Notice of Meeting

Audit and Transparency Committee

8 March 2021 at 6pm

Remote meeting link: **https://youtu.be/Kf1-3qjdE0k**

THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

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Issue Date: 26 February 2021

Chief Executive - Barry Quirk

Committee Membership:

Councillors Ian Wason (Chair), David Lindsay (Vice-Chair), Emma Dent Coad, Charles Williams.

Co-opted members:

Mr Andrew Ling, Ms Liz Murrall and Ms Cosette Reczek

Public Agenda

A1. APOLOGIES FOR ABSENCE

A2. DECLARATIONS OF INTEREST

Any Member of the Committee, or any other Member present in the meeting room, who has a disclosable pecuniary interest, in a matter to be considered at the meeting is reminded to disclose the interest to the meeting and to leave the room while any discussion or vote on the matter takes place.

Members are also reminded that if they have any other significant interest in a matter to be considered at the meeting, whether registered or not, which they feel should be declared in the public interest, such interests should be declared to the meeting. In such circumstances Members should consider whether a member of the public, with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice their consideration or decision making. If the Member considers that to be the case, they should leave the room while any discussion or vote on the matter takes place.

A3. MINUTES OF THE MEETING HELD ON 9 NOVEMBER 2021

The minutes of the meeting held on 9 November are submitted for confirmation.

A4. FORWARD PROGRAMME AND ACTION TRACKER

A5. INDEPENDENT REVIEW OF PROPERTY TRANSACTIONS

A6. REPORTS FROM GRANT THORTON

i) ANNUAL AUDIT LETTER 2019/20
ii) 2020-21 AUDIT PLAN
iii) PROGRESS REPORT

A7. IBC UPDATE

A8. CORPORATE ANTI-FRAUD POLICIES

A9. GRENFELL FINANCES - ORAL UPDATE

A10. DIRECT PAYMENTS AUDIT - INTERIM REPORT

A11. TREASURY QUARTERLY PERFORMANCE REPORT

A12. INTERNAL AUDIT PROGRESS REPORT

A13. AUDIT PLAN FOR 2021-22

A14. CHAIR'S ANNUAL REPORT

Any other oral or written items which the Chair considers urgent.

*[**Note:** Each written report on the public part of the Agenda as detailed above:*

(i) was made available for public inspection from the date of the Agenda;

(ii) incorporates a list of the background papers which (i) disclose any facts or matters on which that report, or any important part of it, is based; and (ii) have been relied upon to a material extent in preparing it. (Relevant documents which contain confidential or exempt information are not listed.); and

(iii) may, with the consent of the Chair and subject to specified reasons, be supported at the meeting by way of oral statement or further written report in the event of special circumstances arising after the despatch of the Agenda.]

Exclusion of the Press and Public

There are no matters scheduled to be discussed at this meeting that would appear to disclose confidential or exempt information under the provisions Schedule 12A of the Local Government (Access to Information) Act 1985.

Should any such matters arise during the course of discussion of the above items or should the Chair agree to discuss any other such matters on the grounds of urgency, the Committee will wish to resolve to exclude the press and public by virtue of the private nature of the business to be transacted.

The next ordinary meeting of this Committee is scheduled to be held at 6pm on 22 June 2021

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Minutes of a meeting of the Audit and Transparency Committee held at 6pm on 9th November 2020

Please note: *This was a fully remote meeting held using Microsoft Teams software and 'livestreamed' via a weblink publicised on the Council website in accordance with The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020*

PRESENT

Members of the Committee

Councillor Ian Wason (Chair)

Councillor David Lindsay (Vice-Chair)

Councillor Charles Williams

Co-opted non-voting Members

Mr Andrew Ling

Ms Liz Murrall

Ms Cosette Reczek

Officers in attendance

Mike Curtis (Executive Director, Resources)

Mat Dawson (Senior Finance Manager, Treasury and Pensions)

David Hughes (Director of Audit, Fraud, Risk and Insurance)

Andrew Hyatt (Head of Fraud)

Moira Mackie (Head of Audit)

Martyn Carver (Governance Manager)

Xing Rong (Treasury Manager)

Esme Sharry (Governance Administrator)

Public Agenda

A1. APOLOGIES FOR ABSENCE

Cllr Dent Coad sent her apologies.

A2. DECLARATIONS OF INTEREST

Cosette Reczek stated that she is an employee at Standard Charter Bank as there is principal outstanding from Standard Charter Bank in Appendix B of A5 Treasury Management Activity.

A3. MINUTES OF THE MEETING HELD ON 17 September 2020

Liz Murrall raised the issue that there was a difference between the emphasis of matter around the valuation of uncertainty in the auditor's report and what was signed in the audit report. She requested clarity from Grant Thornton.

Action by: Governance Services have emailed Ellen Millington for clarity.

Aside from this addition, the minutes of the meeting of the Committee held on 17 September were confirmed as a correct record.

A4. FORWARD PROGRAMME AND ACTION TRACKER

The Chair highlighted that a response was awaited on Grenfell expenditure. This had been raised by Cllr Dent Coad. David Hughes clarified that this information is now available and that he and Taryn Eves would discuss what was required with the Chair and then circulate to the members of the Committee. This information can be shared at the next meeting of the Audit and Transparency Committee.

Action: David Hughes to work with Taryn Eves to provide a report on Grenfell expenditure for the next meeting. David Hughes to circulate an overview of the report on Grenfell expenditure to the committee in the next month to allow the committee to agree the points of reference for this report.

Andrew Ling queried the difference between the GOLD and Strategic risk register. David Hughes clarified that GOLD is the emergency planning operation which comes into force when there is a major incident such as the pandemic. The risk register is reviewed every 2 weeks by the GOLD. The strategic risk register looks at the Council's strategic risks, this will need to be added to the forward plan and focus on the Council's strategic risks which have been impacted by the pandemic.

A5. TREASURY MANAGEMENT ACTIVITY – QUARTER 2

Mat Dawson introduced the report and highlighted key points for the Committee. He drew attention to paragraph 2.5 which featured current bank rate and projections for up to 2022. He also pointed to paragraph 3.2 which presents how money market fund allocation as part of treasury strategy is capped at £150 Million. Investigation has begun into secure, low risk investments, such as DBS Bank, which has good returns on investments.

The Chair queried what the strategy is in place is for the potential of negative interest rates. Mat Dawson responded that the year's treasure strategy can't be amended without Full Council approval but there are mitigation plans in place for next year such as leaving surpluses in a current account or upping the limits of money market funds.

Cllr Williams queried why the Council borrows money if it is currently in surplus. Mat Dawson responded that a balancing act is essential, and, considering long-term planning, it is financially beneficial to borrow whilst rates are good.

Cosette Reczek questioned whether there is a possibility to renegotiate loans at a lower rate and why in the report in section 5.1 it states that the Council is planning to borrow £20 million in December. Mat Dawson responded that rates can be renegotiated and that HRA is still in the schedule but whether the borrowing will go forward is currently uncertain.

Cllr Lindsay queried the potential risks involved in lending to other local authorities. Mat Dawson confirmed that thorough due diligence is carried out. Mike Curtis added that no local authority has ever defaulted on any loans so this unlikely to ever happen.

Andrew Ling added that the Council's treasury strategy is very conservative and encouraged the committee to look at the risk and options available. He highlighted the concern over heading into territory of negative returns.

The Chair emphasised the need to review treasury management policy at the appropriate time rather than waiting for the annual approval at full Council.

Action: Mat Dawson to feedback at the next committee meeting as to the rules of when the strategy can be amended.

A6. ANTI-FRAUD HALF-YEAR REPORT

Andrew Hyatt presented the report and acknowledged that the need for emergency response during the pandemic has changed the nature of work carried out. Some officers have been redeployed as a result. Despite this, work continued.

Cllr Williams asked whether the parking permit fraud data matching programme could be expanded across London to catch those who have permits in more than one borough. Andrew Hyatt responded that this is an option and that the Cabinet Office is considering this.

Liz Murrall enquired as to how this report compared to previous years and asked for confirmations on discrepancies in table 1.6 and 1.7. Andrew Hyatt responded that the figures taken for the activity throughout the year are directly taken from the case management system but the 12 successful outputs which arose from the residents parking exercise are not included in the table as they were not physically opened on the case management system. This consequently caused a discrepancy in terms of positive outcomes in table 1.6 and 1.7. He explained that in terms of comparison to previous years, the pandemic has meant there has been a delay in prosecuting cases such as Blue Badge Fraud. He also highlighted the pandemic has made it difficult to monitor tenancy fraud. New emerging fraud risks include fraudulent claims for business grants provided by Central Government but checking and verification has helped to mitigate this risk.

The Chair queried how the sample of 354 discretionary business grants from a total of 1288 was selected. Andrew Hyatt responded that these were sampled based on risk assessments with the assistance of a Central Government tool.

A7. ANTI-FRAUD POLICIES REVIEW:

i. **Anti-Bribery Policy**
ii. **Anti-Money Laundering Policy**
iii. **Fraud Response Plan**

Andrew Hyatt summarised that there have been no material changes to these policies and asked for the committee's approval. He added that the whistleblowing policy will be brought to the committee in March.

Liz Murrall drew attention to some inconsistencies between papers, for example in the Anti-Money Laundering Policy there were provisions to make staff aware and targeted training, but this not similarly proposed for Anti-Bribery or Anti-Fraud. She also questioned why there is a record of fraud instances, but not for money laundering or bribery. Andrew Hyatt responded that training does need to be teased out in all 3 policies. However, he highlighted that overarching these policies is the Anti-Fraud and Corruption Strategy where bespoke training is discussed. Andrew Hyatt also responded that bribery and money laundering cases occur less regularly than fraud. Furthermore, when either do occur a corporate investigation would be launched. David Hughes added that he would look at carrying out an audit on corporate infrastructure.

Action by Andrew Hyatt to ensure training for staff is highlighted in these policies.

Cllr Williams questioned whether in regard to money laundering, the £10,000 limit is in line with other local authorities and whether this could be low. Andrew Hyatt responded that the figure is recommended by the National Crime Agency.

Cllr Lindsey asked how many staff are reporting to different areas of anti-fraud. Andrew Hyatt informed the Committee that there are 8 reporting officers on the RBKC side. These officers are mostly working on tenancy fraud as this is the most resource intensive. Currently, there are 4 officers working on tenancy fraud and 4 working on other areas of fraud such as corporate and disabled parking fraud.

Cosette Reczek commented that in the report on the Money Laundering policy it would be helpful to include mention in the main body of the paper of the possibility of criminal prosecution for tipping off customers.

Action: Andrew Hyatt agreed to incorporate this in the report for clarity.

Cosette Reczek also noted £10,000 is a high limit to be set for money laundering investigations and typically incidences of money laundering can happen well below the £10,000 limit. Andrew Hyatt responded that the removal of cash transfers has reduced the incidences of laundering happening below £10,000 and that big areas of risk are in rent accounts where specific training had been given. He added that he would re-consider the £10,000 limit.

Action by Andrew Hyatt

A8. PROGRESS REPORT ON INTERNAL AUDIT WORK

Moira Mackie presented this report. There were two audits to present, one of which was the direct payments audit which began at the end of the last financial year. There have been previous problems with direct payments as it is a complex area and there needs to be better understanding of responsibilities. She confirmed this as an area for improvement. The second audit was on bank reconciliation.

Cosette Reczek asked who is accountable for overseeing the work done in direct payments and how progress would be monitored. Moira Mackie responded that a follow up will be carried out this year to ensure implementation of recommendations. She confirmed that regarding direct payments, there is a need for many people to work together to get the right outcomes such as colleagues from Adult Social Care and Finance. Directors from both departments are aware that they are expected to report back to the Committee on the progress made.

