

Finance & Audit Scrutiny Panel

Town Hall, Colchester
28 April 2009 at 6:00pm

The Finance and Audit Scrutiny Panel deals with the review of service areas and associated budgets, and monitors the financial performance of the Council, and the operational performance of the Council. The panel scrutinises the Council's audit arrangements, including the annual audit letter and audit plans, and Portfolio Holder 'Service' decisions reviewed under the Call in procedure.

Information for Members of the Public

Access to information and meetings

You have the right to attend all meetings of the Council, its Committees and Cabinet. You also have the right to see the agenda, which is usually published 5 working days before the meeting, and minutes once they are published. Dates of the meetings are available at www.colchester.gov.uk or from Democratic Services.

Have Your Say!

The Council values contributions from members of the public. Under the Council's Have Your Say! policy you can ask questions or express a view to meetings, with the exception of Standards Committee meetings. If you wish to speak at a meeting or wish to find out more, please pick up the leaflet called "Have Your Say" at Council offices and at www.colchester.gov.uk.

Private Sessions

Occasionally meetings will need to discuss issues in private. This can only happen on a limited range of issues, which are set by law. When a committee does so, you will be asked to leave the meeting.

Mobile phones, pagers, cameras, audio recorders

Please ensure that all mobile phones and pagers are turned off before the meeting begins and note that photography or audio recording is not permitted.

Access

There is wheelchair access to the Town Hall from West Stockwell Street. There is an induction loop in all the meeting rooms. If you need help with reading or understanding this document please take it to Angel Court Council offices, High Street, Colchester or telephone (01206) 282222 or textphone 18001 followed by the full number that you wish to call, and we will try to provide a reading service, translation or other formats you may need.

Facilities

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Terms of Reference

Finance and Audit Scrutiny Panel

- To review all existing service plans and associated budget provisions against options for alternative levels of service provision and the corporate policies of the Council, and make recommendations to the Cabinet
- To have an overview of the Council's internal and external audit arrangements and in particular with regard to the annual audit plan, the audit work programme and progress reports, and to make recommendations to the Cabinet
- To monitor the operational and financial performance of the Council, and to make recommendations to the Cabinet in relation to operational performance, financial outturns, revenue and capital expenditure monitors
- To scrutinise the Audit Commission's annual audit letter
- To scrutinise progress made on best value action plans
- To scrutinise executive 'service' decisions made by Portfolio Holders and officers taking key decisions which have been made but not implemented referred to the Panel through the call-in procedure

The panel may a) confirm the decision, which may then be implemented immediately, b) refer the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the Panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

COLCHESTER BOROUGH COUNCIL FINANCE & AUDIT SCRUTINY PANEL

28 April 2009 at 6:00pm

Members

Chairman : Councillor Sue Lissimore.
Deputy Chairman : Councillor Dennis Willetts.
Councillors Kevin Bentley, John Bouckley, Martin Goss,
Dave Harris, Jackie Maclean, Jon Manning, Nigel Offen,
Gerard Oxford and Laura Sykes.

Substitute Members : All members of the Council who are not Cabinet members or members of this Panel.

Agenda - Part A

(open to the public including the media)

Members of the public may wish to note that Agenda items 1 to 5 are normally brief and items 6 to 9 are standard items for which there may be no business to consider.

Pages

1. Welcome and Announcements

(a) The Chairman to welcome members of the public and Councillors and to remind all speakers of the requirement for microphones to be used at all times.

(b) At the Chairman's discretion, to announce information on:

- action in the event of an emergency;
- mobile phones switched to off or to silent;
- location of toilets;
- introduction of members of the meeting.

2. Substitutions

Members may arrange for a substitute councillor to attend a meeting on their behalf, subject to prior notice being given. The attendance of substitute councillors must be recorded.

3. Urgent Items

To announce any items not on the agenda which the Chairman has agreed to consider because they are urgent and to give reasons for the urgency.

4. Declarations of Interest

The Chairman to invite Councillors to declare individually any personal interests they may have in the items on the agenda.

If the personal interest arises because of a Councillor's membership of or position of control or management on:

- any body to which the Councillor has been appointed or nominated by the Council; or
- another public body

then the interest need only be declared if the Councillor intends to speak on that item.

If a Councillor declares a personal interest they must also consider whether they have a prejudicial interest. If they have a prejudicial interest they must leave the room for that item.

If a Councillor wishes to make representations on an item on which they have a prejudicial interest they may do so if members of the public are allowed to make representations. In such circumstances a Councillor must leave the room immediately once they have finished speaking.

An interest is considered to be prejudicial if a member of the public with knowledge of the relevant facts would reasonably regard it as so significant that it is likely to prejudice the Councillor's judgement of the public interest.

Councillors should consult paragraph 7 of the Meetings General Procedure Rules for further guidance.

5. Minutes

1 - 17

To confirm as a correct record the minutes of the meeting held on 24 March 2009 and 6 April 2009.

6. Have Your Say!

(a) The Chairman to invite members of the public to indicate if they wish to speak or present a petition at this meeting – either on an item on the agenda or on a general matter not on this agenda. You should indicate your wish to speak at this point if your name has not been noted by Council staff.

(b) The Chairman to invite contributions from members of the public who wish to Have Your Say! on a general matter not on this agenda.

7. Items requested by members of the Panel and other Members

(a) To evaluate requests by members of the Panel for an item relevant to the Panel's functions to be considered.

(b) To evaluate requests by other members of the Council for an item relevant to the Panel's functions to be considered.

8. Referred items under the Call in Procedure

To consider any Portfolio Holder decisions, taken under the Call in Procedure.

The panel may a) confirm the decision, which may then be implemented immediately, b) confirm the decision back to the decision taker for further consideration setting out in writing the nature of its concerns, or c) refer the matter to full Council in the event that the panel considers the decision to be contrary to the Policy Framework of the Council or contrary to, or not wholly in accordance with the Budget.

9. Decisions taken under special urgency provisions

To consider any Portfolio Holder decisions taken under the special urgency provisions.

10. Colchester Visual Arts Facility

18 - 28

Report from the Audit Commission.

A representative from the Audit Commission will attend the meeting for this item.

The panel is asked to consider and comment on the report.

11. Exclusion of the public

Occasionally the Panel will need to discuss issues in private. When the Panel does so, members of the public will be asked to leave the meeting.

