

## **CORPORATE GOVERNANCE INSPECTION (CGI) - CONSULTATION**

### **1 SUMMARY**

- 1.1 The purpose of this report is to seek Members' approval of the proposed response to the above consultation.

### **2 BACKGROUND**

- 2.1 During July the Audit Commission placed the above consultation document on their website, seeking responses by 30 September. A copy of the consultation document is available in the Members' Library and the Members' Room at Rochford.
- 2.2 The Audit Commission is seeking views on four issues:-
- The circumstances leading to CGI and potential referral to the Secretary of State.
  - The way the Commission proposes to conduct CGI in future.
  - How evidence will be assessed, and judgements made and reported on.
  - The content of the Key Lines of Enquiry.

### **3 CIRCUMSTANCES LEADING TO CGI**

- 3.1 Corporate Governance has been accepted at Rochford as being fundamental to the running of the Council. There is in place a Local Code of Corporate Governance, which follows guidance issued by the Chartered Institute of Public Finance and Accountancy and the Society of Local Authority Chief Executives. The Code is reviewed annually.
- 3.2 In view of the above, the Council would support the need for good Corporate Governance.
- 3.3 The arrangements in respect of Corporate Governance are taken into account as part of the Comprehensive Performance Assessment. An inspection is only triggered at present where the Audit Commission is of the view that Corporate Governance is failing or at serious risk. The undertaking of an inspection is seen as a last resort.
- 3.4 It is proposed that the following is taken into account in deciding whether or not to undertake an inspection:
- The need to undertake inspection work to determine whether there is strong and compelling evidence for the purpose of making a recommendation to the Secretary of State under S13 of the Local

Government Act 1999 which requires the Audit Commission to produce a report following an inspection.

- Existing evidence of chronic poor performance measured over a period of years through CPA and other mechanisms.
- Clear evidence of a failure or significant risk of failure of Corporate Governance leading to an actual or potential threat to service users, a failure to protect public funds or a potential threat to public confidence.
- When directed to do so by the Secretary of State.

3.5 The Commission will draw on a range of existing information sources in deciding to undertake a CGI, including:

- Probity and performance information that the Relationship Manager collates and draws to the Commission's attention, including performance indicators, the direction of travel assessment, annual audit letter, annual use of resources judgment, service inspection judgments and public interest reports.
- Information provided by stakeholders, such as the Standards Board, Local Government Ombudsman, other inspectorates, the Office of the Deputy Prime Minister (for example, the lead official for poor Councils or the Government Office for the region), or Councils themselves.

#### *Officer Response*

*The Council fully accepts and supports the need for strong Corporate Governance. It believes that Corporate Governance is probably stronger in Local Government than in any other area of the public sector. Inspections should, therefore, only be very rare events.*

*The sources of information are accepted, although the external auditor should have a very clear view of the Corporate Governance issues within the Authority.*

*It should not be axiomatic that a poor or weak Authority has poor Corporate Governance.*

3.6 With regard to referral to the Secretary of State, the Commission currently has three broad circumstances which will lead to referral:

- Serious service failures in an Authority that could result in danger or harm to the public.
- Persistent failure by an Authority to address recommendations made by inspectors (or auditors).

- Serious failures in a number of services within an Authority, which reveal fundamental weaknesses in an Authority's corporate capacity to manage services and make improvements.

3.7 The Commission is now proposing two additional circumstances:-

- Serious failure in Corporate Governance arrangements or capacity, whether or not there is serious service failure.
- Other circumstances that demonstrate a serious or persistent failure to comply with the requirement of Part 1 of the Local Government Act 1999, which include the requirement that Authorities make arrangements to secure continuous improvement in the exercise of their functions.

3.8 Referral to the Secretary of State is likely only if other improvement options, for example, an improvement board overseeing how a Council implements recommendations, are not considered feasible or desirable.

#### *Officer Response*

*If an Authority is delivering good quality services, it should only be referred to the Secretary of State if it was clearly demonstrable that the Corporate Governance of the Authority is in such a parlous state that it will inevitably lead to a breakdown in service or probity in the organisation.*

*Part 1 of the Local Government Act 1999 covers all of the duties imposed on Local Authorities in respect of Best Value. This includes regular revolving reviews of services and securing continuous improvement. This is a very wide area and adoption of the proposal will give the Audit Commission very wide discretion to refer an Authority to the Secretary of State.*

## **4 METHODOLOGY OF UNDERTAKING CGI**

4.1 The Audit Commission will carry out an inspection in the normal way by having a team on site for two weeks. The team will look at four items:

- Community Focus – working with and for the community, including community leadership.
- Structures and processes – the capacity for decision making and the exercise of authority within the organisation, including the role of Councillors and their relationship with officers.
- Risk Management and internal control – control of the organisation's resources and the way in which demands on them are anticipated.
- Leadership, culture and standards of conduct – the underpinning political management processes, organisational culture, leadership and how behaviour in the organisation is governed.

*Officer Response**The methodology appears reasonable.***5 HOW THE TEAM MAKES JUDGMENTS**

5.1 Judgments will be made on two questions:

- How good are the Council's Corporate Governance arrangements?
- What are the prospects for improvement in the Council's Corporate Governance arrangements?

5.2 In order to reach a judgment, the Inspectors will assess the Authority against Key Lines of Enquiry. The Audit Commission has set out its views on what is an adequate response to each question asked in the Key Lines of Enquiry.