Cosette Reczek questioned when the recommendations in the report on bank reconciliation will be completed. Moira Mackie replied that the response was due on 12 November and would be incorporated into the report.

Liz Murrall expressed concern in the direct payments report over sample testing which identified in 12 out of a sample of 20 cases financial reviews had not been undertaken in a consistent manner or the service user was over the 8-week contingency amount. Moira Mackie responded that a sample of 20 cases was common and a test regime was applied to these cases.

Liz Murrall asked for clarity over approval and reviews of bank reconciliations. Moira Mackie responded that at the time of audit, bank reconciliations were occurring every 2 months. This has now changed to every month and evidence must be provided that reviews have been carried out.

The Committee agreed to ask the Director of Adult Social Care and the Director of Finance to attend the next meeting in March to discuss direct payments.

Action: Moira Mackie to raise this with Bernie Flaherty.

Andrew Ling suggested the wording in the direct payment report was not strong enough. He expressed surprise over the lack of any clear strategy. He also suggested that the wording of the bank reconciliation report was not strong enough.

Mike Curtis agreed that monthly bank reconciliations would be better than bi-monthly.

A9. RISK MANAGEMENT UPDATE

David Hughes presented this report which was an update on how the Council is managing risks during the pandemic. The first section of the report sets out the financial impact of the pandemic on the Council. The second part of report provides an update on the arrangements to manage risk during the pandemic. David Hughes added that further updates include the reinstatement of the Council hub which provides support to those identified as shielding in the first wave. A food shopping service has also been implemented. In addition to this, a local contact tracing system has been yielding positive progress. The Council buildings are open to staff but closed to customers. He underlined that GOLD has incorporated into the report risks posed by other major incidences, such as a Winter Flu pandemic and the potential for a No Deal Exit from the EU. It is important to ensure there are firm business continuity plans in place.

Cllr Lindsay asked whether the National Risk Register has been updated in relation to COVID. David Hughes responded that the London Risk Register has been updated.

Action: David Hughes agreed to take account of the National Risk register going forward.

Cosette Reczek questioned what the Council's response will be towards any increased hospital discharges. David Hughes confirmed that colleagues from Adult Social Care and Health monitor this constantly and look for instances where alternative provision may need to be put in place.

Andrew Ling queried whether local contact tracing is given enough profile within the Council's risk management work. David Hughes confirmed that local contact tracing is a key focus and regular item on the agenda of SILVER and GOLD weekly meetings.

Any other oral or written items which the Chair considers urgent.

Andrew Ling asked whether future meetings would continue to be hosted via video conference. The Chair stated that meetings must work to suit the entire committee and so it is likely they will continue to be hosted via video conference. The Chair suggested there may be a potential for hybrid meetings in the future, provided prevalence of the coronavirus is low.

The Committee noted that dates of future meetings would be agreed at the Annual Council meeting in May 2021.

No other matters were considered.

The meeting ended at 7.40pm

Chair

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE
8 MARCH 2021

REPORT BY THE HEAD OF GOVERNANCE AND MAYORALTY

FORWARD PROGRAMME AND ACTION TRACKER

The purpose of this report is to advise the committee of forthcoming reports and progress on actions agreed at previous meetings.

FOR INFORMATION

1. FORWARD PROGRAMME

1.1 The draft forward programme of reports is set out below. Members' comments are welcomed.

Meeting Date	Report
22 June 2021	Post Covid-19 update
	Treasury Management Mid-Year Report
	Treasury Quarterly Performance Report
	Implementation of CIPFA Financial Management Code.
	Direct payments (ASC) – Bernie Flaherty/Taryn Eves to attend
22 July 2021	Draft Statement of Accounts (for information)
16 September 2021	Approval of Statement of Accounts
October 2021	Treasury Management Mid-Year Report
December 2021	Treasury Quarterly Performance Report

* Subject to approval at paragraph 1.

2. ACTION TRACKER

2.1 The actions arising at the November meeting and progress on these actions is shown in the Appendix.

FOR INFORMATION

Robert Sheppard
Head of Governance and Mayoralty

Background papers: None.

Contact officer: Martyn Carver, Governance Manager on (T) 020 7361 2477 and at (E) martyn.carver@rbkc.gov.uk

Esme Sharry, Governance Administrator on (T) 07929850601 and (E) esme.sharry@rbkc.gov.uk

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Appendix

AUDIT AND TRANSPARENCY COMMITTEE – ACTIONS TRACKER

The Actions Tracker allows Members to monitor responses and actions against their requests for further actions or information. The Tracker is updated following each meeting.

Date of Meeting	Item	Action		Response
09/11/2020	A4. Forward Programme and Action Tracker	David Hughes to work with Taryn Eves to provide a report on Grenfell expenditure for the next meeting. David Hughes to circulate an overview of the report on Grenfell expenditure to the committee in the next month to allow the committee to agree the points of reference for this report.	David Hughes	David Hughes and Taryn Eves to present paper on framework for report in March. Special meeting with focus on Grenfell expenditure arranged for May.
09/11/20	A5 Treasury Management Activity – Quarter 2	The Chair emphasised the need to review treasury management policy at the appropriate time rather than waiting for the annual approval at full Council. Mat Dawson to feedback as to the rules of when the strategy can be amended.	Mat Dawson	The Chairman's recommendation was acted on. Two meetings were held in December and January with the Council's new advisor. The December meeting was an officer meeting with Mike Curtis with a following session for Cllr Weale in January ahead of the revised treasury strategy being presented at Council.
09/11/20	A7. Anti-Fraud Policies Review	- Andrew Hyatt to ensure training for staff is highlighted in all these policies. - Cosette Reczek commented that in the report on the Money Laundering policy it would be helpful to include mention of the possibility of criminal prosecution for tipping off customers. Andrew Hyatt agreed to incorporate this in the report for clarity.	Andrew Hyatt	- Changes noted – two revised policies included in March 2021 agenda detailing the changes. - Revised Anti-Money Laundering policy included in March 2021 agenda detailing suggested change.
09/11/20	A8. Progress Report on	The Committee agreed to ask the Director of Adult Social Care and the Director of Finance	Moira Mackie /	Governance have raised this with Bernie Flaherty's team, she is unable to attend until the June meeting. This

	Internal Audit Work	to attend the next meeting in March to discuss direct payments. Moira Mackie agreed to raise this with Bernie Flaherty.	Governa nce	has been added to the June agenda. Moira Mackie has informed that an interim follow up report issued shortly identifies the various improvements put in place. Original and follow up report can be shared with Members in March so that Members can see the progress made as this may address some of the issues that they would want to raise with Bernie in any future meeting.

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE MEETING
8 MARCH 2021

REPORT BY THE CHIEF EXECUTIVE AND DIRECTOR OF AUDIT, FRAUD, RISK AND INSURANCE

INDEPENDENT REVIEW OF PROPERTY TRANSACTIONS

The purpose of this report is to inform the Audit and Transparency Committee of an independent review commissioned into four historic property transactions in the borough and the Council's response and recommendations arising from that review.

FOR INFORMATION

1. EXECUTIVE SUMMARY

1.1 Kroll and Associates were commissioned to undertake an independent forensic examination of four historic property transactions at the Council in light of the report published by Kensington and Chelsea College in October 2018 which Kroll had also undertaken.

1.2 Attached to this report, in Appendix 1, is the Council's response to the Kroll independent report into the four property transactions, along with recommendations for action arising from the review. The full independent report produced by Kroll, setting out the findings of their independent review, is provided in Appendix 2.

2. RECOMMENDATION

That the Committee consider and note the independent review report (as set out in Appendix 2) and the Council's response and recommendations for action arising from that review (Appendix 1), as set out in the covering report from the Chief Executive and Director of Audit, Fraud, Risk and Insurance.

3. BACKGROUND

3.1 Kroll and Associates were commissioned to undertake an independent forensic examination of four historic property transactions at the Council in light of the report published by Kensington and Chelsea College in October 2018 which Kroll had also undertaken. The review focussed on the following property transactions:

- the lease of the Isaac Newton Professional Development Centre;
- the lease of the North Kensington Library;
- the lease of the Westway Information Centre; and,
- the purchase from and lease-back of the Wornington Road site to Kensington and Chelsea College.

3.2 The Kroll report sets out the scope and nature of the review, an executive summary identifying the key findings from the review against the agreed scope and sections setting out the detailed findings in respect of each of the four property transactions.

3.3 The independent review included a forensic examination of Council-held documents, along with published information and interviews with a number of individuals involved in the property transactions.

Barry Quirk
Chief Executive

David Hughes
Shared Services Director for Internal Audit, Fraud, Risk and Insurance

Background papers:

None

Appendices:

Appendix 1 – covering report of the Chief Executive and Director or Audit, Fraud, Risk and Insurance

Appendix 2 – Independent Review report from Kroll and Associates

If you have any queries about this Report please contact:
David Hughes on 07817 507695 **Email:** David.Hughes@rbkc.gov.uk

Independent Report on historic property transactions in Kensington & Chelsea by Kroll and Associates (the Kroll report)

February 2021

Barry Quirk, Chief Executive
David Hughes, Director of Audit, Fraud, Risk and Insurance

1. Attached to this covering note is an independent report from Kroll into four historic property transactions in Kensington and Chelsea.[i] Two of these transactions involved releasing public assets so that they could gain commercial rental income. The other two involved reconfiguring publicly used facilities so as to reshape their use and gain commercial rental income.

2. The independent Kroll report follows their in-depth forensic examination of these four transactions (based on an investigation of both published and unpublished material). The investigation itself follows on from complaints made by some community stakeholders about the overall conduct of the Council in respect of its historic approach to property transactions and the alleged disregard afforded to community concerns and the prospect of adverse community impact. Kroll shared their provisional findings with those individuals involved in these matters in the past (Members as well as officers), they interviewed several people in depth; and the attached report is their final draft for the Council's consideration.

3. The independent Kroll report shows that previous decisions, in the period from 2011 to 2016, were based on a strategic rationale to maximise rental income so as to support the Council's revenue base. While forms of information provision about the Council's objectives for these transactions were in place at that time, we can see that a wider and more open style of community engagement was not an aspect of the Council's general approach. The Kroll report identifies no wrongdoing on the part of Members nor officers but it does highlight a number of areas for the Council to consider its future approach.

4. We have had an outline discussion with the Council's external auditors about the Kroll report. They broadly suggest that the report identifies some deficiencies in the Council's previous approach to framing options for some aspects of asset strategy, but that these were in: (a) the implementation of the arrangements, rather than the design of them; and (b) did not lead to any perverse decisions or unreasonable decisions. They have however indicated that they would want more time to consider the 'value for money' aspects of the matters referred to in the Kroll report.

RECOMMENDATIONS

5. It is recommended that:

5.1. this covering report and the detailed Kroll Report (together with its Executive Summary) be considered at future meetings of the Audit & Transparency Committee; the Overview and Scrutiny Committee, and then the Leadership Team;

5.2. the Executive Director for Housing & Social Investment bring a comprehensive report to a meeting of the Leadership Team on the Council's new approach to social value, social investment and community benefit balancing these factors with the Council's financial duties in respect of broader service delivery, as well as asset and property management generally;

5.3. the Executive Director for Housing & Social Investment, together with the Executive Director of Environment & Communities, bring a further report to the Leadership Team on the Council's approach to all potential "assets of community value". Such report to be prepared jointly with the Director of Planning, the Director of Social Investment & Property, and the Director of Communities;

5.4. open engagement with potentially impacted communities precedes formal decision making processes on significant service change, investment or other plans in line with the Charter of Public Participation, and the commitments the Council has made to embedding this Charter in all its work;

5.5. the Council's monitoring officer and the Director of Audit, Fraud, Risk and Insurance provide guidance on the sufficiency, appropriateness and adequacy of officer drafted reports so as to ensure that Members receive rounded, objective, impartial, balanced and best professional advice in achieving the Council's agreed policies and plans; and

5.6. Members and officers undertake policy and professional development in how the Council ought to include best value and community benefit in all aspects of the Council's service programme areas (and not simply in asset and property management matters) and/or in those areas of work explicitly defined as part of the Social Investment Programme.