In accordance with Section 100A(4) of the Local Government Act 1972 and in accordance with The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (as amended) to exclude the public, including the press, from the meeting so that any items containing exempt information (for example confidential personal, financial or legal advice), in Part B of this agenda (printed on yellow paper) can be decided. (Exempt information is defined in Section 100I and Schedule 12A of the Local Government Act 1972).

FINANCE & AUDIT SCRUTINY PANEL 24 MARCH 2009

Present :- Councillor Sue Lissimore (Chairman)
Councillors Kevin Bentley, John Bouckley, Martin Goss,
Dave Harris, Nigel Offen and Dennis Willetts

Substitute Members :- Councillor Wyn Foster for Councillor Jackie Maclean
Councillor Peter Higgins for Councillor Jon Manning
Councillor Ray Gamble for Councillor Laura Sykes

62. Urgent Item

Councillor Lissimore asked the panel, that due to the significant public interest in the removal of rose and shrubbery borders and beds in the borough, that Councillor T Higgins. Portfolio Holder for Culture, Tourism and Diversity should be invited to attend the meeting to give an update on this issue and the outstanding work.

Councillor Offen and Councillor Harris addressed the panel, both saying that they believed this issue should not be considered as an urgent item, and it would be appropriate for this to be heard under agenda item 7b, Items requested by other members of the Council.

Mr. Robert Judd, Scrutiny Officer said that officers had considered this issue and advised the Chairman that agenda item 3, Urgent Items, was appropriate for this discussion, given that the issue was of significant public interest, but the public had not been given notification via the agenda papers or website prior to the meeting.

Have Your Say

Ms Vanessa Higgins addressed the panel. Ms Higgins, the daughter of Councillor Theresa Higgins, Portfolio Holder for Culture, Tourism and Diversity, spoke on behalf of her family concerning the hate campaign in reference to the removal of shrub beds in the borough.

On returning home recently she was dismayed to find the local area close to her home festooned with anonymous hate notices of her mother, some branding her as 'wanted'. Ms. Higgins said no member would tolerate having their mother treated in this way and the perpetrators of this hate campaign should be ashamed of their actions.

Ms. Higgins said her mother works tirelessly both in her duty as a ward and Essex County Councillor and in her dedication to helping and caring for deaf people, and asked the panel members to denounce this monstrous and unlawful act.

Councillor Offen said that members should condemn this sort of behaviour, agreeing with the words of Ms. Higgins, and hoped this would be an end to this matter.

Councillor Harris concurred with Councillor Offen and said anyone that knew who the perpetrators were should be encouraged to provide this information to the Police.

Councillor Lissimore expressed sympathy for Ms. Higgins and her family and concurred with Councillor Harris, that anyone with information concerning this hate campaign should contact the Police. Councillor Lissimore said she hoped the feeling expressed by Ms. Higgins and members would be reported by the local press.

Mr. Andy Hamilton addressed the panel to speak about what he described as a plant massacre. Mr Hamilton said the work to remove some of the borough's shrub borders had brought maximum publicity and taken up Police time. Mr. Hamilton concluded by suggesting that the current situation could be defused by the Council publishing the list of shrub borders to be removed, offering a period of consultation before the final decision is taken.

Councillor Arnold addressed the panel saying that he had been advised by the Monitoring Officer to address the panel on this issue. Councillor Arnold said it would have been better that this decision and others like it, that is, those that are shown within the Summary of Savings / Increased Income of appendix D of the 2009/10 Revenue Budget and Medium Term Financial Forecast but without identifying individual services or tasks to be cut, are identified separately and individually form a portfolio decision, thereby allowing members the opportunity to debate at a scrutiny panel. When discussing the budget papers earlier in the year Councillor Arnold had expressed a wish for panel members to see a detailed breakdown of the Summary of Savings / Increased Income, but this had not been forthcoming.

Providing this detail would have enabled all members to know what decisions would be taken. The action of the removing rose and shrub borders only accounts for £17,000 of the £100,000 overall budget saving figure needed, therefore there remains £83,000 of further savings to be found, with members unaware of how this will be achieved.

Councillor Arnold concluded by saying he deeply regretted and deplored what has happened to Councillor T Higgins and asked that anyone who knew of any information concerning this issue should provide this to the Police.

Councillor P Higgins concurred with the final remarks of Councillor Arnold saying the Council website was open to members of the public for comment. Councillor Higgins said his family could not just laugh this issue off, that it was important that it was dealt with properly.

Councillor P Higgins (in respect of being the husband of Councillor T Higgins, Portfolio Holder for Culture, Tourism and Diversity) declared his personal interest in the following item.

The removal of rose and shrubbery borders in the borough

Councillor T Higgins addressed the panel to give an update on the removal of rose and shrubbery borders.

Councillor Higgins said many of the borders and hedges to be removed are on Essex County Council highways land and the Council were subsidising the money given by County for this work to the tune of £250,000. This subsidy ensured many more grass

cuts per year and an improved appearance to borders.

Councillor Higgins said part of this subsidy had been removed in the Budget for 2009-10 and this resulted in the decision not to replace roses and shrubs to those borders that were near to the end of their life, but to replace with grass borders and bulbs, thereby saving £17,000 per annum. Councillor Higgins said by doing this the Council will be able to maintain high maintenance standards to the remaining borders.

Councillor Higgins said because of the public and member interest in this work, the work on all contested sites has been put on hold until the 10 April 2009, with work continuing at those sites that are not contested.

The intention is to allow time for consultation on all the contested sites, and in line with new legislation that enables local people to participate in local community work, residents will have the opportunity (subject to approval by Essex County Council), to agree to form a local group to be issued with a Cultivation License to complete border maintenance in their local area, or come up with an alternative suitable arrangement. All responses will be evaluated and considered before any further work commences on these contested sites on the 10 April 2009.

Councillor Higgins later confirmed that work would need to recommence on April 10 2009, that any delay would see the Council being subject to extra contractual payments.

Councillor Higgins apologised for the poor communication in regards to this work and hoped for an improvement for all future work that forms part of the revenue budget savings.

Councillor Offen said this issue had been in the public domain and known to members for some time, enough time to prepare a report for this panel to consider. Councillor Offen asked that a detailed report is prepared for the next meeting to enable the issues to be examined properly, a suggestion later concurred with by Councillor Willetts and Councillor Bentley.

Councillor T Higgins confirmed to Councillor Bentley that the Budget Revenue papers did not show the detail of the consequences of the anticipated £100,000 budget savings. Councillor Bentley said he only found out about this issue from the newspapers which was not very satisfactory.

