reduced to a set of rules, or achieved fully by compliance with a set of requirements. This spirit or ethos of good governance can be expressed as values and demonstrated in behaviour.

Good governance builds on the seven principles for the conduct of people in public life that were established by the Committee on Standards in Public Life. Known as the Nolan principles, these are: selflessness, integrity, objectivity, accountability, openness, honesty and leadership.

A hallmark of good governance is a clearly defined level of delegation by Councils to the executive for decision making. The Council sets policies as parameters within which the executive works on the behalf of the Council. For this to work well, it is important that members do not concern themselves with levels of detail that are inappropriate for their role, while ensuring that they are not too far removed to provide effective oversight and scrutiny.

Conflicts can arise between the personal interests of individuals involved in making decisions and decisions that the Council needs to make in the public interest. To ensure probity and to avoid public concern or loss of confidence, Councils have to take steps to avoid any such conflicts of interest, whether real or perceived.

Appendix 2 Action plan

Recommendations

Recommendation 1

The Council should issue further instructions to staff explaining they must submit receipts with claims and consider withdrawing procurement cards in response to expenditure being incurred with no receipt repeatedly.

Responsibility	Head of Human Resources
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Priority	High
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Date	31 March 2012
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Comments	The system currently in place does not permit claims to be approved without adequate receipts and so this should not be a problem in practice. However, further guidance will be issued to staff so that they are fully aware of the new system and what is required to accompany claims.
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Recommendation 2

Any outstanding findings from Internal Audit Governance Reports should be addressed by the Head of Audit and Risk Management or the Monitoring Officer by the end of the financial year.

Responsibility	Monitoring Officer
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Priority	High
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Date	31 March 2012
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Comments	The existing Phase 2 Corporate Governance Project Action Plan addresses all findings and recommendations but this will be refreshed or renewed over the coming months.
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Recommendation 3

Progress against the Corporate Governance Action Plan should continue to be monitored and the Audit Committee should be updated regularly on progress and any slippage against agreed actions.

Responsibility	Monitoring Officer
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Priority	High
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Date	Ongoing
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Comments	This is ongoing.
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Recommendation 4

Induction arrangements for members and officers (including interim and contract staff) should include specific training on ethical standards.

Responsibility	Head of Human Resources and Monitoring Officer
Priority	High
Date	31 March 2012
Comments	The induction and training process for staff and members has been strengthened to incorporate training on ethical standards by way of the e-learning package. The success of this new e-learning package will be monitored over the coming months so we can assess how successful it has been. We will also review the member induction process in time for the 2013 election.

Recommendation 5

Review scrutiny arrangements to instil confidence in the process from members, officers and the public.

Responsibility	Monitoring Officer
Priority	High
Date	30 June 2012
Comments	A review of the Council's scrutiny arrangements has been commissioned and will be reported within the next six months.

Recommendation 6

Demonstrate that the Leadership's commitment to high standards of governance is shared by the whole cabinet.

Responsibility	Monitoring Officer
Priority	High
Date	Ongoing
Comments	The Monitoring Officer will work closely with the Chief Executive and the Leader to make sure that commitment to high standards of governance is not just shared by the whole cabinet but is communicated to all parts of the organisation.

Recommendation 7

Monitor progress in achieving cultural and behaviour change in relation to ethical standards.

Responsibility	Monitoring Officer
Priority	High
Date	Ongoing
Comments	The Monitoring Officer will review the arrangement which the Council has in place for dealing with inappropriate behaviour and will ensure that all members and officers are aware of this. A significant step has already been made in this regard by the roll out of the e-learning programme which provides clear guidance to all members and officers on who to report inappropriate behaviour to. Further, the Council has already in place as new system for logging and tracking whistleblowing allegations.

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