Why is this Independent Report needed?

6. Just over two years ago, in October 2018, Kensington College published an independent forensic examination of the College's earlier decision to sell their North Kensington site to the Council. As Members will be aware, the Kensington and Chelsea College ("KCC"), is split into two centres:

- The Kensington Centre, located at Wornington Road; and
- The Chelsea Centre, located at Hortensia Road.

7. On 19 July 2016 KCC sold the Wornington Road building and land freehold to RBKC on a sale and three-year leaseback agreement. Under this sale and leaseback agreement, RBKC agreed that KCC could lease the Wornington Road site from the Council for three years following the sale at an annual rent of £1.1 million. The headline value of the transaction was £28.65m from which £3.3m was deducted to take account of the three-year lease agreement. The net cash sale value to KCC was therefore £25.35m.

8. According to the College itself, the independent report by Kroll catalogued a failure of management and governance at the College in several areas including:

   - lack of consultation with the local community in the period before the sale;
   - failure to consider and evaluate alternatives to a sale to RBKC (for example, potential proposals from private developers);
   - shortcomings in determining the final sale price of the Wornington Road site; and the
   - exclusion of College student and staff governors before the final decision was made to sell the College to RBKC.

9. At the time of the report's publication, Kensington and Chelsea College Interim Chair Ian Valvona said:

   "The sale of the College's Wornington Road site to the Royal Borough of Kensington and Chelsea was plainly the wrong thing to do – even when you consider the College's very difficult financial situation in 2016.

   "Today the College apologises for that sale and I want to recognise the role of the local community and the Save Wornington College Campaign for helping to ensure that the full details of this sale finally saw the light of day.

   "The College's core mission is to focus relentlessly on outstanding teaching and learning for our students and meet the needs of our local communities.

   Selling the Wornington Road site to RBKC in 2016 was not in the interests of that mission or the College's local community but the College is now determined to look forward and work with the community, staff and Borough to build a bright future together."

10. At the same time, Kensington and Chelsea College Chief Executive and Principal, Andy Cole said:

> *"The report highlights shameful behaviours of past management in excluding staff, students and the local community from its discussions and decision making over the sale. There has been a complete break with the past across the last year at Executive Leadership as well as Board level and we are in negotiations with RBKC to determine how the Wornington Road site will serve the needs of its communities into the long term."*

11. The report was strongly welcomed by the Save Wornington College Campaign Group, who campaigned effectively about this issue from the perspective of it needing to be a positive Grenfell legacy project. From October 2018, the Department for Education convened meetings with all relevant parties, including the Council, the College, the Save Wornington College Campaign and the Greater London Authority, to identify the best way to secure a future for the College at Wornington Road.

12. All parties agreed, including the Council, that a long-term solution for the site was needed and that a sale to the Government, combined with further investment from the DfE, was the best way forward. In July 2019, the Leadership Team agreed, in principle, to accept an offer for the site from the DfE of £10M. Although the sale price was significantly lower than the jointly agreed valuation figure of £22M, it was considered that the discount was justified on the basis that a thriving College in the borough will bring benefits that will help the Council to promote or improve the economic and social wellbeing of the area.

13. Final Heads of Terms for the sale were agreed by the Leadership Team in December 2019. These included special legal protections for the long-term use of the site, specifically a long-term lease to the college at a peppercorn rent and a restrictive covenant that guarantees educational and community use. The DfE also pledged significant investment in the college and the refurbishment of both the Wornington Road site and the College's Chelsea centre, totalling £32M. In February 2020, Kensington and Chelsea College completed a merger with Morley College, the conclusion of a separate process, led by the Further Education Commissioner, to secure the long-term financial viability of the College as an institution.

14. Following the publication of the Kroll report, the Council held discussions with our external auditors, Grant Thornton, as to the sensibility of the Council conducting its own review of a number of historic key property transactions (including the purchase of the College site at Wornington Road). Our external auditors agreed with the proposal that an independent forensic review was necessary in the circumstances. It was therefore decided, after discussing likely scope and costs with a few competent external audit firms, that to assure wider credibility with community interests, as to any reviews authoritative independence, that the Council ought to commission Kroll to perform a detailed and forensic investigation of several property transactions.

15. The attached report is the outcome of that commission. The start of Kroll's engagement was delayed for almost a year, following discussions with external parties, to ensure that its enquiries did not compromise any of the investigations that were then being proposed for the Grenfell Public Inquiry. The timeline for its publication has been further impacted by the reasonable requirement to consult, for matters of accuracy, with those individuals named in the report itself.

Kroll's core findings

16. The Executive Summary of the report outlines the core findings, but the full report needs to be read to gain a broader sense of the detailed investigation that was undertaken by Kroll. The report examines the *Corporate Property Strategy* that was in place at the time of the key transactions, as well as the independently authored (by King Sturge) report that led to these properties being declared to surplus to operational requirements.

17. The report concludes that formal options appraisals were undertaken, albeit that one was concluded retrospectively - *"Kroll's analysis concluded that there was consideration of various options in relation to each of the Transactions. One example was identified when an options appraisal was conducted after the decisions had already been approved, but these broadly supported the context and rationale for the decision."* (Para 3.10)

18. The report also concludes that, "*with regards to scrutiny of decision making, the Review identified some weaknesses around the process which meant that at times the scrutiny committees were not able to provide useful, timely scrutiny."* (Para 3.10)

19. The report does not find evidence that the transactions concerned were evaluated with regard to 'best value' - rather that the decisions that authorised the transactions were based principally on commercial criteria - i.e. by securing 'best consideration'. The Kroll report states that there was "*evidence that the transactions were in good faith and founded on the overall intention to maintain the provision of front line services to benefit all parts of the community. The Review did not identify any specific mention or consideration of "Best Value" in the relevant Cabinet Decision Reports, although there was consideration of maintaining or improving service provision*". (Para 3.10)

20. The report refers to an independent QC's legal opinion,[ii] submitted to the Council on 26 February 2014, specifically stating that according to the body of case law on Section 123, best consideration was primarily demonstrated by the commercial value. The QC allowed that some additional factors could be included in the calculation of best consideration, for example the retention of legal rights in the property, but was clear that, "these additional factors must have a quantifiable commercial value and that this did not include elements of

purely social value." This is correct. But more generally, it is our view that there is widespread confusion about 'best value'.

21. Best value is an overarching responsibility for local authorities as well as police and fire authorities. It encompasses broad purposes and relies upon relevant authorities balancing a range of factors in making their decisions. It is not confined to the responsibility for pursuing 'best consideration' in the sale or lease of an asset. Instead it is a first order responsibility for ensuring that a broad range of matters are drawn into consideration. Midway through the time period over which these transactions occurred, the Government issued revised statutory guidance on best value in March 2015, which explicitly encourages authorities to involve and collaborate more with local voluntary and community organisations.[iii]

22. In addressing the issue of whether community impact or community benefits were evaluated as part of the decisions about these property transactions, Kroll report that the former Director of Corporate Property and the then leading Members were clear that financial considerations were the primary drivers in the decision making process, along with the objective to more efficiently utilise council buildings. And so the social, equality and community considerations were not given the prominent attention that the Council would pay to these matters now. Detailed property matters were considered - this was not evaluated on a simple cash calculation. In relation to the demonstration of best consideration in respect of the Isaac Newton Centre in 2014, for example, "*the Corporate Property Department's assessment in January was based on financial criteria including covenant strength, rent level at several intervals, rent-free period, and rent-review percentages and conditions*".[iv] (Para 7.1.6.1)

23. By 2014, the Council had achieved some £9.2m per annum income from its property portfolio. At the time, senior officers advised that the target for raising income from property and achieving savings, could be raised to £20m per annum. (Para 4.4.1)

24. Of course by 2014, the Council's property and asset management function had been reorganised so as to create a small team to act as a client to the large facilities management contract, for the Tri-Borough, that had been awarded to Amey. The scale, complications and cost of this contract, undoubtedly drew disproportionate management attention to facilities management issues across three Councils during the contract period. However, the remainder of the corporate property management functions in each borough were retained as having a single borough focus.

25. Finally, Kroll were concerned to attempt to understand the 'cultural dynamic' operating at the Council at the time. The report is however, cautious in reaching firm conclusions as its authors were investigating just four property transactions. However, the report concludes that, "*the culture of attempting*

to achieve best consideration and make the best use of the asset base was ultimately driven by the Strategy and the context surrounding the funding difficulties which the Council was under. There were, however, some community groups who felt that their voices were not heard." (Para 3.10)

26. It is plain from the report that the Council's current approach of starting from community perspectives and ambitions is far removed from the financially narrow focus that dominated in the years to 2017. This significant change of emphasis is one of the central legacies of the Grenfell tragedy: it re-oriented the Council from top to bottom. Investment in public and community infrastructure is now one of the key ways that the Council currently seeks to achieve public betterment locally.

A changing context

27. The Council has greatly adapted its policy stance towards these issues since learning the tragic lessons of the Grenfell Tower fire. Not only does the Council give primacy to community considerations in all of its work, it has also decided to place its public and community assets at the centre of a "social investment" approach which aims to leverage value for common good or community benefit and not simply to seek "best consideration" in respect of its property and asset portfolio. The Council is set to follow a path which balances our duties to consider 'best value', 'social value' in service commissioning,[v] and community benefit alongside the Council's service and financial imperatives as well as its other functional responsibilities.[vi] It is intended that a report be presented to the Leadership team in May about the emerging Social Investment approach.

28. Nonetheless, it is vital that, as an organisation, we learn from our history and the changing context in which we operate. The period from 2010 established new orthodoxies in local government as the then government's approach to fiscal consolidation lead to substantial reductions in central government (or national taxpayer financed) support for local government. In the period from 2010 to 2017, Councils' "core spending power" (the combined revenue gained from local Council Tax and government funding) was dramatically reduced.[vii] Across London, the "spending power" of Councils was reduced by an average of 32%. Most this reduction occurred in the first half of the 2010s. Indeed, in the last two years, spending was budgeted to have risen modestly since its nadir in 2017–18, as business rates revenues, council tax rises and ring-fenced funding for social care have offset continued cuts to general-purpose grants from central government.[viii]

29. In Kensington & Chelsea, the Council's overall spending power was reduced by 36% over the 2010-2017 period; higher than the London average. However, the Council sustained its spending on children's social care (actually increasing it marginally, by 3%); albeit that in other service areas, spending was reduced

substantially. In adult social care it reduced by 24%; in non-schools education by 54%; and in all other services (planning, culture, environment, etc) by 47%.

30. This approach was not unique in Kensington and Chelsea; similar protections were applied, to the budgets of child safeguarding and early years services, as well as to some adult social care services, by most other Councils. However, locally there can be little doubt that the strong policy stance towards completely protecting the budgets of early years and child safeguarding services, together with the quality and strength of professional practice in these services, was the main reasons why the services have continually been judged as outstanding by OFSTED.

31. In 2010, some 42% of the Council's spending was on children's and adult social care. By 2017 this had risen to 54%. By the end of the decade (2020) it is some 60% of all net revenue spending.[ix] This inevitably squeezes expenditure on general public services for communities and residents locally. Broadly 60% of all local government net spending is directed at an average of 3% of Councils' resident populations (those in need of children and adult social care). Therefore, the "austerity" measures that hit local government finances during this period, resulted in Councils disproportionately focussing their savings on general services to the community, such as libraries, refuse collection, planning, environmental, and cultural services.[x]

32. Locally, this was also a period when the Council achieved savings by combining large areas of its service functions alongside Westminster Council as well Hammersmith & Fulham. Initially from 2011 this was in the shared services and shared management arrangements of the Tri-Borough; subsequently it has continued across the Bi-Borough with just Westminster.