Councillor Bouckley expressed his irritation and disgust at the whole issue, saying that processing decisions in this way did not allow for open government, and did not allow the scrutiny panel to do their job. In previous years this decision would have been open to scrutiny before the decision was implemented, highlighting the fact that the current system of scrutiny was not up to the job.

Councillor Foster felt the decision taken was ill thought out with no consideration given to how the public would feel or react.

Mr. Gareth Mitchell, Head of Life Opportunities addressed the panel to explain this work formed part of the Budget approved by Full Council in February 2009, and officers are

arranging to put in place the changes needed by April, so that the Council could deliver on the 2009-10 Budget.

Councillor Harris confirmed that residents in his ward are signing-up to apply for a licence to do the maintenance work themselves.

Mr. Mitchell said he believed the key issue when considering granting a licence to carry out this work was health and safety. Mr. Mitchell said he would clarify the situation with regard to any liabilities arising from residents being granted a Licence to Cultivate and include this in the report to the next meeting.

Mr. Mitchell also confirmed to the panel that any delays on this work would put at risk the achievement of the 2009/10 budget savings and potentially have an impact on our agreement with the contractor.

RESOLVED that the panel agreed the following;

- i) A report on this issue would be presented to the panel at an extra meeting.
- ii) A provisional date of the 8 April 2009 was considered for the extra meeting, and would be confirmed to the panel by the Scrutiny Officer.
- iii) An officer from the Highways Agency would be invited to attend the meeting for this item.
- iv) The report to include the following information;
 - Comparative data on the costs of annual grass cutting versus the costs for shrub border maintenance costs.
 - The cost of re-instating the borders that have been removed and ongoing maintenance.
 - A breakdown of the £100,000 savings figure within appendix D of the 2009/10 Revenue Budget and Medium Term Financial Forecast.
 - Confirmation of the status of the work completed on the Northern Approach road.
 - If feasible, and for comparative analysis, a list of beds and border sites in the borough in 1974 and at present.
- v) The work on all uncontested sites should continue.

63. Minutes

The minute from meeting held on 24 February 2009 was confirmed as a correct record.

64. Have Your Say!

Mr. Andy Hamilton addressed the panel to request that in future members of the public,

who, unlike officers and members are not so familiar with meeting procedure rules, in particular to Have Your Say, should be made more aware of the procedure before the meeting commences.

65. Work Programme

Councillor Bouckley said he was pleased by the large attendance at a recent training course on scrutiny, a course he found refreshing. Councillor Bouckley said this training course would be beneficial to members new and experienced, as a learning or refresher course prior to the commencement of the new Municipal Year.

Mr. Judd confirmed that officers are arranging for this type of course to be available to all members shortly into the new Municipal Year.

In response to Councillor Lissimore, Ms. Ann Wain, Executive Director explained that current financial reports did include information on the cost breakdown of service area employee costs and vacancies, but commentary could be added to show the impact of staff cuts or vacancies on service performance.

Ms. Wain agreed to report some additional commentary with the first financial reports in the new Municipal Year and let the panel then decide if this information is needed on an ongoing basis.

RESOLVED that the panel noted the amendments to the 2008-09 Work Programme.

66. Freedom of Information

Mr. Phil Pettit, ICT Programme Manager presented the report on 'Freedom of Information Case Management'.

Mr. Pettit explained that the number of requests under the Freedom of Information has increased significantly in the last year, with enquirers more sophisticated and knowledgeable to what they can and cannot request within the 2001 Act.

In response to Councillor Bouckley, Mr. Pettit said there are a small number of regular enquirers but the total number of these enquiries only account for a small percentage of the overall total of enquiries.

In response to Councillor Bentley, Mr. Pettit said he believed that providing a list of names of the enquirers would be in breach of the Data Protection Act, but would check.

Mr Pettit, in response to Councillor Harris agreed to provide details of a national study providing comparative data from other local authorities.

In response to Councillor P Higgins, Mr. Pettit said he believed that some of the Freedom of Information enquiries was about getting information for research purposes, though the Council, under the laws of the act, have no right to ask for what purpose is

the information to be used.

In response to Councillor Gamble, Mr. Pettit said larger enquiries, in terms of time to complete are given to the respective service area. When an enquiry is going to take up a large resource to complete the Council is entitled to say it will do this work for a charge, though up to date, enquirers given this information have so far declined to take up the offer.

In response to Councillor Willetts, Mr. Pettit said in regards to exemptions there is a written policy and procedure document (guidance notes) that sets out the procedure should a service area wish to deploy an exemption. Under the Act, any person who is advised of the intention to deploy an exemption is able to appeal against this decision. The Monitoring Officer and the Freedom of Information Officer are the arbiters at various stages of the appeal procedure.

RESOLVED that the panel considered and noted the authority's performance against requests for information under the Freedom of Information Act 2001.

67. Use of Resources Statement 2008

Mr. Paul King, District Auditor, Audit Commission and Ms. Christine Connelly, Senior Audit Manager both attended the meeting for this item.

Have Your Say

Mr. Andy Hamilton addressed the panel to explain that he felt it was unacceptable to have the District Auditor present at this meeting to present the Use of Resources Statement 2008, given that on request he refuses to answer questions on the financial aspects of Visual Arts Facility. Mr. Hamilton said the auditor refused to answer questions on the 2006-07 Accounts and then gives an unqualified opinion. Mr. Hamilton concluded by saying he had no confidence that the District Auditor was acting in the public's interest and the responsibility of his actions lay with the panel.

Mr. King responded to the comments of Mr. Hamilton, saying he had been in correspondence with Mr. Hamilton in regards to the work and responsibilities of the District Auditor. Mr. King said he did not misrepresent his position as the District Auditor and his statement on the 2007-08 accounts was not erroneous or misleading. Mr. King said the Audit Commission do not ignore problems or issues, but these are reported at the appropriate time, and all responsibilities are discharged in line with regulations.

Use of Resources Statement 2008

Mr. King gave a brief presentation of the report 'Use of Resources Statement 2008', stating that this was an assessment rather than a statement, and relates to the 2007-08 financial year up to the end of March 2008 and is based on the key lines of enquiry for 2008.

In response to Councillor Lissimore, Mr. King explained that whilst this assessment was for the year 2007-08 and the Icelandic Banks crises happened in 2008-09, the Audit Commission considered it appropriate to address this issue within the report because the treasury arrangements for 2007-08 would be indicative of the weaknesses, if any existed, in the arrangements for 2008-09.

