Audit Committee

Thursday, 29th January, 2015
5.05 - 7.05 pm

Attendees	
Councillors:	Colin Hay (Chair), Chris Nelson (Vice-Chair), Matt Babbage, Flo Clucas, Dan Murch, David Prince and Pat Thornton
Also in attendance:	Councillor Rowena Hay, Mark Sheldon, Robert Milford, Bryan Parsons, Councillor Steve Jordan, Councillor Jon Walklett, Andrew North, Councillor John Rawson, Councillor Chris Mason and Councillor Andrew Chard

Minutes

1. APOLOGIES
No apologies had been received.

2. DECLARATIONS OF INTEREST
No interests were declared.

3. PUBLIC QUESTIONS
No public questions were received.

4. UPDATE ON AUDIT WORK IN RELATION TO THE WILSON ART GALLERY AND MUSEUM EXTENSION PROJECT
The Chief Executive introduced his report. He explained that at the Audit Committee meeting on 11 December 2014 it was reported that the findings of a review into the overspend on the Art Gallery and Museum Extension project from forensic auditors at Grant Thornton was being delayed because new information relating to expenditure on the project had recently been brought to his attention.

Since that meeting additional audit work has been carried out to investigate the new information to accurately determine the extent of the project overspend and to explore any failures which led to its late reporting. This was set out in the report from Grant Thornton and Mr Fred Brown of the company's forensic and investigation team was in attendance to answer any questions from the committee.

The committee resolved at the last meeting that authority be delegated to the Director Resources to consider what further work should be undertaken by Grant Thornton and/or by Audit Cotswolds and to enter into contracts accordingly. Audit Cotswolds had produced a draft scoping document which was attached as an appendix to the report. Members were being asked to consider that document and make any amendments.

The chair welcomed Mr Brown to the meeting and asked him to introduce his report. Mr Brown explained that his brief had been to investigate the matter in some depth to try and identify what went wrong and identify lessons learned for the future. He explained the methodology they had used and invited questions.

Mr Brown was asked to outline what in his opinion had gone wrong in the process to establish whether this confirmed with members views after reading the report. In response he indicated that the recommendations in the report would give some indication of this. One of the key issues was to do with the upward reporting within the council of construction and non-construction costs. In the case of the construction costs these were being flagged up in the Davis Langdon reports, including the use of the contingency funds, but this information was not being channelled up the council. Non construction costs covering professional fees were also bound to increase as the project timescales were extended. He could not see any real evidence that the construction and non-construction costs could have been saved but the issue was in their reporting. The structure for the project set up seemed appropriate with suitable meetings in place to monitor progress but clearly examination of costs needed to be formulated into the agendas of these meetings. It appeared that the non-construction costs stopped being reported in 2011 and it was not clear who was responsible for reporting on them after that. He confirmed that this flow of information to the right people was a key factor however he also highlighted that the dynamic nature of projects did make this more complicated.

A member wished to establish Mr Brown's experience of capital works projects and forensic audit. Mr Brown replied that he was not a quantity surveyor or project manager but he had considerable experience in forensic auditing and had carried out similar reviews of project overspends in the public sector.

A member commented that the report seemed to give the impression that the key factor was a breakdown in communications but they also felt that it was due to a breakdown in control and oversight by managers at a higher level who should have been more challenging with their questions. He suggested that the forensic approach may have been too focused on detecting malpractice or fraud rather than looking at the culture of project management as a possible cause.

The Chief Executive explained that initially Audit Cotswold had been invited to do this piece of work and they may have been best placed to look at the issue in those terms. However it was assessed as a massive piece of work which they did not have the resources to do at that time and Grant Thornton were invited to do it on the basis of their forensic skills, their capacity and their existing relationship with the council.

The member turned his question to the Chief Executive and asked him whether he accepted that management were not paid to sit passively and in the absence of target indicators should be making judgements and asking searching questions. He suggested that the ongoing use of the £600,000 contingency fund should have set some alarm bells ringing. The 1000 change requirements also raised questions about the adequacy of monitoring and the change control process.

The Chief Executive agreed that senior managers and Cabinet Members had a responsibility to ensure projects were effectively run and competently staffed.

In this case the senior leadership team and other members of Cabinet had been provided with information which allowed them to track progress but the problem was that the information was inaccurate or out of date. In the report from Grant Thornton they had confirmed that in their view changes were being properly authorised.