33. Councils were encouraged to gain additional income from other sources - some pursued strategies of trying to sell services to other Councils. But mostly they sought to increase fees and charges to service users, as well as gain increased lease and rental income from commercial properties already in their ownership. Mostly, authorities examined their property holdings in order to rationalise their asset base, so as to lower their costs. One option open to Councils, was to sell unused or under-used assets, either to reduce their borrowing or to gain capital receipts so as to support their capital programmes.

34. Few Councils, beyond those in Central London, had a large and valuable asset base that could be converted into long term rental income streams of sufficient scale. But this Council was one of them. In the early part of this period the Council collected about £10m in rental income from commercial properties. This current year it budgeted to collect some £16m in rental income (nearly 11% of all net revenues). Of all London authorities, only Westminster budgets to collect a greater share of its net revenues from commercial rental income. The average across London is for Councils to gain about 2% of all their

revenues from commercial rental income. Those other boroughs budgeting to collect a greater share than average includes Camden at 5.7%; Newham, 5.0%; Southwark, 4.9%; and H&F 4.2%.

35. This background context is significant as the four property transactions referred to in the Kroll report between them raised some £4.2m in rental revenues to support the Council's finances - more than most other London authorities collect in total and equivalent to two years of a maximum increase in the Council Tax at the capped level.[xi]

36. However, while the overall resourcing strategy of increasing rental income from property transactions may have been financially sound, it was perhaps too narrowly cast. At the time many authorities were reshaping their property strategies in the light of overall changes in capital programmes, and policy stimulus from Government to rationalise their asset bases alongside other public sector organisations such as the health service.[xii] Councils need approaches that consider the best way to leverage value to local communities through using their asset base prudently and better, prior to considerations of sale or rental.[xiii]

37. What's more, following the 2011 Localism Act, in 2012 the Government introduced regulations to require Councils to respond to community initiatives, by listing "assets of community value" (ACV) so as to prevent their immediate sale and enable communities to have a six month period to finance the purchase of these properties.[xiv] A community asset or space was defined as buildings or land which were used for the well-being or social interest of the local community. These may include parks and open green spaces, libraries, cultural spaces, swimming pools and other leisure facilities, community centres, youth centres, nurseries or public houses.

38. This ACV process enables the option of a "community right to buy" at market price. By requiring communities to finance the purchase, something which is beyond the scope of most community interest groups, in effect this process mostly dampens the market for sales of these types of properties. The Council currently has eight properties listed as assets of community value: these include three public houses, one library; one police station; one College; one sports club and one theatre. Critically, the ACV process applies in respect of proposed sales and to the grant of a lease with vacant possession of 25 years or more. It does not apply to proposed shorter term leases or rentals. Council officers currently work to a clearly drafted planning practice note on ACVs, but it is recommended that this process ought to be reviewed by a group of senior officers.

39. Thus at the time of the four transactions at the centre of the Kroll Report, most Councils were either selling their assets directly; converting them into revenue streams (where there was sufficient demand to meet lease and rental costs);

reshaping their uses, through rationalisation or functional changes; and/or considering their wider utility to the community in the localities in which they were situated by enabling community management or asset transfer. The broad four options open to Councils in respect of unused or under-used property or land was to (1) retain as is; (2) sale; (3) rent; and (4) rationalise or reconfigure the structure the asset (internally within the Council or externally through community management or asset transfer).

40. Looking back to this time, what stands out in central London (and particularly in Kensington and Chelsea) was that the asset price falls that were evident elsewhere in London, and across the rest of England, were not reflected in local asset and property values. Instead, a continued demand for commercial rental property was experienced throughout the borough.

41. This may have led to an overly positive assessment of the future of commercial rental incomes in Kensington and Chelsea. As the Kroll report shows, at one point it was considered by officers that the Council's property holdings could generate some £20m per annum in combined increased income and savings to the Council. In the current year the Council budgets to collect some 10.3% of its net revenue spend from commercial rents. Of course, until the Covid-19 pandemic, this commercial rental income was viewed as a reliable if not universally buoyant income source. The catastrophic events of the past year have witnessed the unravelling of this economic assumption.

Decision making and advice giving

42. The Kroll report investigates in a highly detailed way the process for decision making in Kensington and Chelsea prior to 2017. The report shows that decisions were aligned to the corporate property strategy and that, aside from some detailed shortcomings, on the whole the process met the Council's constitutional expectations. Two main points need to be made here:

    - First, the formal process for decision making has been amended following the Grenfell tragedy and the subsequent 2018 review by the (now) Centre for Governance and Scrutiny. The majority of decisions are made in open committee and are subject to public deliberation, corporate discussion as well as to formal scrutiny from across the Council.

    - Second, it is the Council's statutory and appropriate senior officers who are responsible for the quality of professional advice provided to Members in writing. Members make the decisions, officers advise. Their different roles are clarified in the revised 'Protocol on councillor/officer relations' set out in the Council's Constitution.

43. Effective decision making in local government requires complete and comprehensive professionally based advice giving by officers, and thorough determination by Members on grounds of issue-based reasonableness and

reason generally. Reports need to be objective and impartial, contain relevant information and not raise irrelevant considerations. And, unlike in the civil service, senior local government officers possess constitutional personality in that their advice cannot hide behind the cloak of privilege. There is a limited category of 'exempted information' - which includes legal advice from the Council's own lawyers. But those exemptions aside, advice is open to scrutiny.

44. In a 2019 report the National Audit defined local authority governance as,

> "*the way in which organisations are directed, controlled and led.*
>
> *It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation's objectives are set, and provides the means of attaining those objectives and monitoring performance. Importantly, it defines where accountability lies throughout the organisation."*
>
> *Good governance in local authorities ensures that decision-making is lawful, informed by objective advice, transparent, and consultative. It is crucial in achieving value for money and securing financial sustainability. Partly, the controls within governance arrangements are in place to prevent serious failings like poorly informed or unnecessarily risky decisions, fraud or other criminal behaviour, spending public money for personal benefit, or persecution of whistle blowers."*[xv]

45. In achieving any policy objective, there needs to be clarity of policy intent and a thorough appraisal of all possible policy instruments for achieving that intention. Since 2017, the Council has been clear that community considerations come first. And that all aspects of policy, within the control of the local authority, require community involvement from the outset.

46. But across local government more generally, Members are ill-served if they only offered weak appraisals, solutions in search of problems, or simply poor evidence in support of a range of limited options to achieving a policy goal or objective.

47. One common failing amongst Councils is that reports in pursuance of a policy are drafted in service silos without considering wider implications, consequences and ramifications. And despite all of our efforts locally to improve our advice giving it is a criticism that, from time to time, could be reasonably levied now.

48. The important point is that Councils are multi-purpose organisations and Members are elected to generate public betterment locally, and not simply pursue individual service strategies and objectives. This was one of the fundamental lessons that the Council draws from its acknowledged shortcomings and failings in respect of the Grenfell fire tragedy. It is the

reason why it recast its values in 2018 and its overall policy stance in 2019 (in the Council Plan). And it is a critically important lesson of our dealing with the continuing Covid crisis.

49. From time to time, officer reports are too narrowly drafted; the considerations are too narrowly scoped, and the full range of options are insufficiently outlined for Members to determine matters properly. Officers have introduced a process for greater corporate consideration of service-related proposals. But it is recommended that the quality of advice in reports be assured following fresh guidance to be issued by the monitoring officer and the Director of audit, risk, fraud & insurance. This will assure Members of valid, reliable and quality reports.

Background Papers and References

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[i] Kroll (2021) Independent Review of Property Transactions, Report Prepared for Royal Borough of Kensington and Chelsea

[ii] Para 7.1.6.1 of Kroll (2021). For further detail on external legal advice, see section 7.3 in respect of involvement of external advisors.

[iii] DCLG (March 2015) Revised Best Value Statutory Guidance,

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/418505/Revised_Best_Value_Statutory_Guidance_final.pdf

[iv] see Kroll report Exhibit 45, Corporate Property Department Isaac Newton Centre Bid Summary, 14 January 2014

[v] Cabinet Office (2014, updated 2016) The Public Services (Social Value) Act came into force on 31 January 2013. It requires people who commission public services to think about how they can also secure wider social, economic and environmental benefits. Before they start the procurement process, commissioners should think about whether the services they are going to buy, or the way they are going to buy them, could secure these benefits for their area or stakeholders.

The Act is a tool to help commissioners get more value for money out of procurement. It also encourages commissioners to talk to their local provider market or community to design better services, often finding new and innovative solutions to difficult problems.

[vi] In addition to best value and social value, the Government also encourage the trialling of their revised ***public value*** framework (2017 updated in 2019) to improve the overall productivity and impact of public service provision.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/785553/public_value_framework_and_supplementary_guidance_web.pdf

[vii] NAO (2018) *The Financial Sustainability of Local Authorities*, all the figures quoted in para 4,5, 6 and 7 stem from the NAO report at: www.nao.org.uk/report/financial-sustainability-of-local-authorities-2018/

This allows for comparisons of K&C spending reductions with other authorities on a consistent basis.

[viii] Harris T *et al* (2019) *English local government funding: trends and challenges in 2019 and beyond*, Institute for Fiscal Studies, www.ifs.org.uk/publications/14563; of course the position has changed dramatically in 2020/21 as a result of the Covid19 crisis.

[ix] In 2019-20 the Council's total net service costs were £152m. Less Grenfell recovery and other related expenditure £12m, produces £140m: of which £41.5m was on adult social care; and £42.1m was on children's services).

www.rbkc.gov.uk/council-tax/what-we-spend

[x] NAO (2018) The Financial Sustainability of Local Authorities

[xi] a 1% increase in Council Tax raises £1.2m in K&C - and the cap has been set at a 1.99% increase for several years now

[xii] The *One Public Estate* programme began in 2013. It performed a distinctive and unique role, catalysing and supporting joint estates planning across public partners in ways not seen in other government-funded land and property initiatives. By 2018 it had expanded from the initial 12 pilot areas to over 300 programmes across England, working with over 90 per cent of Councils in 76 partnerships.

[xiii] DCLG (2008) *Making Assets Work, the Quirk Review of community management and ownership of public assets*

[xiv] The process for nominating and declaring an asset as an 'asset of community value' stems from the 2011 Localism Act. The process is set out here: https://www.legislation.gov.uk/ukpga/2011/20/part/5/chapter/3/enacted

[xv] NAO (2019) *Local Authority Governance,* HC 1865 SESSION 2017–2019 15 JANUARY 2019 https://www.nao.org.uk/wp-content/uploads/2019/01/Local-authority-governance.pdf

February 25, 2021

Independent Review of Property Transactions

Report Prepared for

Royal Borough of Kensington and Chelsea

Report Status: Final

kroll.com

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Contents

1. Introduction

Kroll Associates UK Limited ("**Kroll**", "**we**" or "**us**") was engaged by The Royal Borough of Kensington and Chelsea ("**RBKC**" / the "**Council**" / the "**Client**") to conduct an independent review ("the **Independent Review**" / the "**Review**") of transactions relating to its leasing and / or acquisition of certain properties. It was agreed with RBKC that the transactions relevant to the four properties set out below would form the scope of the Independent Review (the "**Relevant Transactions**" / the "**Transactions**"):

(1) the lease of the Isaac Newton Professional Development Centre ("**INC**");
(2) the lease of the North Kensington Library ("**NKL**");
(3) the lease of the Westway Information Centre (**"WIC"**); and
(4) the purchase from and lease-back of the Wornington Road site ("the **Kensington Centre"**) to Kensington and Chelsea College ("**K&CC"**) (the "**Kensington Centre Transaction"**).