5.3 With regard to the first question, the following table of judgments will be used:-

Description	Consequence for CGI
Poor: Does not deliver minimum requirements.	Inadequate arrangements that give cause for concern
Fair: Delivers only minimum requirements	Adequate arrangements
Good: Consistently delivers above minimum requirements	Better than adequate arrangements that give no cause for concern

5.4 Where assessment against Key Lines of Enquiry is considered poor and gives sufficient cause for concern, the Authority will be referred to the Secretary of State. Where issues are identified, but referral to the Secretary of State is not necessary, they will be considered within existing improvement planning and "direction of travel" assessments.

5.5 With regard to the second question, the Audit Commission will assess four issues:-

- The Council's track record over the past 12 months in the quality of its Corporate Governance arrangements. Broadly, they can have improved, got worse or remained at the same level of quality.
- The Council's degree of self awareness of the importance of improving its Corporate Governance arrangements. The Audit Commission will need to assess whether the Council understands the quality of its Corporate Governance arrangements and whether it has accepted that any inadequate arrangements represent a potentially serious cause for concern.

- The Council's capacity in terms of skills, resources, commitment and plans to effect or sustain improvement in Corporate Governance arrangements at an adequate level over the next 12 months.
- The degree of coherence and integration the Council brings to bear in its efforts to improve, or sustain, an adequate (or better) quality of its Corporate Governance arrangements. The Audit Commission will need to look for evidence of the Council making connections across and outside the organisation through its agenda items in cabinet, through scrutiny and through its communications with staff and partners.

- 5.6 All four issues will be judged. If one or more are deemed inadequate and the Commission is not confident that arrangements will improve to be at least adequate, there will be a referral to the Secretary of State. Other combinations of scores may result in re-inspection after a period, or the consideration of recommendations in improvement planning.

*Officer Response*

*The use of Key Lines of Enquiry is now a common tool in Audit Commission inspections. The judgment against these is therefore crucial and this aspect is considered in the section dealing with Key Lines of Enquiry below.*

*Whilst appearing objective, there is a high degree of subjectivity in coming to a judgment and deciding whether or not to refer an Authority to the Secretary of State. The Audit Commission will need to demonstrate that it is operating in a fair, open-handed and consistent manner.*

## **6 FINAL JUDGEMENT**

- 6.1 Following an inspection, a report will be issued, following a quality assurance process. Possible recommendations would be:-
- Refer the Council immediately to the Secretary of State.
  - Recommend that an "improvement board" be established to oversee the Council's response to the recommendations, followed by re-inspection within a year; or other follow-up action.

## **7 REPORTING CGI**

- 7.1 A report will be drafted and subject to quality assurance. The report will be discussed with the Council prior to it being finalised and published. It will summarise the findings, provide recommendations and give specified time periods for improvement.

**8 KEY LINES OF ENQUIRY**

- 8.1 Although looking at four themes, an Authority will be assessed against 92 specific questions. In order to score as being merely adequate, there is a high degree of compliance required. If inspectors follow the approved response to the letter, some Authorities will find it difficult to comply. Some have a stipulation that may be difficult to evidence. To illustrate these concerns, two Key Lines of Enquiry are highlighted.

**Requirement**

Strategic approach to promoting and maintaining ethical standards, Code of Conduct, Coverage of Code of Conduct across personnel and relevant issues, sanctions and redress and training arrangements.

**Adequate Response**

The Council has a strategic approach articulated within its Constitution for promoting and maintaining ethical standards across the Authority and its operations. It communicates these widely. It assigns lead responsibility to a Councillor for conduct in line with legal requirements. Codes and protocols cover standards for Councillors, staff and contractors, and include whistle blowing, anti-bullying, staff conduct and Member/officer relations. The Code of Conduct for Councillors covers the full range of legal requirements. There are arrangements for sanctions and redress and training for Councillors is mandatory.

**Components of Inadequate Performance**

Lack of strategic approach to promoting and maintaining ethical standards. Codes and protocols incomplete or out of date, or not sufficiently wide ranging. No arrangements for sanctions or training.

In this instance a Council could fail merely because training for Members was not mandatory. Inspectors should, therefore, have some flexibility in determining compliance.

**Requirement**

Arrangements for review of structures and mechanisms and Council's ability to respond.

**Adequate Response**

The Council keeps its organisational and officer structures under review. It has reviewed them within the last two years and has made improvements where required. Monitoring and review leads to demonstrably improved service and/or governance outcomes.

**Components of Inadequate Performance**

No effective monitoring of structures and mechanisms.

In this instance, it may be possible to evidence improvements in service levels. It may not be easy to show evidence of improvement in governance.

*Officer Response*

*It is not intended to comment on each individual Key Line of Enquiry. It is essential that Inspectors have flexibility in assessing a Council's compliance sensibly, and not strictly to the letter in all cases.*

*The other concern is the subjective judgments that may be required in respect of some of the Key Lines of Enquiry.*

**9 RESOURCE IMPLICATIONS**

9.1 None at this time.

**10 RECOMMENDATION**

10.1 It is proposed that the Committee **RESOLVES**

That a response be made to the Audit Commission based upon the officer comments set out in the above report and any other observations made by Members.

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**Background Papers:-**

None

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