In response to Councillor Harris, Mr. King said had the Firstsite:Newsite project performed better during the auditing period, the overall assessment for that specific area of work would have risen from a current level 2 to level 3, but would not have affected the Council's overall position.

Mr. King also confirmed that the requirements of the new framework of working for 2008-09 was a broader assessment, with new challenges, but not as financially driven as in the past, though the standards for achieving levels increased year on year. Mr. King also said the new framework would focus on positive outcomes, and not so much on systems and processes, though he did not expect the number of Councils performing highly to be as great in future years. Councillor Offen said officers should be congratulated for continuing to maintain standards even though the bar is lifted year on year.

In response to Councillor Offen's enquiry about benchmarking, Ms. Wain said the Council has undertaken an enormous amount of benchmarking, for example, a recent exercise in the Customer Services Centre. The Council have year on year continued to measure and compare performance through Best Value reviews and performance indicators, superseded transitionally in 2008-09 by National Indicators, to be subject to scrutiny as part of the panel's work programme for 2009-10.

In response to Councillor Bouckley, Mr. King defined the word 'executive' to mean those in control of the Council, those members and officers who are relied upon to ensure the Council operates properly.

In regards to Councillor Higgins question on partnership working, Mr. King explained that the Audit Commission would expect to see clear objectives and responsibilities for all the partners, with good legal advice and managers with good project management skills for complex partnership contracts. Mr. King said Council officers are aware of the new assessment framework.

Mr. King responded to Councillor Willetts in confirming that the District Auditor gives an opinion on the Council's financial position in the annual Statement of Accounts. The Use of Resources Statement includes the Council's financial position and gives an assessment accordingly.

Mr. King, in response to Councillor Smith, a visiting councillor, that other auditors will have addressed the issue of the Icelandic Banks crises in their 2007-08 Use of Resources Statement, noting the actions taken by that particular authority, with no 'standard comment' to fit all local authorities.

Mr. King also confirmed that from 2008-09 onwards, due to a change in the assessment framework it will not be possible to directly compare the results with

previous years, though it will seek to differentiate between different years in the Direction of Travel Statement.

RESOLVED that the Panel noted the Use of Resources Statement 2008.

68. Supplementary opinion audit plan 2008-09

Mr. Paul King, District Auditor, Audit Commission and Ms. Christine Connelly, Senior Audit Manager both attended the meeting for this item. Mr. King presented the Supplementary opinion audit plan for 2008-09.

Mr. King confirmed the final report on the Audit Commission's review of the firstsite:newsite project, as mentioned in page twenty nine of the agenda, will be forwarded to the members of the Finance and Audit Scrutiny Panel. Mr. King said the draft report was presently with the Council and he anticipated it would be reported to the meeting of the 28 April 2009.

Mr. King confirmed to Councillor Bentley that the Audit Commission fees are set by the Government's regulator, and the Audit Commission appoints either its own staff or a private company to carry out the audits. Mr. King said that in the Essex there are two auditors, the Audit Commission and PKF, who both operate on the same scale of fees and charges.

RESOLVED that the Panel noted the Supplementary opinion audit plan 2008-09.

69. 3rd Quarter Internal Audit Assurance Report

Ms. Hayley McGrath, Risk and Resilience Manager and Mr. Alan Woodhead, Deloitte, attended the meeting for this item and Ms McGrath presented the report on the 3rd Quarter Internal Audit Assurance Report.

In response to Councillor Bentley, Ms. McGrath said that the failed login report as mentioned within Audit 313 – Benefits, was a general comment not an underlying trend, and was to do with individuals forgetting passwords, though the log did provide a record of those persons who fail regularly.

Councillor Willetts gave his support to the Audit 330 – Members Allowances that recommended all expense claim forms should be supported by receipts which detail the nature of the expense. Ms. McGrath said officers had taken a pragmatic view of the auditor's recommendations, as it was only on the very odd occasion that a claim form was not supported by a receipt.

RESOLVED that the Panel commented and noted upon the Council's performance relating to the 3rd Quarter of the Internal Audit Plan for 2008-09, and the performance of Internal Audit by reference to the national best practice benchmarks.

70. Internal Audit Plan 2009-10

Ms. Hayley McGrath, Risk and Resilience Manager and Mr. Alan Woodhead, Deloitte, attended the meeting for this item and Ms McGrath presented the report on the Internal Audit Plan 2009-10.

In response to Councillor Harris, Mr. Woodhead confirmed that Deloitte did have adequate manpower to complete the 2009-10 Internal Audit Plan, and is currently in the process of planning resources to cover the plan for the forthcoming year.

RESOLVED that the Panel commented upon and agreed the suggested Internal Audit Plan 2009-10.

71. The Annual Governance Statement Briefing Paper

Ms. Hayley McGrath, Risk and Resilience Manager, presented the report on the Annual Governance Statement Briefing Paper.

Ms. McGrath confirmed that the Annual Governance Statement Briefing Paper would accompany the Annual Governance Statement when reported to the Accounts and Regulatory Committee later in the year.

RESOLVED that the Panel noted the requirement to produce an Annual Governance Statement and the role of the Accounts and Regulatory Committee in the process.

72. Implementation of International Financial Reporting Standards

Mr. Steve Heath, Finance Manager, introduced the report on the Implementation of International Financial Reporting Standards (IFRS).

Mr. Heath explained that the purpose of the IFRS was to provide new standards for producing the Annual Statement of Accounts., though the detailed requirements will not be known until CIPFA produce their report in May 2009. Mr. Heath briefly explained the areas where changes will be made, e.g. fixed assets.

Mr. Heath said the new standards were not just an issue for accountants, but that a buy-in from all service areas in relation to leases and flex time arrangements will be required.

Mr. Heath confirmed to Councillor Bentley that the new standards would attract additional fees from the Audit Commission year on year.

RESOLVED that the Panel noted the following regarding the implementation of international financial reporting standards;

- the requirement for the implementation
- the timescale of the implementation within Local Government
- the key areas of change within the Council
- the progress and preparations being made by the Council
- the potential financial and risk management implications of the implementation

FINANCE & AUDIT SCRUTINY PANEL 6 APRIL 2009

Present :- Councillor Sue Lissimore (Chairman)
Councillors Kevin Bentley, Martin Goss, Dave Harris,
Jon Manning, Gerard Oxford, Laura Sykes and
Dennis Willetts

Substitute Members :- Councillor Pauline Hazell for Councillor John Bouckley
Councillor Christopher Arnold
for Councillor Jackie Maclean
Councillor Chris Hall for Councillor Nigel Offen

73. Have Your Say!

Mrs. Paula Whitney addressed the panel saying that at the Finance and Audit Scrutiny Panel meeting on the 24 February 2009, during discussions on the item 'Sale of Recyclable Materials', it was suggested that by allowing the public to leave recyclable items for collection in cardboard boxes and plastic shopping bags, something the public was happy to do, it would save on the purchase of plastic sacks for recycling, money that could offset the cuts required in the Parks and Recreation Service.