The properties are all situated within the Westway area,[1] which was the focus of a large-scale Council-led development programme known as the Westway Strategy. The Westway Strategy formed part of RBKC's 2020 Corporate Property Strategy, approved in February 2011, that sought to "*align the asset base with the organisation's corporate goals and objectives to ensure that land and buildings provide optimal value to the organisation and the community it serves".*

RBKC has received a significant amount of public scrutiny over the decision-making and rationale surrounding a number of property transactions which were entered into by the Council as part of the Westway Strategy, including the Relevant Transactions.

1.1 Objective

The broad objective of the Independent Review was to consider the Relevant Transactions in the context of the strategic direction and other frameworks under which the Council, its elected members ("**Members**") and Council staff ("**Officers**") were required to operate. Kroll was required to consider from the information made available to it what conclusions could be drawn with regards to:

[1] The Westway area comprises the surrounding areas of the Westway, an elevated dual carriageway section of the A40 road in West London running from North Kensington to Paddington.

- the propriety of Officer and Member governance and decision-making processes, including sourcing and the use of appropriate internal and external professional advisors in pursuing the Relevant Transactions;
- the extent to which the Relevant Transactions were within any stated policy or strategy adopted by RBKC;
- the extent to which RBKC considered all available options and rationale for decisions made (considering advice received) in relation to the Relevant Transactions; and
- consideration of lessons learnt to be applied to future property, governance and decision-making processes.

1.2 Questions for consideration

Specifically, Kroll was asked to consider, where relevant, the following questions in conducting its Independent Review of the Relevant Transactions:

- Was there a property strategy in place which covered these Transactions and was the strategy followed in the decisions made regarding the properties?
- Was a formal options appraisal undertaken prior to each acquisition/lease and was this presented to and approved by Members?
- What were the decision-making/governance processes around the proposed acquisitions/leases and what was the extent of Member involvement through each process?
- Was appropriate financial, property and legal advice sought, given and considered in all cases? Was the advice appropriate to the matters under consideration?
- What other options were considered by Officers of the Council which considered the financial situation and potential non-financial impact?
- Were any valuations obtained (if relevant) and were these appropriate and fair?
- How was best consideration (section 123, Local Government Act 1972) for RBKC demonstrated?
- Were lease / rental figures fair to all parties?
- Did the Transactions offer the best value for RBKC and the residents of RBKC?

- Were there any indications of wrongdoing or conflicts of interest in the way that the Relevant Transactions were handled and ultimately executed?
- Were there indications that the decisions made in relation to the Relevant Transactions reflected a particular cultural dynamic in place at the time, which may not have taken into consideration the broader views of the diverse local community?

2. Methodology

2.1 Information sources

In order to address the scope of work highlighted above, Kroll drew upon several sources of data to enable us to reconstruct the events leading up to and surrounding each of the Relevant Transactions. This included relevant documentation and email data obtained from RBKC. Kroll identified relevant individuals' Council email accounts during the scoping phase of the review, through discussion with local community groups, information received from RBKC and from a review of certain allegations made on online blogs / bulletin boards.

The review of electronic communication records from a number of Members and Officers formed a substantive element of our analysis. In total, RBKC made available to Kroll the mailboxes of 18 Members and Officers of the Council requested by Kroll, which contained in excess of a million documents. Kroll conducted targeted and relevant key-word searches across the data set and reviewed approximately 6,000 documents.

The review of electronic communications data and other documents focussed on:

- internal communications between Members and Officers and, to the extent possible, external communications with stakeholders and advisors (see section below);[2]
- governance / Cabinet minutes, including confidential meetings and strategy meetings and those available in the public domain;
- presentations and papers prepared for governance meetings;
- documents and advice provided by professional advisors; and
- contract terms relating to the Relevant Transactions.

[2] The communications data which was reviewed by Kroll was captured by RBKC – no independent forensic collection of possible relevant data was undertaken.

In conjunction with the above, analysis was conducted of public domain resources, such as media reports, UK corporate records, and social media platforms to identify any information that may have been relevant to the Independent Review.

2.2 Previous report relevant to the Kensington Centre

Kroll was previously engaged to conduct an Independent Review on behalf of K&CC and produced a report in October 2018 (The "**K&CC Kroll Report**") which the college published. The scope of that review related to one of the Relevant Transactions covered in this report, the Kensington Centre Transaction. Where appropriate, and to supplement information which was available for review, the K&CC Kroll Report is referred to, in order to provide relevant context.

2.3 Data retention caveat

Kroll understands from the Client that, prior to RBKC's transition to Office 365 in January 2017, mailboxes where held on the Council's servers (MS Exchange), where individual e-mail accounts had been subject to a maximum file size limit. As a result, Members and Officers were instructed by the IT department to delete unimportant items from their mailboxes at regular intervals to save server space, and to save copies of important emails, typically in .pst files (offline e-mail storage/archive facility in MS Outlook) locally (e.g. on their computers or in their personal folders on the network). Mailbox size limits were reportedly increased when new versions of MS Exchange were installed, but Members and Officers were not always informed of this and the general practice did not change. In addition, prior to 2017, we understand that no copies of items in RBKC mailboxes were saved in any external locations for the purposes of a litigation hold. Finally, it was not common practice to retain copies of mailboxes belonging to former Officers or Members after their departure, with back-ups being retained for a period of three months only. When computers were handed back by former employees and Members, the devices would be re-imaged and issued to new users, meaning that any locally stored data would not be retained. As part of the implementation of Office 365 in January 2017, a litigation hold policy was introduced which covered all data migrated at that point as well as all data beyond that point.

Because of this data retention policy and the widespread practice of regularly block-deleting emails (prior to 2017) during the period covering the Relevant Transactions, our review has been limited to those items remaining on RBKC servers, which is likely to be only a subset of the email traffic and documents exchanged by relevant individuals during the key decision-making periods. Where mailboxes had not been retained for former employees and Members, search queries for items involving former employees and Members (where items had been retained in others' mailboxes) were run and the results provided to us for review.

2.4 Interviews

In addition to reviewing electronic documentation, Kroll conducted interviews with the following individuals:

- Former Councillor Nicholas Paget-Brown (“**Cllr Paget-Brown**”), former Leader of the Council;
- Nicholas Holgate, former Chief Executive of the Council;
- Former Councillor Rock Feilding-Mellen (“**Cllr Feilding-Mellen**”), former Deputy Leader of the Council and former Cabinet Member for Housing, Property and Regeneration;
- Councillor Quentin Marshall (“**Cllr Marshall**”), former Chairman of the Housing and Property Scrutiny Committee;
- Councillor Emma Dent-Coad (“**Cllr Dent Coad**”), former Chair of the Cabinet and Corporate Services Scrutiny Committee and Labour MP of Kensington between 2017 and 2019;
- Councillor Julie Mills (“**Cllr Mills**”), former Deputy Chair of the Cabinet and Corporate Services Scrutiny Committee;
- Lord Daniel Moylan (“**Cllr Moylan**”), former Councillor and member of the Cabinet and Corporate Services Scrutiny Committee during the time of the Transactions;
- Tony Redpath, RBKC’s Director for Strategy and Local Services;
- Richard Jones, Director of Property at Alpha Plus;
- Stephen Armitage, Director of Planning Development and Regeneration at Lambert Smith Hampton;
- Mark Nelson-Smith, the former Finance Director of Notting Hill Prep School; and
- Alastair Perks, a Commercial Advisor from CBRE focussed on London development projects.

Relevant comments from the interviews have been included in the report narrative as appropriate.

3. Executive Summary

3.1 Structure of the summary

This Executive Summary is structured as follows:

Reference	Section title	Summary of content
3.2	Introduction to the Relevant Transactions	Summarises the events in relation to the four Transactions in scope
3.3	Overview and context of strategy	Provides an overview of the broader context under which the Transactions took place and how this fed into the formulation of the formal strategy of the Council.
3.4	Alignment with the strategy	Considers the extent to which the Relevant Transactions were aligned with the strategy of the Council.
3.5	Decision-making processes	Sets out the structure of how decisions were made according to the Council's constitutional framework.
3.5.1	Analysis of decision-making for the Transactions	Considers how the decision-making processes as defined in section 3.5 were applied in practice.
3.6	Scrutiny processes	Sets out the framework for scrutiny in the Council
3.6.1	Analysis of scrutiny of the Transactions	Sets out Kroll's analysis of the scrutiny of the Relevant Transactions and considers the scrutiny process, actions arising from scrutiny, timeliness of scrutiny and subsequent reform of the scrutiny process.
3.7	Involvement of elected Members in the Transactions	Sets out concerns raised and Kroll's analysis relating to the involvement of elected Members in relation to the Transactions.
3.8	Wrongdoing and alleged conflicts of interest	Considers allegations of both wrongdoing and conflicts of interest.
3.9	Cultural considerations	Considers Kroll's observations and conclusions from a cultural perspective

3.10	Summary of conclusions	Summarises all the conclusions in the context of the key questions set out in the Methodology section.

3.2 Introduction to the four Transactions

The Relevant Transactions are summarised below (together**, "the Relevant Properties"**).

Isaac Newton Professional Development Centre ("INC")

The INC, which historically had been a community school, was more recently used by RBKC as a centre for teacher-training and other support programmes for Council staff working in family, children and educational services. Documents reviewed by Kroll showed consideration of several options for the future of the INC. Ultimately, a tender for a 25-year lease was issued in 2013 and bids were submitted by a number of private schools, including Notting Hill Preparatory School ("**NHP**") and Alpha Plus, the owner of another independent school in the area, Chepstow House. The lease was awarded to Alpha Plus in March 2014.

North Kensington Library ("NKL")

The NKL was opened in 1891 and was the first purpose-built library in Kensington. It is situated next to NHP. Cabinet approved a decision in June 2015 to build a new modern library close to the existing NKL, as the existing NKL was deemed not fit for purpose. Following the decision to build a new library, a decision was made in November 2015 to lease the existing facility to NHP. Following the Grenfell Tower disaster and a decision to halt all development projects in July 2017, the transaction did not take place and the NKL today remains a public library.

Westway Information Centre ("WIC")

The Westway Information Centre was an RBKC facility, which, mostly housed Council offices and support staff, as well as the Citizens Advice Bureau. Historically, the WIC had been available for use by the North Kensington community, but prior to the Transactions and the formulation of the Corporate Property Strategy it was being used predominantly for council offices and as a Citizens Advice Bureau. A decision to lease the WIC to NHP was made in November 2015. NHP moved into the WIC in 2018 and subsequently sub-let part of the space to the sandwich chain Pret a Manger. The Citizens Advice Bureau was moved to a nearby property on Acklam Road in January 2015.

The Kensington Centre

The Kensington Centre, located on Wornington Road, North Kensington, is one of the sites operated by Kensington and Chelsea College ("K&CC"), a further- and adult-education provider. In 2016, K&CC sold the Kensington Centre to RBKC for GBP 28.6 million, with a cash payment being made for GBP

25.3 million to account for a three-year leaseback of the property to the college. The long-term objective of RBKC's acquisition of the site was to create a mixed-use site including an educational space, affordable housing units to be used for decanting residents from nearby regeneration projects and private-rental sector housing, which would collectively provide long-term revenue for the Council and assist it in fulfilling its regeneration and housing objectives.

