

Taunton Deane Borough Council

Council Meeting – 4 March 2013

Recommendation to Full Council from the Corporate Governance Committee

South West Audit Partnership Governance Arrangements

The Corporate Governance Committee met on 4 February 2013 to consider approving proposed changes to the governance of the South West Audit Partnership (SWAP) towards the setting up of a Company Limited by Guarantee.

The current governance arrangements, introduced on the formation of the partnership in 2005, are based on Section 101 of the Local Government Act, 1972. Under this model each partner is bound by a legal agreement between it, the other partners and the Host which is South Somerset District Council.

The Joint Committee model was designed and intended for relatively small partnerships, where a single or limited service could best be delivered by two or three local authorities combining their resources.

However since 2005, the partnership has gradually expanded to the current twelve members. The increased membership has benefited all partners with greater economies of scale, a wider expertise base and quality and productivity improvements that would not have been possible with a smaller partnership.

The Partnership Board have explored a number of ways in which the current model might be adapted to meet the current and future needs of the partnership. Whilst some progress was made, there remained a number of fundamental issues that could not be resolved via the current governance model or issues where SWAP is unable to definitively provide a resolution. The principle areas that needed to be addressed can be summarised as:-

- Partnership Board Voting Arrangements;
- Financial Control; and
- Staff Pay, Terms and Conditions.

Following much discussion, including a Councillors' workshop, the Partnership Board, has concluded that the following governance structure should be adopted:-

The Members' Board

This is, in effect, the equivalent of the current Partnership Board. Each partner would

nominate a Councillor to represent them on this Board. It is the supreme authority of the company and would make all decisions relating to strategy, policy, appointment and dismissal of senior management and the admission of new partners.

The Board of Directors

The Board would oversee the implementation of the strategy and policy, as well as ensuring the operational activities of the partnership are achieving the objectives set by the Members' Board. The Board will be much more 'hands on', functioning very much like the current Management Board. Most Board members, in order to be effective, will need a good working understanding of internal audit and risk management. Provision has been made in the articles for other directors to be appointed, including some SWAP management.

The Partnership Board has endorsed the following membership arrangements for the board of directors:-

- Two Councillors who would normally be the Chairman and Vice Chairmen of the Members' Board.
- Twelve officers representing each of the current partners.
- A maximum of three executive officers from SWAP, with at least the Chief Executive being included.

The existing Joint Committee arrangement governing SWAP will cease in 2013, as it is clear that the majority of Partners support the change to a Company Limited by Guarantee. This Council now needed to consider whether:-

- (1) It wishes to join this arrangement, and appoint suitable representatives to govern Taunton Deane's interests; or
- (2) It wishes to withdraw and bring internal audit services back in house.

The existing Partnership arrangements bring significant advantages to this Council (resilience / shared expertise / cost stability). Should the service be brought back in house then this would be lost. For this reason, at this moment in time, it would seem sensible for this Council to join the new company.

The Members Board (referred to above) will clearly have the authority to make the significant decisions, with the Board of Directors having the authority over more routine operational matters.

This Council must appoint an elected Member to the Members Board. The Corporate Governance Committee was informed at its meeting that ideally this should not be the Chairman of the Corporate Governance Committee, or the Executive Councillor for Resources as they were likely to have potential conflicts of interest.

However, since then the Monitoring Officer has clarified the issue with SWAP and is

now satisfied that a conflict of interest would not, after all, exist.

This Council has a choice as to whom to appoint to the Board of Directors – an officer or an elected Member. Traditionally this Council would expect an elected Member to take on this function – but the responsibilities delegated to the Board of

Directors are rather ‘operational’ in nature and it is felt that it would make more sense to appoint an officer in this instance – the Deputy Section 151 Officer (Maggie Hammond) with the Client and Corporate Services Manager as alternate.

The new Company will apply to become an admitted body of the Local Government Pension Scheme operated by Somerset County Council. It will require partner authorities to guarantee the pension liabilities of the partnership. Taunton Deane will therefore need to guarantee our share of the pension fund deficit appropriate to ex-Taunton Deane staff in the partnership. This is estimated at £148,901.

This is simply a contingent liability to meet pension fund liabilities in the event of the failure of the Company and is similar to that which would have applied on dissolution of the current partnership arrangements. These liabilities should be no greater than what would be the case if the current partnership ceased.

The Corporate Governance Committee therefore **recommends** that:-

- a) The formation of a Company Limited by Guarantee, to replace the existing South West Audit Partnership Joint Committee, be supported;
- b) Taunton Deane Borough Council elects to be a Member of the company the South West Audit Partnership Limited from 1 April 2013 in accordance with the terms and basis set out in the new Company’s Articles of Association, Deed and Service Agreement;
- c) Taunton Deane Borough Council agrees to the dissolving of the South West Audit Partnership Joint Committee at a date to be determined, but not later than 30 June 2013;
- d) Taunton Deane Borough Council notes the separation of responsibilities and membership profiles of the Members’ Board and Board of Directors and nominates the Chairman of the Corporate Governance Committee to sit on the Members Board and the Deputy Section 151 Officer as to be the Director on the Company Board.
- e) The Legal and Democratic Services Manager be requested to progress the necessary legal work to facilitate the above and put in place the appropriate controls, authorities and indemnities to support officers and Members in the governance roles.
- f) Taunton Deane Borough Council agrees to offer a guarantee to the Somerset Pension Fund to the level of deficit relating to our ex-employees (estimated at £148,901).