A member asked whether it was possible to break down the overspend and apportion it to each of the problems that occurred in the project. The fact that non construction costs had increased by 46% and construction costs by only 12% gave some indication of where the problem lay.

Mr Brown advised that this would be possible for the non- construction costs but would be quite a difficult exercise in terms of the construction costs. The Director of Resources explained that the component parts of the build project were not broken down on Agresso so this breakdown would not be readily available and would require a detailed examination of invoices. The Head of Audit Cotswolds advised that this could be looked at within his brief but may reduce the time spent in other areas.

A member commented that the report seemed to focus on what went wrong but didn't give sufficient explanation on why this had happened. In particular the report seemed to highlight that reporting stopped at some point and asked why no one seemed to question this at the time.

Mr Brown responded that the recommendations in the report were a good indication of some of the reasons why and sought to address them. The answers to why was a matter of drilling down to roles and individual responsibilities which had not been part of the Grant Thornton remit. However he did emphasise that people on projects would be very busy and receiving a lot of information at any one time.

The chair thought this was an important issue for the Audit Cotswolds review.

There was some discussion about the implications ofaccepting a tender for £5.6 million when the budget had been set at £6.3 million. A member suggested that from their experience of projects of this nature such a low tender would be bound to result in overspends and should have been challenged at the time. The report from Grant Thornton seemed to highlight a mismatch between budget costs and the actual costs of the project and there was an issue about the accuracy of the information being presented and therefore the ability to take appropriate decisions on the basis of the information. Another member referred to the last meeting where the Chief Executive had implied that the procurement process had not been followed and wanted to know whether this had now been addressed.

The Chief Executive responded that the procurement process had been properly followed in terms of authorisation levels. He explained that there had been a problem in that the purchase order system was not being used consistently and of the £89,000 overspend, none of that had been recorded in the purchase order management system. In reality the Art Gallery and Museum had been requesting works to be done believing they had the budget and the costs were only being recorded on Agresso once the invoices had been submitted. There were also cases of some invoices being incorrectly coded.

The Director of Resources advised that the proper use of the purchase order management system would have ensured that any project commitments would have been recorded. This issue had already been addressed and the proper use of the system was now being aggressively rolled out across the organisation.

There was some discussion about whether the overall budget for the project should have been reduced to match the tender cost. The chair suggested that the budget may have been kept at the higher level because the tender was low and therefore a higher level for the use of contingency could be expected. Member suggested that if the budget was not clear it could be more difficult to monitor and there needed to be a more rigorous process before drawing down contingency funds. There was also a danger that if the members of the project team were aware that they had this effective buffer then this could affect how they reported any overspends. It was suggested that if those employed to deliver the project found it relatively easy to request contingency funds, they would be less likely to try and find alternative ways round the problem in order to remain in the original budget. It was agreed that this culture needed to be explored in the internal review.

A member referred to page 5 of the Executive Summary which seemed to imply that the reduction in costs was not reported to Cabinet and it was almost an oversight that the budget was not reduced. They asked whether there was any evidence of any discussions taking place. They also questioned that the senior management team would set a budget or £6.3 million without wanting to see supporting information to justify that figure.

In response the Chief Executive did not recall the senior leadership team being requested to consider whether the budget should be reduced to match the tender price. However he added that if they had considered it they may well have taken the view that it would have been sensible to keep the budget at a higher level and therefore would not have felt the need to report that to Cabinet.

The Cabinet Member Finance, Councillor John Rawson, was invited to speak by the chair. He stressed that it was entirely wrong for the committee to conclude that Cabinet were unaware of the tender price and that there had been no conscious decision to leave the budget set at the higher level. He was very well aware and took a conscious decision that it would be imprudent to reduce the original budget set. Asked by a member whether he would have added the same level of contingency if the tender had been £6.3 million, the Cabinet Member responded that he would never want to go into a project without appropriate contingency funds in place.

A member suggested that had the council been more prudent in selecting a contractor and not selecting one which was 26% below the original estimate from Davis Langdon, there would have been far more likelihood that the project would have delivered to that budget. Another member suggested that the Cabinet Member may have kept the budget at the higher level hoping that if the project delivered at the tender price he would be in a position to report a significant underspend to Council.