Mr. Andy Hamilton addressed the panel speaking of what he called the recent public attacks by the Council on the building contractor of the Visual Arts Facility. Mr. Hamilton said the contractor had limited experience in this type of build and it was of no surprise to anyone of the difficulties experienced in the construction of the roof, but now the Council is complaining. The Council had a responsibility to build the arts facility at a minimum cost, but the project had failed and the cost had spiraled to £26,000,000, an obscene amount of taxpayer's money. Mr. Hamilton suggested the Council offer the building to the Arts Council, believing it would be of little benefit to this town.

74. The removal of rose and shrub beds and borders in the borough

The Chairman agreed pursuant to the provisions of Section 100B(4)(b) of the Local Government Act 1972 to consider the following item at the meeting as a matter of urgency because the matter is in the public interest and the relationship with the Council's contractor.

Have Your Say

Mr. Bob Russell MP addressed the panel saying that in regards to the decision to remove the shrubs and rose borders, the buck stops with the elected members, though he asked was this decision driven by officers or members. Mr. Russell also asked whether the funds from the Highways Agency for this work were as per the original levels. Mr. Russell said that what has happened is regrettable, given what he and other members had done in the past to increase garden borders and green amenity areas in the borough, including a wild flower meadow. Mr. Russell said that though he was led to believe that work had now stopped on the removal of the borders, he was

disappointed at the negative publicity this had caused. Overall, he had received few complaints on this matter, compared to the many he receives concerning the Visual Arts Facility. Mr. Russell concluded by saying he hoped the Council had learnt lessons from this matter, to improve communication and consultation, that it was a duty of members to advise and consult.

Mr. Norman Bailey addressed the panel saying his concern was with that of the Northern Approach Road. Mr. Norman said he had been told the shrubs within these borders caused safety issues with members of the public, that they would be replaced by smaller, safer shrubs. Under the Freedom of Information, he was told there was no record of complaints or accidents concerning these borders and later found out they were to be removed due to cuts in maintenance costs. Mr. Norman said he had received some answers to ten questions he had asked of the Council, that in effect, his democratic rights had been denied. Mr. Norman concluded by saying there was still an issue about whether Essex County Council would fund this work once the Council's money had run out.

Mr. Andy Hamilton addressed the panel saying the 'border slaughter' had been a public relations disaster for the Council, and the lack of information forthcoming and regarding this issue was deliberate, to forestall public discussion. Mr. Hamilton said of the three original borders in Lexden, only one now remains, and although local residents would have liked a say in this matter, they were ignored. Mr. Hamilton concluded by saying that if ward members were saying they did not know what was going on in regards to this matter, he questioned whether they knew what was going on at all.

Councillor Lewis addressed the panel and responded to the previous speaker, though apologising to Mr. Hamilton for addressing the panel with her back to him. Councillor Lewis said that in the Lexden Ward, the ward councillors had received details of the works after Councillors in other affected wards, and had received an apology for this error. Councillor Lewis said when she was given details of the works she was told work would commence on 9 March 2009, though it actually started on the 11 March 2009. Councillor Lewis confirmed she was in contact with officers from this Council and Essex County Council and in regular contact with residents in Hubert Road, Glen Avenue, Colvin Close and Lexden Grove. The Glen Avenue Residents Association will be planting four new trees on their grass verges, once the issue of public liability is resolved. Residents at Colvin Close are in dialogue with Council Officers regarding their shrub borders. Councillor Lewis said to suggest ward councillors had done nothing was a vexatious comment, that we do know what is going on and do support the residents on this matter.

Mr. Quince addressed the panel said he had read a lot of correspondence on this issue, a decision that was a mistake. Mr. Quince said how could a decision be implemented when it had not been subject to local resident's consultation or Council scrutiny. Mr. Quince asked whether the Portfolio Holder felt it was appropriate that ward councillors found out about this work through the press or by the contractors commencing the works. Mr. Quince said the high media coverage had made the Council a laughing stock. Mr. Quince concluded by saying that given the money to be saved was for services that attracted visitors to the town, did she think the removal of these beds was a mistake, and whether or not the removed shrubs and roses could be

donated to local residential homes and the like.

Mr. Jeremy Lucas, Essex County Councillor for Colchester Drury Ward, and Portfolio Holder for Heritage, Culture and the Arts addressed the panel to explain that roses were a part of the Colchester Heritage, and in a region acclaimed for oysters and roses. One of the town's oldest businesses 'Cants', was also one of the Country's oldest rose growers. Mr. Lucas asked whether the Portfolio Holder had considered this when making the decision to remove the rose borders in the borough. Mr. Lucas asked why had ward councillors not been consulted on this decision. Mr. Lucas concluded by saying this decision would save each resident of the borough ten pence per year, was this the proper way for the Council's finances to be conducted?

Mr. Lucas, in response to Councillor Goss said he did not know whether Cants had commented on this matter or whether they would consider sponsoring the planting of rose borders, but felt it was not usual for commercial firms to be embroiled in political debate.

Councillor Lewis addressed the panel to speak about the reduction in grass cuts per year to St Leonards Church Yard, Lexden and the closure of the King George V Playing Field pavilion, Lexden. Councillor Lewis said the number of grass cuts had reduced from fourteen to eight, and she asked whether consideration had been given, prior to this decision being taken, as to the type and style of the church yards that were affected. Councillor Lewis said that once a church yard was closed for burial, the Council had a legal obligation to maintain the yard to a prescribed standard, and was the case with St. Leonard's, eight cuts was not sufficient. Councillor Lewis said the closure of the King George V Playing Field pavilion would be a loss to local residents, that the closure would have a detrimental effect on the amenities available to children in the area and would be tantamount to taking away a vital community building in the Lexden area. Councillor Lewis concluded by saying this was an ill-considered decision.

Councillor Davidson addressed the panel saying he was bitterly disappointed by this decision, a retrograde step that had generated unwanted publicity. Councillor Davidson said there had been a lack of detail in the budget papers, thereby denying members the information on what decisions were to be made. Councillor Davidson concluded by asking what the environmental and visual impact would be of removing these rose and shrub borders.