The site currently remains as an educational facility following its sale to the Department of Education in 2019 for GBP 10 million.[3]

3.2.1 Interdependence of transactions

While Kroll's approach has been to consider each Transaction on its own merit, it is important to note that the Transactions did not happen in isolation and had a number of interdependent factors, particularly the three leases which were part of the Westway Strategy, details of which are provided in the following sections. For example, the terms of the lease awarded off-market to NHP for the NKL included a future commitment not to object to any future INC developments. The costs for developing the new library would also be part-funded by the income generated from the leasing of the INC. Furthermore, the NHP offer in relation to the WIC was made on the basis that agreements to lease the WIC and the NKL were exchanged simultaneously, subject to the NKL being vacated upon relocation to the new library facility on Lancaster Road. In general, although a number of bids were considered, the highest bidders for the leases were independent educational providers in all three sites, with two of the three leases being granted to NHP, which also bid for the third site, the INC.

[3] The terms of and the rationale for the sale did not form part of the Review.

3.3 Overview and context of strategy

Between 2010 and 2016, Communities and Local Government funding was the hardest hit of all Government Departments in the Treasury Spending Reviews, with a reduction in the allocated budget of more than 50% over a five-year period.[4] RBKC's own general grant from Central Government funding during this period was reduced by approximately 30%. While the overall budget also decreased, the funding gap grew during this period.

Despite the reduction in Government funding, local authorities, particularly in London, were also coming under increased pressure to accommodate the growing population, with the Greater London Authority ("**GLA**") identifying a need for an additional 62,088 homes per annum in the city in a Strategic Housing Marketing Assessment in 2013.

In February 2009, a report was presented to Cabinet seeking approval for funding for the SPACE Programme, a project which focussed on refurbishing the office space at Kensington Town Hall. The objective of the project was to create energy and space efficiencies and to increase the number of people working out of the Town Hall from 1,058 to 1,607. As part of this plan, Council services housed in different properties, including the WIC and INC, were to be moved to the Town Hall in order to free up properties which could be used to generate additional revenue for the Council.[5] A separate facility at 2-4 Malton Road, W10 5UP ("**the Malton Road Hub**"), was also refurbished in 2014 by the Council in order to become the base for a number of Family and Children's Services and Adult Social Care staff.[6] The objective of the construction of the Malton Road Hub was to consolidate Council offices into one modern facility and release other Council properties that would consequently become surplus to Council requirements, including the INC and WIC, to be considered for lease.

In 2010, the Council had over 500 operational or investment properties with a total value of approximately GBP 750 million. While the investment properties generated an income, the revenue generated did not cover the costs of the operational units, which therefore had to be met from other income sources. The portfolio had no central corporate management structure and control was devolved to functional Council units.

[4] Exhibit 1, "Spending Review: Department-by-department cuts guide," *BBC News*, 24 November 2015, weblink here

[5] Exhibit 2, Report by the Executive Director of Planning and Borough Development and Senior Responsible Owner of the SPACE Programme (SRO), 19 February 2009, weblink here

[6] The decision to refurbish the Malton Road Hub was taken on 19 September 2013 and did not form of part of the Review. However, it is important to note that certain services from the INC and WIC were re-located to the Malton Road Hub which freed up those properties to be leased, weblink here

The Council commissioned a review of its property portfolio in 2010 by property consultants King Sturge. The main objective of this review was to identify sites which were the worst performing operational properties and which could be leased or sold in order to generate long-term revenue for the Council, thereby protecting its front-line services. The results of the Review led to the establishment of the Corporate Property Department which had a broad remit to "*ensure that the Council's property is used to its full potential, and to advise on all property matters*".

RBKC adopted a Corporate Property Strategy ("**the Strategy**") in February 2011. The Strategy had the defined goal to "*align the [Council's] asset base with the organisation's corporate goals and objectives to ensure that land and buildings provide optimum value to the organisation and the commitment it serves*" and "*to support RBKC's commitment to provide front-line services*".[7]

The objectives were defined in the Strategy as:

- **Cost- and space-efficient** – RBKC would use floor space more efficiently, resulting in a reduction of floor space and the number of buildings occupied. RBKC would also seek to increase income from surplus operational property to contribute towards the costs of front-line services. The savings would be in line with targets established by RBKC.

- **Suitable and sufficient** – RBKC would ensure properties were fit for purpose and that they were in the right locations and of the right quality to provide for the needs of customers and staff.

- **Shared** – Where possible, property would be shared with partner organisations.

As part of the first objective, the Strategy set out that the worst-performing properties (e.g. the highest running cost, the worst condition and poorest location in relation to service needs) would be considered for release, i.e. lease, to generate revenue, or in rare circumstances, sold. The Strategy included a plan to double the Council's income by 2020 from its property portfolio, from GBP 4.7 million per annum in 2011 to GBP 9.4 million per annum in 2020.[8]

In the review undertaken by King Sturge, all three of the properties put up for lease in the Review, (namely INC, NKL and WIC) were identified as being surplus to Council requirements. The fourth

[7] Exhibit 3, Report by the Executive Director for Finance, Information Systems and Property, 17 February 2011, weblink here. Exhibit 4, Corporate Property Strategy 2020, weblink here

[8] Exhibit 5, Property Portfolio Performance Update by the Director of Corporate Property and Customer Service, undated.

Transaction, involving the Kensington Centre, comprised an acquisition of a new site and the subsequent lease-back to K&CC for three years. At the time of the King Sturge Review, the opportunity for RBKC to purchase the Kensington Centre had not yet materialised and therefore this Transaction did not feature in the King Sturge Review.

Additional efficiencies were found through the establishment of Bi- and Tri-Borough shared service agreements with the London Borough of Hammersmith and Fulham and Westminster City Council during the period of the Transactions, starting in June 2011.[9] The programme sought to combine certain services from the three London boroughs to deliver savings without compromising the provision of services.

In February 2015, Michael Clark, the Director of Corporate Property during the time of the Relevant Transactions, provided an update on the performance of the Corporate Property Department in pursuit of the Strategy. Mr. Clark set out that by 2014 RBKC had achieved GBP 9.2 million per annum in income from the property portfolio, against the Council's target of GBP 6.27 million per annum at the time. Mr. Clark summarized that "*we effectively doubled the Council's income in three years, six years ahead of schedule*". Mr. Clark also suggested an amended target of GBP 20 million per annum in income and savings by 2020 for the Corporate Property Department.[10]

Documents in the public domain demonstrate that during the challenging period of reductions in Central Government funding that were likely to become permanent, the Council broadly maintained, and in many cases improved the quality of the provision of its services. Children's Services in RBKC were rated as 'outstanding' by the regulator Ofsted in March 2016, improving on the 'good' rating received in 2012.[11] The borough's primary schools delivered the best results in England in 2015, where levels of reading, writing and mathematics were recorded as 10% above the national average and 8% above the average for London schools. A new leisure centre was opened in 2015 which accommodated nearly double the number of members in comparison to the old centre.[12] During this time, the Council Tax charged to residents did not increase and was the fifth lowest in England in 2016. It is evident that the efficiencies of space with the corresponding savings this generated, combined with the revenues

[9] Exhibit 6, Tri-Borough Executive Decision Report for Corporate Services, 17 April 2013, weblink here

[10] Exhibit 5, Property Portfolio Performance Update by the Director of Corporate Property and Customer Service, undated.

[11] https://files.ofsted.gov.uk/v1/file/50004316

[12] https://www.rbkc.gov.uk/sites/default/files/atoms/files/Statement%20of%20Accounts%202015%20-16.pdf

received from the Property portfolio, played a significant part in the funding of these services without having to generate more revenue through an increase in council tax.

Despite the evidence of maintenance - and in some cases improvement - of the provision of Council front-line services, during the time that the Strategy was being implemented, we understand that there remained a significant wealth and opportunity gap between the poorer areas of the borough and the more affluent areas. There was also, we understand, a perception in some parts of the community that the Strategy represented a prioritisation by the Council to generate revenues through regeneration and development of buildings ahead of the maintenance and protection of community assets in these areas. While this Review focusses on the question of the alignment of the Transactions with the Strategy, it does not consider in detail the historical and demographic context predating the design and implementation of the Strategy, which appears at least in part to have fuelled opposition to the Strategy itself in some areas.

Whilst the Strategy represents the main overarching document upon which we have focused relating to the Transactions which are the subject of this Review, Kroll has identified other strategic documents that also had some relevance. For example, strategies relating to planning, including the Core Strategy 2010 and the Consolidated Local Plan 2015, were considered in relation to decisions concerning the WIC and the Kensington Centre, respectively. The Westway Strategy, a change programme in and around the Westway Area where the Relevant Properties were situated, also formed part of the Strategy. The Westway Strategy had two main aims. First, the Westway Strategy sought to consolidate Council internal services into fewer buildings in order to reduce running costs and release surplus buildings to be leased. Both the INC and WIC housed Council back-office activities which were relocated to achieve this aim and enabled the buildings to be let. Secondly, the sites within the Westway Strategy would also be developed in order to create new homes and community facilities as well as address shortcomings in existing services. The plans for the Westway Strategy were outlined in the Westway Newsletter, a publication that had been sent to residents in the Westway area every six months since November 2012. The Westway Newsletters set out details of RBKC's plans relating to the NKL, WIC and INC, amongst other developments.

Where appropriate, Kroll has referred to these other strategic documents and considered whether the decisions made were aligned with the other strategic objectives of the Council.

3.4 Alignment with the strategy

As set out above, the main objective of the Strategy was the provision of long-term direction for the management of the property portfolio and to facilitate its alignment with the Council's commitment to protect front-line services.

The primary objective of the leasing of the INC, WIC and NKL was to use surplus property to generate additional revenue for the Council, in order to make an active contribution to the financing and delivery of the Council's front-line services. Similarly, the decision-making behind the acquisition of the Kensington Centre demonstrated overall objectives which were aligned with the Property Strategy, i.e. to develop more residential property (including affordable housing) and generate revenue for the Council.

The three main areas of the Strategy have been considered in respect of the Transactions and are summarised below.

With regards to cost and space efficiency, the refurbishment of the Town Hall set out in the SPACE programme and the development of the new Malton Road Hub freed up the space in the INC and the WIC for other purposes. The decisions to lease these buildings to third parties resulted in savings for the Council on costs of maintenance of the sites as well as revenue-generation from rental income. With regards to the NKL, the plan to build a new library and lease the old facility would provide library space in a more efficient and effective way, reducing the costs of maintaining the old building as well as generating revenues from the leasing of the site.

While the proposals for the redeveloped space at the Kensington Centre would have reduced the educational floorspace to 31,520 sq. ft, a significant decrease on the previous 57,479 sq. ft which the college had available, we understand from a report commissioned by RBKC that the Kensington Centre was only approximately 50% utilised at the time of the Transaction. The development would therefore allow more efficient use of the remaining space and assist RBKC in fulfilling its housing and regeneration objectives.

Kroll concluded that the rationale and decisions around the Transactions were in line with the objective of ensuring that buildings were suitable and sufficient for purpose. For the INC and the WIC – the properties were in high demand from local private educational providers which considered the space suitable for their purposes. Given that they had been rendered surplus because of the rationalisation of the Council offices as detailed above, it was presented to Cabinet that it would be logical that they be offered for alternative use, including to support private educational provision in the borough, which was in high demand. The Citizens Advice Bureau, previously located within the WIC was relocated to a site at Acklam Road, an adjacent road to its prior location, and other facilities previously held at the INC were relocated to the Malton Road Hub.

For the NKL, it was planned that the new library was to be built on Lancaster Road, approximately fifty metres away from the existing Library. NHP was interested in the lease of the library as it was looking to secure additional space to support its long-term ambitions to expand. Additionally, the NKL was situated next to NHP's existing facility on Lancaster Road, and the Council was therefore able to attract a premium on the rental due to this "*marriage value*".

