

## **Report to Audit Committee**

**Subject:** Progress Update Commercialisation Audit Report June 2021

**Date:** 14 December 2021

**Author:** Chief Executive

### **Purpose**

To update Members in relation to the progress made against the recommendations of the Commercialisation Audit Report dated June 2021.

### **Recommendation(s)**

#### **That Members:**

- 1) Note the progress to date in relation to the Commercialisation Audit Report dated June 2021

## **1 Background**

- 1.1 The Council is responsible for ensuring that its business is conducted in accordance with current legislation, and that proper standards are observed in the use of public money. Under the Council's Constitution and as a part of the overall corporate governance arrangements, this Committee is responsible for monitoring the performance of the Internal Audit activity and to consider summaries of internal audit reports.
- 1.2 The Council has an annual Internal Audit Plan in place for the regular auditing of activity in order to provide assurance that internal controls are effective and governance standards are being maintained. As a part of this plan an audit on Commercialisation was undertaken by the Council's appointed internal auditor, BDO, with the results provided in a report to this Committee at its meeting on 29 June 2021.
- 1.3 The Internal Audit opinion on Commercialisation provided limited assurance in terms of both the design and operational effectiveness of the internal controls in this area of activity and made a number of

recommendations for improvement which were accepted by management for implementation. The Committee requested that a report be brought back by management to provide an update on the progress being made towards addressing the recommendations made in the Commercialisation Audit which is the purpose of this report.

- 1.4 Where agreed actions to address significant internal control weaknesses have not been implemented this may have implications for the Council. A key role of this Committee is the review the outcome of audit work and to oversee the prompt and timely implementation of agreed actions to help to ensure that risks are adequately managed.

## **2 Proposal**

- 2.1 It is proposed that the management progress being made in implementing the recommendations of the Commercialisation audit as detailed in Appendix 1 of this report is noted, and that the changes enacted as a response to the findings of the audit report for Commercialisation continue to be embedded within the teams responsible.

### **2.2 Legal Powers to Charge**

At the meeting of 29 June 2021, Members also requested details on the powers to provide commercial services outside of the borough boundary. This is as follows:

- There are a number of powers available to the authority to charge for services, some are derived through specific statutory powers and some through general powers. The Localism Act 2011 ("the Act") provides a general power of competence (section 1) which enables authorities to do anything that an individual may do, anywhere in the United Kingdom with or without charge and for a commercial purpose. The power is not unlimited and may be restricted by other specific statutory powers, for example specific powers to charge contained in other legislation.
- The Act also provides that where activities are conducted for a charge, this charge, taken year on year must not generate income in excess of the cost of the service. Where authorities are carrying out activities for a commercial purpose, in that their primary purpose is to make a profit, this should be done through a company vehicle, as required by the Act.
- In addition to the general power under the Act, there are a number of other specific powers to charge for services which pre-date the Act and which do allow the authority to charge what is reasonable for the provision of certain services e.g. the Environmental

Protection Act 1990 and waste regulations made thereunder. Whilst the Environmental Protection Act and accompanying regulations provide the power to charge, they also restrict the power to charge in certain instances, for example a waste collection authority is required to collect household domestic waste without charge within its area.

- Section 93 of the Local Government Act 2003 also provides a power for authorities to charge for discretionary services, if authorised to provide such services by any enactment (narrower than the Localism Act). Again this power is limited by other enactments which provide specific powers to charge or may require no charge is made for certain functions. Under this legislation again, there is a requirement that year on year charges do not exceed the cost of providing the service. Any, trading which is for a commercial purpose must be done through a company. This legislation is not as wide as the Act and relates to authority functions.

### **3 Alternative Options**

- 3.1 There is no alternative option identified for this report.

### **4 Financial Implications**

- 4.1 There are no financial implications arising from this report.

### **5 Legal Implications**

- 5.1 As detailed in the report.

### **6 Equalities Implications**

- 6.1 There are no equalities issues arising as a direct result of this report.

### **7 Carbon Reduction/Environmental Sustainability Implications**

- 7.1 There are no carbon or environmental issues arising as a direct result of this report.

### **8 Appendices**

- 8.1 Appendix 1 – Management Progress Against Recommendations  
Commercialisation Audit Report June 2021