Councillor Smith addressed the panel saying he did not recall giving any assurances to the percentage of rose and shrub borders to be saved. Councillor Smith said at the recent Strategic Overview and Scrutiny Panel meeting he said he gave assurances that if any Councillor had concerns about this matter, to contact the Administration. Councillor Smith confirmed at this meeting that all work had been suspended on disputed sites. Councillor Smith said that with regret these assurances had not been met, assurances he made in good faith, and he sincerely apologised for this. Councillor Smith said the costs of removing the borders was greater than the annual savings to accrue, and asked out of which year's budget was the cost of removal coming from.

Councillor Hazell said she had been told that the cost of grubbing out of the beds was taken from the savings that had accrued in the 2008-09 budget.

Parks and Recreation Service – 2009/10 Budget changes

Councillor Theresa Higgins, Portfolio Holder for Culture, Tourism and Diversity addressed the panel, saying she loved Colchester Town as much as the previous speakers, and was offended by comments that she was destroying the rose and shrub borders of the town. Councillor Higgins said there was no statutory requirement for the Council to have these borders and the decision to remove them was because of a shift in the budget resources. Councillor Higgins said flower beds were still very important to the environmental and visual impact of the town, both to residents and visitors, but the emphasis of spending on some budget items had meant a cut in other areas. Councillor Higgins said it was a very difficult decision to make, but following further discussions, she could confirm that all remaining rose and shrub borders would not be removed, those as highlighted in orange on the revised appendix C schedule.

Councillor Higgins confirmed to Councillor Lissimore that all the sites highlighted in orange on the revised schedule, plus those sites indicated as 'leave' would not have their rose or shrub borders removed.

Councillor Willetts asked that given that Cabinet members had informally discussed the budget and the implications of the cost cuts, was the Portfolio Holder aware that given this decision would not be disclosed for scrutiny, what the implications of this would be.

Councillor Higgins said she was aware of the overall budget and the cuts that are within the budget, and yes, that this included the removal of the rose and shrub borders as shown in the schedule.

Councillor Higgins responded to Councillor Willetts in regards to the level of consultation undertaken, explaining that some of the stakeholders were consulted, though in regards to the Highway Agency and the need to gain permission on this decision, this was an error as we did not believe it was necessary to consult with the highway Agency. Councillor Higgins confirmed that Cabinet members discussed the proposed budget cuts with officers, and in reference to the rose and shrub borders, these were considered to be in very poor condition and attracting litter. Councillor Higgins believed that all ward councillors whose wards were affected, were consulted, though she apologised for the error in not contacting the Lexden ward members. Councillor Lissimore believed that those ward councillors that were contacted, were told of the cuts, but not consulted on the cuts.

In response to Councillor Willetts, Councillor Higgins said in hindsight, though this was a very difficult decision to make, the consultation and communication process had been wrong.

In response to Councillor Willets, Mr. Bob Penny, Parks and Recreation Manager confirmed that the value of the list of rose and shrub borders, that is the cost of reinstating all the borders and replanting would be £137,000, and the cost of annual maintenance would be £11,000. Councillor Higgins said that in light of the decision to

keep the remaining rose and shrub borders, the overall budget will need to be reviewed to find alternative savings.

Councillor Arnold asked for the decision to close the King George V Playing Field Pavilion, Lexden to be reconsidered, as this facility was in continual use by the residents of Lexden. Councillor Arnold said it was iniquitous that one part of the overall budget cut should be reconsidered and another part was not, a totally unjust situation to be allowed to stand. Councillor Arnold said the Leader of the Council had confirmed to him that the budget information was available to all councillors, therefore this whole issue could have been conducted under proper scrutiny. Councillor Arnold said this decision making process was shrouded in mystery, one that has ultimately led to the decision being changed, and that will result in a change to the budget. Coupled with a failure to consult or communicate to members what was to be done in advance of the works, and knowing that in this case, borders that have now gone could have been reprieved, the panel had to ensure the Cabinet was requested to review procedures to see this never happened again. Councillor Arnold later emphasised that he had on two occasions requested information requesting the service implications in regards to the budget cuts but the information had not been made available, even though the Leader had confirmed to him that this information should have been made available.

Councillor Smith said the revised schedule (appendix C) was not available at the time of the budget process, and the budget process adopted by the Administration was the same as that of the previous four to five years. Councillor Smith said that in past years opposition members raised issues or concerns with officers in regards to the budget papers.

Councillor Hazell said she was surprised by Bob Russell's comment that he had had little response on this matter, whereas she had received a greater response from this issue than any other issue. Councillor Hazell was extremely grateful for the U-turn on the decision, though given the poor response to her in respect of her enquiries she did believe there had to be a better way of dealing with this kind of issue in the future.

In response to Councillor Bentley, Councillor Higgins said officers were allowed to consult on the decision making process, though following conversations with the Leader, she could confirm the reprieve of those rose and shrub borders that had not been removed. Councillor Higgins also confirmed that any future changes to the budget would be agreed in due course by the Cabinet.

Mr. Penny confirmed to Councillor Bentley that the Mersea Beach Working Group is looking to maintain the bathing platforms at Mersea Island, so that the Council will cease maintenance and installation of the platforms. Councillor Higgins confirmed that in regards to the Marine Patrols Brightlingsea Harbour Commission, though the two man patrols will cease, some patrols will remain. This decision was discussed with the Harbour Commissioner. Mr. Penny also confirmed to Councillor Bentley that contractors had disposed of the shrubs and roses removed from the borders using large machinery.

Councillor Higgins, in response to Councillor Manning said she did with regret agree that the communication process was not properly done.

Councillor Harris commented that in his ward, some of the borders were targeted, but the work was stopped and discussions immediately commenced to determine a solution. Councillor Harris believed the consultation process could have been done better, and as a Council we need to learn and move on.

Councillor Higgins confirmed to Councillor Lissimore that the cost of providing spring bulb planting within the newly created grass areas would be £3,000, to be found from the 2009-10 budget.

Councillor Goss commented that the behaviour of some panel members was frankly wrong, and asked that the scrutiny panel cleaned up its act to show members of the public that they can act maturely. In response to the chairman, who commented that some people present at the meeting might find some of the words Councillor Goss used offensive, Councillor Goss said that if anyone had found some of his words offensive then he did apologise for this.