Another member referred to the reference in paragraph 2.5 of the executive summary which implied that Davis Langdon undertook a number of cost variations to the project but there was no evidence that these variations were reported to and agreed by Cabinet prior to a contract being awarded. These should have been documented in writing to Cabinet and fully minuted.

Another member asked what incentives Davis Langdon had to deliver the project to time and budget.

Mr Brown assured members that Davis Langdon did produce reports on a regular basis in advance of project team meetings and these reports were complex and detailed. However with a dynamic project of this nature there would always be verbal updates they would give at project meetings on the latest situation.

A number referred to the £700,000 budget for the café and asked how successful that project had been.
It was noted that this had not been included in the overall project budget but this question could be picked up in the internal audit review.

A member referred to the legal advice referred to in paragraph 7.88 which stated that although the Council was in a position to be able to claim for liquidated damages, pursuing such a claim could be high risk due to the fact that ISG appear to have a legitimate claim for recovering more costs from the council. The member requested a copy of this legal advice.

Mr Brown explained that this could be the case if the contract was on a fixed cost basis.

A member referred to the statement in the previous report that the Wilson had been very successful particularly in terms of visitor numbers. He understood this was done on a head count of people passing through the doors and suggested that this was not accurate as some of those numbers could be accessing the tourist information centre or using the building as a cut through. Members are being advised that the project costs would have been the same anyway and so the issue of the success of the Wilson was an important factor.

The Chief Executive reminded members that the Cheltenham Trust now runs the Wilson and had provided these reports to himself and the Cabinet Member. They were reporting that the Wilson had become a very successful venue and with much higher than anticipated visitor numbers. The chair suggested that this would be a matter for the overview and scrutiny committee if members wished to pursue it further and was not directly relevant to the discussion tonight.

A member requested more clarification on the discussion of risks in paragraphs 5.11 to 5.18 of the report. They suggested that in view of the risk to the HLF funding, as soon as delays became known about, these risks should have been transferred to the corporate risk register. They suggested that the council should consider using a bond for contracts of this nature to protect themselves from risks.

Another member highlighted the need for the Cabinet member to attend project board meetings on a regular basis. If a project structure is already in place to provide this then the procedures must be followed.

The Chief Executive advised that in his judgement this was a key issue. There appeared to have been an over optimism on part of the senior user who may have felt that because it was the contractor's risk there was no need to report it upwards. It was a case of a relatively inexperienced senior user in relation to a construction project making judgements beyond their levels of knowledge and experience. The project manager and project sponsor were also kept in the dark.

It was agreed that the process for appointing project managers with the appropriate skills and experience needs to be reviewed.

In conclusion the Chief Executive advised the committee that senior management had accepted all the recommendations in the Grant Thornton report and were already putting an action plan in place. This plan may be something that this committee would take responsibility for in terms of monitoring its delivery. He had some ideas about why some of the problems had occurred but these needed to be fully validated with evidence and that was why the internal review was important. In the meantime he reassured members that the project management culture amongst senior managers had already started to change with senior managers now more aware of the extent of their responsibilities.

The chair invited the Head of Audit Cotswold, Rob Milford, to present his Audit Brief. The officer summarised all the issues which members had raised at the meeting tonight and agreed he would amend the brief where necessary to cover these additional points:

- the management of the budget for the café
- the tendering process and the factors which led to the lowest bid being selected
- the change control process
- the culture and how the "big buffer of contingency" could have affected decision-making and reporting
- informal and formal reporting to Cabinet
- appropriate minutes and records of decisions
- breakdown of overspend costs by factor

He emphasised the different approach to the Grant Thornton review. The internal review would involve HR and would build on the external review by using the work already done to create the context for interviews with staff. This would help to develop the reasons for why the problems had occurred. He estimated that it would take a minimum of one month and maybe longer and would depend on the availability of the people involved. It was agreed that he would discuss this outside the meeting with the chair of the committee and agree the timescale for reporting back to committee.

5. ANY OTHER ITEM THE CHAIRMAN DETERMINES TO BE URGENT AND REQUIRES A DECISION

There were no urgent items requiring a decision.

6. DATE OF NEXT MEETING

The next meeting was scheduled for 25 March 2015. The chair advised Members that this already had a full agenda so he suggested an additional extraordinary meeting would be arranged before this. The Democracy Officer would contact members in due course.

Colin Hay
Chairman