## **9 Background Papers**

### **9.1 Commercialisation Audit Committee Report 29 June 2021**

#### **Statutory Officer approval**

**Approved by the Chief Financial Officer**

**Date: 2 December 2021**

**Approved by the Monitoring Officer**

**Date: 30 November 2021**

**Appendix 1 - Management Progress against Recommendations -  
Commercialisation Audit Report June 2021**

<b>1. FEES AND CHARGES SCHEDULE AND BUSINESS PLANS ARE NOT EFFECTIVE IN ACHIEVING A SUFFICIENT RATE OF RETURN, AND ARE NOT BEING MANAGED/MONITORED EFFECTIVELY</b>		
1A	The Council should establish a robust process for market research with evidence retained.	<b>Completed.</b> Market research now forms a part of the Council's process for the development of all new business cases and business plans. This requirement is embedded within the appropriate templates.
1B	Market research should feed into a structured business case that is taken to Cabinet and scrutinised effectively.	<b>Completed.</b> The requirement for Cabinet consideration of all new business cases for commercial services is supported within the project management framework. The business case template now contains a section for market research aligned to this recommendation.
1C	Market research should be undertaken/overseen ensuring the competency of the individual is sufficient and this should be set out in the business case as to why this requirement has been met.	<b>Completed.</b> The Council currently has suitably qualified officers within the Communication and Marketing team able to undertake and verify market research as required in the business case template.
1D	Appropriate mitigating actions for risks identified should be included and reviewed throughout the process to ensure risks are minimised.	<b>Completed.</b> This is in place within the business case and business plan templates. Risks may also be added to the corporate or service risk registers within the Council, which are reviewed regularly.
1E	Forecasting undertaken should take into account the market research completed with lead times built into the achievement of these forecasted figures and potential market shares.	<b>Completed.</b> The business planning and business case templates include this. Finance and legal sign off of all new business plans and business cases will also ensure this is in place for each commercial service.
1F	Targets set should be in realistic proportion to the market size rather than the maximum amount that could be earned. Unless there is specific reason to do so, it should be expected that the market size to be achieved would be low (<10% of the relevant local market) in the first year. Specific reasons could include a limited number of suppliers or specific	<b>Completed.</b> The Council's business case and business plan template guidance has been amended to include this reality check.

	networks/relationships which mean the Council would be well placed to obtain more of the market.	
1G	Annual target setting should take into account previous year's performance with detailed forecasting completed and evidenced.	<b>Completed.</b> This is in place within the revised business plan template which will be reviewed and updated annually.
<b>2. FEES AND CHARGES SCHEDULE AND BUSINESS PLANS ARE NOT EFFECTIVE IN ACHIEVING A SUFFICIENT RATE OF RETURN, AND ARE NOT BEING MANAGED / MONITORED EFFECTIVELY</b>		
2A	Current viable commercial services should have business plans developed.	<b>Currently outstanding</b> due to workload, Covid, and staff sickness – revised date May 2022. A full review is being undertaken with regard to the four main commercial services, namely, garden waste collection, trade waste collection, pet cremation service, and arborist service. This will lead to the development of a business plan for each service area which will be reported to SLT for consideration and sign off and then reviewed/updated annually.
2B	Moving forward, business plans should be established for future commercial services once they have been approved by Cabinet	<b>Completed.</b> This will be actioned for every new commercial service being presented to Cabinet for approval.
2C	Business Plans should be reviewed on a periodic basis to ensure the services objectives and targets are appropriate. This should happen no later than 12 months from initial approval for all new business ventures.	<b>Completed.</b> Once produced, these will be updated by Heads of Service and reviewed by SLT on an annual basis.
<b>3. THE COUNCIL DOES NOT ANALYSE THE CONVERSION OF QUOTES INTO ACTUAL JOBS AND/OR DO NOT KNOW THE REASONS FOR THIS</b>		
3A	There should be a detailed review of the quote conversion rate, looking at the reasons behind non-conversion rather than just the figures, with plans to address issues included in the meeting as a standing item	<b>Partly outstanding</b> as recent sickness levels are causing a pressure on workload for both the administration and the arborist teams – revised date February 2022. Monthly meetings between the Operations Manager, the Business Administrations Manager, Head of Service, and the Finance Officer for the service are scheduled using a standard agenda to cover the areas raised. The process for quotes has been simplified already based on an hourly

		rate determined by the number of arborists required i.e. a 2 man team, 3 man team etc. The take up / conversion of those quotes requires telephone and/or email follow-up action by the administration team which is proving difficult currently due to capacity.
3B	Minutes should be taken or an action plan established to detail steps decided upon.	<b>Currently outstanding</b> – revised date February 2022. Once these meetings resume then minutes will be taken and proposed actions recorded.
4.	<b>THERE IS INEFFECTIVE MONITORING TOWARDS THE ACHIEVEMENT OF INCOME GENERATION TARGETS TO MANAGEMENT AND HEADS OF SERVICE</b>	
4A	A formalised reporting structure should be established for commercial activities with agreed upon reports established which cover financial, operational and performance information.	<b>Partly outstanding</b> – revised date May 2022. Monthly income reports are provided to each service manager, which gives details on progress against income targets. Work on a quarterly briefing report on financial, operational and performance information will be developed by the meeting officers detailed above.
4B	Minutes, or at a minimum action logs, should be kept for meetings to ensure an adequate audit trail of monitoring is established and improvement actions are recorded and reviewed.	<b>Currently outstanding</b> – revised date February 2022. Covered in 3B.