Mr. Penny confirmed to Councillor Goss that many of the roses and shrubs that were scheduled to be removed had gone on well beyond their sell by date and this was the reason why many did not flower any more. Ordinarily you would expect to replace roses and shrubs every ten to twelve years, though in regards to these borders, many of the plants were in excess of fifteen years old. Mr. Penny also confirmed to Councillor Goss that the bushes along the Northern Approach Road had, as instructed, been cut back to the tree line of the road. Mr. Penny also accepted that officers had not recognised the impact of this work to Councillors and on members of the public, given that they had received only three to four initial enquiries on this work, one of these under the Freedom of Information Act.

Councillor Arnold commented that the consultation process needed to improve, and without doing it is the Council's reputation that is harmed.

In response to the request for clarity by Mr. Adrian Pritchard, Chief Executive of Colchester Borough Council, Councillors Arnold and Willetts clarified what they would ask the panel to agree in regards to a communication plan as part of the process for implementing decisions.

Councillor Dopson, Portfolio Holder for Performance and Partnerships addressed the panel and confirmed that she understood the concerns raised by panel members, agreeing that processes matter and that in future these will be done differently with improved procedures. Councillor Dopson felt that a proper structure for engaging with shadow portfolio holders would improve communications.

RESOLVED that the panel;

- i) Considered and noted the report Parks and Recreation Service - 2009/10 Budget Changes.
- ii) Agreed to a further report being presented to the panel at the next convenient meeting, to give details of the revised spending reductions in the Parks and Recreation budget consequent upon the new information disclosed at this meeting (FIVE voted

FOR, SIX ABSTAINED).

iii) Requested that the Portfolio Holder reconsider the closure of King George V Playing Field Pavilion, Lexden, the outcome to be reported to the Panel at the next convenient meeting.

iv) Requested that the Cabinet reconsider the procedures for putting information relating to budget and other financial changes into the public domain to increase transparency and to enable informed public debate and effective scrutiny to take place before decisions are taken (ELEVEN voted FOR).

Colchester

Visual Arts

Facility

Colchester Borough Council

Audit 2008/09

April 2009



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Background

- 1 The proposal to develop a visual arts facility in Colchester to provide new accommodation for 'firstsite', a contemporary visual arts organisation based in Colchester, was developed in 2003. The creation of firstsite: newsite was proposed as an innovative capital project building, to be purpose designed as an arts, business and social venue in Colchester. The original capital budget for the project was £16.5 million. This was to be financed by contributions from a number of sources, as follows.

 - £5 million from the Arts Council.
 - £4.995 million from the East of England Development Agency (EEDA).
 - £2.5 million from Essex County Council.
 - £1.5 million from Colchester Borough Council.
 - £2.5 million from a fundraising activity covering the private sector and trust and foundation sectors.
- 2 Colchester Borough Council (the Council) is the client organisation for the project. It appointed Turner and Townsend Cost Management as the project quantity surveyor and Turner and Townsend Project Management as the project manager. A partnership board was established to provide strategic leadership for the project. The board included representatives of the client, all of the funding partners, Firstsite and fundraising supporters of the project. In April 2007 a funders' group comprised of officers representing each of the funding partners and chaired by Essex County Council was established to address significant fundraising issues. At this time it was recognised that the project had a financial shortfall in the region of £2 million and funders agreed to make further contributions to cover this amount. As part of this process, and prior to the significant contractual issues which have subsequently affected the project, the Council agreed to complete the building at its expense should there be any over run of expenditure.
- 3 In January 2008 work on firstsite: newsite stopped. The basis of this cessation was a dispute between the Council and its contractor as to the value of work completed and whether it had exceeded the financial cap placed on the work of £12.736 million. In March 2008 the Council sought legal advice on the contractual status with the contractor. It was identified that whilst there was a contractual relationship between the two parties through the 'GC/Works/one terms' there was not a signed contract which included an enforceable fixed price for completion or a fixed end date for completion.

- 4 In March 2008 it was reported to the Council's Scrutiny Committee that the allocated budget was sufficient to complete the development. However a report in July 2008 by the project managers identified a shortfall of £2 million because of increased costs on some contracts, inflation and an increase in professional fees due to delays and prolongation of the project. Subsequently further work by quantity surveyors in the summer of 2008 identified further risks and costs which projected a further shortfall of £7.6 million bringing total project costs to around £25.5 million. In spring 2009 the main funding partners agreed to make further contributions to meet most of the £7.6 million shortfall and enable the completion and fitting out of the building.
- 5 Since the cessation of work in spring 2008 the building had been subject to environmental damage as it was neither secure nor watertight. After prolonged negotiation the Council entered into a supplemental contract with its contractor in September 2008 to make the building airtight and watertight at a total cost of £14.22 million with an agreed completion date of 22 May 2009. The procurement of the final stage of the project is to be determined by the funding partners in late spring 2009.

Audit approach

- 6 The project has considered how learning from earlier project stages has been used to strengthen current planning and delivery. It has considered the funding position of the project and the robustness of future plans to ensure that the project is delivered and is fit for purpose.
- 7 The Council and its partners are committed to reviewing the issues and factors that have affected the project. Once the project has been completed the Council has publicly committed itself to an independent investigation as such this audit will not undertake an historic review of issues affecting project delivery.

Summary Conclusion

- 8 The Council and its funding partners are taking action to address previous weaknesses in project delivery and assure the completion of the project. All funding partners are demonstrating a strong commitment to the completion of the project. They are increasingly engaged in the detailed monitoring of project delivery prioritising the understanding of completion costs and ensuring that value for money is achieved for the final stages of project delivery. Funding partners are providing additional resources to meet the estimated budget shortfall. Project management capacity has been enhanced through the appointment of a completion coordinator. Contractual arrangements to support the delivery of the supplemental contract to make the building secure and watertight have been strengthened. Action has been taken to improve communications although this is at an early stage.
- 9 Despite these actions, risks to the successful delivery of the project remain. Key decisions, such as roles and responsibilities in future project management and the allocation of contracts for the completion of the project, have yet to be taken. Professional disputes remain a significant risk - for example where there is a lack of agreement on the contractual relationship for their resolution such as the replacement of damaged cladding. Public perception of the project is currently poor and further delays to completion pose significant risks for funding partners.