For the Kensington Centre, according to the terms of the K&CC sale and leaseback, following the expiry of K&CC's lease period at the Kensington Centre in 2019, the College was to move to a temporary facility on Carlyle Road, located in the south of the Borough, which was intended to be used until the original site had been redeveloped. Following concerns raised by Members about adult education provision in the north of the borough during this time, RBKC agreed to provide K&CC with an additional temporary facility in the north of the borough during the development of the new Kensington Centre, although the details of such a facility were not finalised at the time of the Transaction.

Whilst none of the Transactions involved the "*sharing*" of property with partner organisations, in addition to generating revenue for the Council, the Transactions also benefited the provision of education for certain members of the community, through Chepstow House and Notting Hill Prep, as well as providing K&CC the opportunity to continue its investment in community and adult education services in the challenging financial environment. The development of the new library also included plans for a youth centre and Multi Use Games Area which could be used as additional shared community space.

3.5 Decision-making processes and scrutiny

Decision-making processes for RBKC were set out in the Constitution which, during the time of the Transactions, included a specific number of principles which were required to be applied in the making of all decisions. These principles are broadly aligned with the questions set out in section 1.2 of this Review and are used as the basis for the analysis in the following section. In summary, the Constitution stated that decisions should be clear, open, proportionate, reasonable, considerate of the impact on other stakeholders and transparent in consideration and rationalisation of different options.

According to the relevant Constitution at the time of the Transactions, decisions were ultimately made by a group of elected Councillors (“**Members**”) (of the political party with the majority of seats in the Council assembly) – the “Executive” or “Cabinet”. Each Cabinet Member had political oversight of a specific area of the Council’s function. During the time of the Transactions, from May 2013 until July 2017, Cllr Rock Feilding-Mellen was the Cabinet Member for Housing, Property and Regeneration. [13] As part of this role, he had political oversight of the Transactions and he was responsible for representing at Cabinet the proposals that the relevant Officers in the Corporate Property Department brought to him. The Corporate Property Department had responsibility for managing the Council’s property portfolio on a daily basis, which included managing the operational estate and the capital programme, as well as considering and assessing options to generate additional income through management of the Council’s asset base. The Director of the Corporate Property Department reported to the Chief Executive, the most senior Officer in the Council.[14]

Key Decisions (“**KD**”), including those surrounding the Transactions, required the placing of the proposed decision on the “Forward Plan”, which is publicly accessible and contained details of all pending decisions to be taken by Cabinet. In addition, two separate groups provided input on the decisions recommended by Corporate Property. First, the Property Policy Board was responsible for updating the Cabinet Member for Housing, Property and Regeneration on the Corporate Property Department’s performance in weekly or bi-weekly meetings. The Property Policy Board comprised of Officers from the Corporate Property Department, but was on occasions attended by other senior

[13] Cllr Tim Coleridge was the Cabinet Member for Housing and Property from the introduction of the Strategy in February 2011 until May 2013 and previously had political oversight of the Corporate Property Department. In May 2013, Cllr Feilding-Mellen was appointed as the Cabinet Member for Housing, Property and Regeneration, assuming oversight of the Corporate Property Department.

[14] The Chief Executive of RBKC is also known as the Town Clerk.

Officers, including the Chief Executive. Secondly, the Leader's Group, a private meeting of RBKC's Cabinet Members, met monthly to discuss upcoming decisions and other initiatives.

3.5.1 Analysis of decision-making surrounding the Transactions

The Cabinet approved all of the decisions relating to the Transactions which were presented to it by Officers from Corporate Property. The decisions are considered below in the context of the framework set out in the Constitution.

Clarity of aims and desired outcomes

As set out in the section "Alignment with Strategy", the aims and objectives of the Transactions were clearly aligned with the Strategy and sought to maximise revenue for the Council from redeployment of the buildings without impacting the provision of services. The factual information to Cabinet in order to allow it to make decisions surrounding the Transactions was presented clearly and contained an analysis of different options and financial implications.

With regards to the clarity of the basis of decisions surrounding the Transactions, Kroll noted from the analysis of internal communications and from interviews with bidders for the INC, that NHP were of the view that there had been a lack of clarity over the extent to which the wider community benefit had been considered in the decision-making process regarding the assessment of the bids for the leasing of the INC. A number of the interviewees in the Review stated that financial considerations had always been the primary driver, and that broad community benefits would ultimately be derived from financial considerations, since more funding would be provided for front-line services if more revenue was generated from the particular Transaction. It should also be noted that, despite the fact that the wider community benefits which were set out by NHP were not ultimately taken into consideration in the bidding process for the INC, the successful bidder, Alpha Plus, had pledged to match community benefits offered by any other bidder. The Cabinet ultimately approved the lease to Alpha Plus based on the understanding that it provided the best consideration for the Council.

A presumption in favour of openness

The rationale and the objectives behind the three lease transactions, INC, WIC and NKL were publicised through the Westway Newsletter which referred to the Westway Strategy. Seven editions of the Newsletter were sent to approximately 10,000 households between November 2012 and March 2017 within 500 metres of the Westway Area. The newsletters set out the Council's strategy to consolidate its services into fewer buildings and utilise the vacant properties to deliver new community facilities, address shortcomings in existing services and yield a return to help pay for services in the future. Kroll understands that the plans for the development of the NKL were also publicised in the library, as well as through a designated website.

In addition to the written communication with the public through the Westway Newsletters, the decisions surrounding the Transactions were all included in the publicly available[15] "Forward Plan" as required for Key Decisions. Further, parts of the Cabinet reports surrounding the rationale for the decisions (Part A of the reports) were also publicly available, although certain detailed information (Part B) of the Cabinet reports was in general not available to the public due to the commercially sensitive nature of the information contained therein.

The process for attracting offers for leases of the leased properties was handled through external professional advisors. In the cases of WIC and INC, multiple bidders came forward and an open bidding process was undertaken. Concerns were raised to the Chief Executive of the Council by community activists, following the decision to lease the NKL, about the openness of the bidding process, in particular that best consideration could not have been achieved if there was no open-market exercise. The Council was aware of the particular interest in the existing library site from NHP and obtained professional advice which concluded, following the undertaking of a "red book" valuation, that given the premium which NHP was willing to pay for the site due to its proximity to the school, the Council would not have been able to achieve a better consideration on the open market. The complaint was escalated to the Local Government Ombudsman which concluded that no injustice had occurred to the complainants as a result of the Council's actions.

With regards to the Kensington Centre, the decision to acquire the site was made public on the Forward Plan in March 2016. Following the decision in April 2016, a public announcement of the acquisition was delayed by K&CC to avoid prompting a Judicial Review application following the Cabinet decision, although communications showed that RBKC Officers actively encouraged making an announcement as soon as possible. The acquisition was announced in a *MyLondon* article and the Westway Newsletter in June 2016, prior to the sale completing in July 2016.

[15] The Forward Plan is available on the RBKC website.

Proportionality

Kroll identified that proportionality was considered as part of the decision-making process, particularly in the consideration of options and assessment of the best consideration for revenue generation.

Despite the fact that decisions were made on the basis of achieving best consideration, the question of “Best Value” was not explicitly evident in all of the decision documents reviewed by Kroll. “Best Value” refers to the commitment to consider overall value, including economic, environmental and social value when reviewing service provision. The Department for Communities and Local Government released guidance in September 2011 around “Best Value”, which included a “non-optional duty to consult representatives of a wide range of local persons,” including local community groups.

The Review did not identify any specific mention or consideration of “Best Value” from the perspective of the impact on service provision. It is Kroll’s understanding that the leases involving INC and WIC however, from the perspective of the Corporate Property Department, would not impact service provision, and that the service provision at both the NKL and the Kensington Centre site was projected to remain unaffected, albeit being delivered elsewhere, thus freeing up all or part of the buildings for other uses.

Given the perceived limited impact on the provision of services, there was no detailed consultation with a wide range of local persons conducted prior to the implementation of the Transactions.

Reasonableness and rationality (including best consideration)

The documents which Kroll reviewed demonstrated broadly that the decisions which surrounded the Transactions were based on clear and reasonable assumptions, and the rationality of generating the best return for the Council and to the benefit of public service provision going forward. A summary of the rationale for each of the Transactions is set out below:

INC – The Corporate Property Department recommended to grant the lease to Alpha Plus on the basis that it offered the best consideration for the Council. Although NHP offered a marginally higher annual rental figure, the proposal included an eight-month, rent-free period. As such, the Alpha Plus bid was assessed to be the more valuable in terms of total consideration, taking into account the five-year rent review.

NKL – The rationale behind the decision to develop a new library facility and redevelop the existing facility for rental stemmed from an assessment that the existing facility was not fit for purpose due to its layout, i.e. the fact that it was spread over multiple floors which made access challenging for disabled residents and parents with pushchairs, and the fact that this layout led to inefficiencies in staffing costs. The decision to lease the old library also benefited from the rationale that it would generate rental income to protect front-line services. Negotiations around the lease were held off-market and with only one bidder, NHP, due to the rationale that a higher rental value could be obtained because of the rental premium that NHP would be willing to pay, given that they already occupied the adjacent building. Questions were raised about the basis of the determination of fair-market rent, given that the Transaction was negotiated privately between the Council and NHP. Ultimately the rental achieved was higher than a commercial estimate of market rent due to the extra benefit derived from NHP's occupation of the adjacent building.

WIC – Once the decision to market the WIC was made, an open market exercise was undertaken by property agency HNG to obtain best offers for the site. The lease was eventually awarded to NHP on the basis that it had offered the highest rental value over the longest lease term.

The Kensington Centre – The rationale for RBKC acquiring the Kensington Centre site was to pursue a mixed tenure development, including affordable and private rental sector housing for the Kensington Centre with the view of generating long-term income for the Council. The site would also provide "*valuable strategic decant opportunities*", in the sense that it could provide temporary accommodation for residents in other Council-run housing which were to be regenerated. The rationale for leasing the site back to K&CC for three years was to allow RBKC time to identify an appropriate development partner, as well as to maintain educational provision at the site in the short-term, and ultimately in the long-term following the redevelopment.

Due consultation and the taking of professional advice from Officers

For each of the Transactions, professional advice was prepared by Officers and presented to the Cabinet Member for Housing, Property and Regeneration and ultimately to Cabinet with a clear rationale for the proposal to facilitate clear decision making. This included setting out other options and cost implications. For each of the Transactions, Kroll's review identified consultation with other potentially interested stakeholders within the Council, including Legal, Finance, Planning and Education, although in relation to the Kensington Centre we understand there was some feeling internally at the Council that there was insufficient time to assess the financial implications. Other concerns raised by Finance included the funding of the acquisition as it was not initially included in the Capital Programme for the year, and the corresponding tax implications.

With regards to the seeking of professional advice, property consultants were engaged to advise on each of the Transactions. The scope of instructions to the advisors varied according to the particular Transactions. For the INC and the WIC sites, the professional advisors marketed the sites and managed the various rounds of bidding process. For the NKL, professional advisors facilitated a valuation of the property and made recommendations that there was unlikely to be a higher bid than that of NHP, given the benefit which was derived from the site's proximity to the school's existing premises. With regards to negotiating the transaction with K&CC, professional advisors were engaged to negotiate the arrangement with the respective advisors for K&CC and advised on the structure of the deal which provided the most benefit to both parties.

With regards to consultation with the public, Kroll did not identify any public consultation regarding the future use of the WIC or INC buildings. Kroll understands from interviews that, given the sites were in recent times predominantly used for Council back-office / training facilities, the impact on the general public of the relocation of such services was believed to be minimal. For the NKL, no consultation was carried out on the decision to lease the library to NHP. We understand that certain residents of the borough felt that they ought to have been consulted regarding the lease and a petition was presented in October 2016 against the decision to lease the NKL. The petition, which gathered over 1,500 signatures, sought to keep the NKL in public use and reverse the decision to lease it to NHP. This petition was considered by the Full Council which voted to uphold the commitment and decision to lease the NKL on the basis that the new library would be bigger and better, and the lease of the legacy site would also help to generate revenue for front-line services, including libraries.