Main Report

- 10** Partner organisations are increasingly engaged and continue to demonstrate a strong commitment to the completion of the project. Funding partners strategic engagement with the project is increasing, particularly in the last 12 months. For example Essex County Council has established a group of specialist officers to challenge decisions and EEDA has undertaken its own internal audit of its relationship with the project. All funding partners have agreed to release additional resources to complete the project. The Council, the Arts Council and Essex County Council have provided a further £2 million each whilst EEDA have offered £0.75 million. In total this provides an additional budget of £6.75 million against an original estimated additional cost of £7.6 million. There is a political consensus within the Council and tangible partnership support for the completion of the project.
- 11** There are sufficient funds to initiate the final stage of the project. The availability of £6.75 million is sufficient to enable procurement for stage 2 to proceed. There is a perception that in the current economic downturn firms will be more competitive in their tenders, potentially reducing costs, although this has yet to be tested. Some progress has been made in reducing the estimated costs for completion for example through reductions in some professional costs, with the project manager assessing that the original estimate of £7.6 million has been reduced to £7.1 million.
- 12** The Council and its partners have improved their capacity to act as an intelligent client. Historically there has been a lack of robust technical challenge to the project. Whilst early external reviews of project arrangements, through the Gateway process, indicated that adequate project management arrangements were in place partners now feel that the appointment of a client project manager at the start of the project would have been beneficial. For example establishing a contract with fixed costs and completion date. The appointment of a completion co-ordinator has improved the level of technical challenge both to the strategic delivery of the project and to the delivery of the construction side of the process. The completion co-ordinator was appointed through a tender process and has a track record of resolving issues affecting the completion of other public sector arts projects. The Council has now employed an external firm of solicitors to resolve disputes with current project manager and contractor. The capacity of the Council and its funding partners to manage the project through to completion has been enhanced.
- 13** Contractual arrangements to support the delivery of the supplemental contract have been strengthened. In March 2008 the Council sought legal advice on the contractual status with the contractor. This indicated that whilst there was a contractual relationship it did not include an end date or fixed price. The supplemental contract to make the building secure and watertight is now more robust - for example it includes costs and end dates and penalty clauses for overruns. It was developed to transfer as many risks as possible to the contractor.

- 14** Despite these improvements risks in contractual arrangements remain. There is a lack of consensus over the level of staged payments and responsibilities for making good aspects of the original work are not yet agreed. The delivery of the project against an agreed end date is now estimated to be ten weeks behind schedule at the end of February 2009. Contractual arrangements have been improved but risks have not been fully mitigated.
- 15** The Council and its partners are prioritising an understanding of completion costs. All partner organisations are committed to achieving best value and value for money in the completion of the project. Previous estimates to complete the project were not seen by funding partners as robust for example significant contingency sums were include which may or may not be required. The completion co-ordinator was asked in the first six weeks of appointment to carry out a due diligence process to identify the schedule of risks and services to complete the project. As part of this report, delivered in early February 2009, funding bodies asked for a significant input in determining completion costs. The report was completed on time and outcomes of this work will inform the procurement process for stage 2 of the project and enable costs to be assessed accurately.
- 16** Inconsistencies in project communications are still to be addressed. Historically the project suffered from difficulties with communication with several partners feeling that information was not shared consistently and in some cases was not robust or transparent. Colchester Borough Council now has responsibility for the management of communications although its capacity in this area is limited. Plans to establish a communications group chaired by the completion coordinator have not been progressed. Despite this the portfolio holder with responsibility for the delivery of the project at the Council has taken effective action to improve the openness of reporting both across partners and for the public.
- 17** Public perception of the project is currently poor. The project has had a history of opposition from some groups for example over its perceived impact on the bus station and an ancient scheduled monument. Publicity relating to the delays and disputes relating to the project since January 2008 has led to wider concerns about costs to local taxpayers.
- 18** Key decisions on the future of the project remain to be taken. The due diligence report identifies service risks to the delivery of the project and proposes how they might be addressed. Decisions on the degree to which funding partners will accept this advice have yet to be taken. Plans to further extend the project management capacity of Colchester Borough Council are yet to be agreed. Plans to consider final contract specification for stage 2 (the final completion and fitting out of the building) out are not yet developed. Partners identify that there is a need for more certainty on costs and completion dates before these plans can be finalised.

Main Report

- 19** Roles and responsibilities in delivering the completion of the project are yet to be finalised. The completion co-ordinator has been appointed by Essex County Council on behalf of the funding partners. It is anticipated that this strategic role will also deliver some of the executive functions on behalf of Colchester Borough Council but the detail of this is not yet resolved. The completion co-ordinator role is also providing some additional project management capacity for Colchester Borough Council but the future of this arrangement has still to be determined. The contractor perceives that their formal relationship is with Colchester Borough Council and not through a third party. There is not a consistent understanding or acceptance of roles and responsibilities of organisations responsible for the completion of the project.
- 20** Professional disputes remain a significant risk for the completion of the project. Risks still exist to the completion of stage 1 - for example identified risks where there is a lack of agreement on contractual relationship, such as the replacement of damaged cladding where there is no agreement on responsibilities and which need to be resolved before completion. The Council is currently evaluating the performance of its advisers and the contractor in relation to the project as a whole. However there is not yet a process in place to resolve disputes over construction issues, for example responsibility for issues arising from the storm overflows. Proposals to move towards disputes adjudication which could enable construction issues to be addressed have not yet been achieved. Some professional fees have been renegotiated reducing overall project costs. Contractual disputes remain unresolved and pose an ongoing risk to completion.
- 21** Further delays to completion pose significant risks for funding partners. Partners acknowledge that whilst there is a need to manage risks it is important to complete the project as soon as possible in order to minimise ongoing professional costs, reputation costs and the risk of losing momentum. A risk from further delays is that Firstsite is itself tied into major sponsorship for revenue which may be lost if cannot deliver its business plan to the agreed timescales. There is a significant risk if the contractor determines to terminate the contract when there would be insufficient funding available in the short term to deliver the supplemental contract to completion. The Council has agreed to complete the building at its own cost should funding from other partners not be forthcoming, which is a significant risk although not imposed by funding partners at this time. A decision to stop the project could result in funding partners requiring repayment of existing investments up to £14.22 million. Delays in the completion of the building pose longer term risks for the work of 'Firstsite'.

Recommendations

22 In order to ensure timely and cost effective completion of the Visual Arts facility the Council and its funding partners should ensure that:

- they have sufficient capacity to act as an intelligent client throughout the final phase of project;
- there are robust costed plans for completion which are SMART and established on a robust and enforceable contractual basis;
- risks and plans for their mitigation are accurately detailed and monitored in an open and transparent manner;
- progress with the delivery of the plans, against allocated budgets, is monitored in an open and timely manner; and
- improvements to communication lead to the sharing of consistent and accurate information about the project both internally and externally.

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