Kroll identified that a survey of 13,000 residents was carried out relating to the proposed new NKL in July 2016, after the decision to lease the old NKL to NHP in November 2015, which was conditional on the library service being relocated. The survey did not explicitly ask the participants whether or not they were against the relocation of the library or whether they objected to the future leasing by a private school. However, of the 629 respondents, 10% of respondents responded to a question in the survey asking, "*is there anything else you would like to comment on?"* with comments indicating they were against the re-location of the library or that they were against the NKL being used by a private school.

The Cabinet Report on the decision to build a new library in North Kensington referred to an Equality Impact Assessment carried out in connection with the decision. The report referred to a likely positive impact on inequality, as the library was being relocated a short distance from the existing NKL and accessibility would be improved. Kroll did not identify any Equality Impact Assessments carried out in connection with the decisions to lease the INC, WIC and NKL, or the decision to acquire the Kensington Centre for future development.

Making clear what options were considered and rejected in the making of the decision

Option appraisals were completed on each of the Transactions and summarised in the Cabinet Reports. The financial implications of the options proposed were included in Part B of the Cabinet Reports, which meant they were not available to the public. In each case, the option which represented the greatest financial return for the Council was the option proposed by the Corporate Property Officers, which was in line with the aims of the Strategy and the Council's obligation to secure "*best consideration*". Two to three options were outlined in the Cabinet Reports for each of the transactions.

The options outlined in the Cabinet Reports are summarised below:

Transaction	**Summary of options (bold indicates chosen option)**
The Isaac Newton Centre	**Medium term lease (up to 25 years) in current condition.** Long term lease (125 years) where buildings would be demolished and redeveloped for a mixed-use scheme.
North Kensington Library	Do nothing **Agreement to Lease and Lease based on a significant premium above market value.**
Westway Information Centre	Complete approved re-cladding works to external elevations of the WIC without entering into an Agreement to Lease. **Approve entering into an Agreement to Lease and Lease and replace elevations.**
The Kensington Centre	Sale with planning permission. **Retain the site for mixed development.** Retain building as a D1 investment.

Kroll identified one instance, relating to the NKL, where an options appraisal was carried out after the decision had been taken to develop a new library and lease the existing facility to NHP. The appraisal sought to review options about the viability of retaining NKL as a public library and assessed three options: a minor refurbishment costing GBP 3 million; a major refurbishment costing GBP 7 million; and a more in-depth major refurbishment costing GBP 10 million. The report concluded that none of the options addressed the issues that existed with NKL, such as the layout of the site, and that RBKC should continue with its current plans. The basis for the report's commissioning was unclear from Kroll's review of emails and documents, however the conclusion supported RBKC's existing conclusions on the NKL facility.

3.6 Scrutiny processes

Aside from the bodies and protocols in place within RBKC that comprise the formal decision-making process, there were also a number of scrutiny committees with focus on specific areas of decision-making. Membership of the committees was proportionate to political representation across all elected Council Members. The scrutiny committees were responsible for holding decision makers to account on behalf of the residents of RBKC and for making recommendations to help develop policies and initiatives that met the Council's objectives. Relevant committees in relation to the Transactions included the Housing and Property Scrutiny committee ("**HPSC**") and the Cabinet and Corporate Services Scrutiny Committee ("**CCSSC**"). All Key Decisions which were entered onto the Forward Plan were assigned (by the relevant Officer) a diamond rating from 1-3, which indicated the level of risk of the relevant transaction and the resultant prioritisation for scrutiny, where 3 was high impact / high public interest and 1 was routine / low public interest.

3.6.1 Analysis of scrutiny

Internal information reviewed by Kroll during the course of the review demonstrated the following:

The scrutiny process

For two of the Transactions reviewed, the HPSC was not able to conduct scrutiny in a timely manner, as at that time, the HPSC met only once every two months to scrutinise decisions. As a result, there could be a significant time lag which had an impact on the relevance or impact of the scrutiny around that specific decision.

- For the NKL, the Chair of the HPSC only became aware of the decision to lease the site to NHP seven weeks after it was taken, and stated to a Senior Governance Administrator and the Director of Strategy and Local Services that the Committee would have expressed serious concerns about the lease.

- For the Kensington Centre, the HPSC met three weeks after Cabinet approved the acquisition and a day before contracts were exchanged.

All decisions surrounding the Transactions were assigned a 1 diamond' rating by Officers, meaning they were considered routine or of low public interest. The Chair of the HPSC advised Kroll in interview that the diamond rating system was not the Committee's main method of identifying decisions to scrutinise, and instead they relied on both their own observations of the Forward Plan and information provided to them by Corporate Property Officers. The Chair found that it was in some cases difficult to ascertain which decisions ought to have been considered. Additionally, while the Members of the scrutiny committees were sent details of all Key Decisions in the Forward Plan, the Plan was maintained as a rolling document, so it was not always clear which decisions were most pressing and important for scrutiny.

There was one instance identified where scrutiny chairs from the HPSC and CCSSC disagreed on which committee ought to scrutinise the INC transaction. The Chair of the HPSC queried the interest of CCSSC in the transaction, alleging that the Members were using their position "*to build political momentum in their favour*".[16] Considering that the mandate of the CCSSC was defined in the Constitution as being, "*the achievement of effective, transparent and accountable decision-making by the Council*", it did not appear inappropriate for the CCSSC to consider the decision.

Impact of scrutiny on the Transactions in scope

With regards to the Transactions in scope, when decisions were subject to scrutiny, the findings of the relevant scrutiny committee did not result in any significant change or reconsideration by the Corporate Property Department or the Cabinet itself. For the NKL, the HPSC concluded in January 2016 that it was not satisfied that an adequate competitive process had been followed. For the INC, the CCSSC reviewed the bidding process and recommended that Cabinet reconsider its decision to award the lease to Alpha Plus as there had been a lack of clarity in the process. Despite these recommendations, the Cabinet reaffirmed its decision, based on the understanding that it represented best consideration for the Council.

3.6.2 Reform of scrutiny

It should be noted that, following various concerns raised by scrutiny committee Members and opposition Councillors in July 2018, RBKC endorsed a programme of actions in response to an independent review of governance by the Centre for Public Scrutiny. The recommendations of this review were included in a reform of the scrutiny process, with the establishment of an Overview and

[16] The context of this is that the Chair of the CCSSC was an opposition Councillor.

Scrutiny Committee, which had responsibility for overseeing an annual work programme of scrutiny to ensure the achievement of outcomes that matter to local people.[17] Consideration of the effectiveness of the reformed scrutiny programme is out of the scope of this review, but we have been informed that many of the issues identified with scrutiny in relation to the Relevant Transactions have been considered and addressed in subsequent years.

[17] Exhibit 7, RBKC Overview and Scrutiny Committee Report, 'New Model for Scrutiny', 26 September 2019, weblink here

3.7 Involvement of elected Members in the Transactions

Officers from the Corporate Property Department or their appointed agents managed the day to day negotiations and discussions with external stakeholders, including bidders. The Cabinet Member for Housing, Property and Regeneration, Cllr Feilding-Mellen received briefings at Property Policy Board meetings of developments in relation to each transaction and, on occasion, had discussions with external stakeholders / bidders, particularly in response to concerns which were brought to his attention by Council Officers, other Councillors or members of the public. For example, he responded to complaints by NHP relating to the bidding process for the leasing of INC. Cllr Feilding-Mellen stated in interviews that he was not involved in financial negotiations over the bids, and that he only became actively involved in INC once a large number of NHP parents and staff started complaining to Councillors. He asserted in interviews that he supported the lease being granted to Alpha Plus as it represented best consideration for the Council.

Kroll identified concerns raised by certain Councillors that Members were not sufficiently involved in decision-making surrounding the Relevant Transactions. For the INC transaction, two Councillors separately expressed concern in emails to Cllr Feilding-Mellen that, while the bidding process was being undertaken, he had left decisions to be taken solely by Officers of the Corporate Property Department. Considering the roles of Officers and Members as set out in the Constitution, the responsibility for gathering and assessing the bids was that of the Council Officers rather than the Members. Based on internal communications reviewed, Cllr Feilding-Mellen requested clarifications from Officers at the Corporate Property Department at times as to the specific details of the bids, and expressed on several occasions that he believed it was correct for the Officers, as property experts, to run the process.

The Constitution in place at the time of the Transactions set out that the principal role of Officers was to provide the professional advice to allow Members to formulate policy and make decisions. Given that Cllr Feilding-Mellen was involved in a number of direct discussions with the senior management of both NHP and Alpha Plus as well as Second Home, Kroll did not identify anything to support the claim that he was deficient in fulfilling his responsibilities as a Member as defined in the Constitution.

3.8 Wrongdoing and alleged conflicts of interest

Kroll did not identify any areas which constituted wrongdoing on the part of Council Officers or Members.

Various allegations concerning potential conflicts of interest of certain Councillors and Council Officers in relation to the Relevant Transactions have been raised by local community organisations. A summary and commentary of these is set out below, although it should be noted that none of these have been substantiated during the course of our Review:

Conflict of interest – Members

Allegations were made by various community interest groups that Cllr Feilding-Mellen had a personal interest in the development of private educational facilities in the borough because his children were on the waiting list for the schools concerned, particularly NHP and Chepstow House. Documentation reviewed by Kroll showed that Cllr Feilding-Mellen disclosed that his children were on the waiting lists for NHP and for another school run by Alpha Plus and in interview he affirmed that his children were on the waiting list for a number of schools in the area, both independent and state. Cllr Feilding-Mellen asserted that this in no way influenced the identification or selection of potential tenants for the lease properties. Kroll identified a number of examples in the documents where Cllr Feilding-Mellen suggested that non-educational bidders would be suitable for the space: for example he commented to senior officers of Corporate Property that the WIC would be suitable for an "*enterprise hub*". Additionally, Kroll understands from interviews that the main reason that the most interested bidders were private educational providers was that there was a significant demand for private education school places in the borough, with over 50% of children in the borough being educated privately. For this reason, the schools were willing to offer highly competitive bids to attempt to secure sufficient space for their institutions. Kroll did not identify any evidence in its Review to suggest that any personal interest impacted the decision-making processes behind the award of leases to NHP and Alpha Plus.

Conflict of interest – Political

The Grenfell Action Group alleged in an online blog that the award of the lease to Chepstow House for the INC transaction was influenced by political considerations, as the owner of Alpha Plus, John Ritblat was a major Conservative Party donor during the relevant period. Kroll confirmed in the public record that the Ritblats and their group of companies have made donations to the Conservative Party. No evidence was, however, identified in our review of documentation or through the interviews conducted that indicated any undue influence or advantage for Alpha Plus in the bidding of the INC site.

Conflict of interest – Tony Redpath

The Independent Review also identified allegations of a conflict of interest in relation to the Kensington Centre acquisition, specifically that Tony Redpath ("**Mr. Redpath**"), Director of Strategy and Local

Services for RBKC was involved in the decision-making on behalf of K&CC and that this conflicted with his role as an impartial Officer of RBKC. The Officers' Code of Conduct as set out in the Constitution stated that "*Employees of the Council should not place themselves under any financial or other obligation to individuals or organisations such that might influence them or bias their actions in the performance of their official duties"*.

Documents reviewed by Kroll confirmed that Mr. Redpath was appointed a Governor of K&CC at the request of the College, and was asked for his opinion on the Transaction by Corporate Property Officers prior to RBKC's initial offer in November 2015.

Kroll did not identify any evidence to suggest that Mr. Redpath's appointment as a Governor influenced the decision to acquire the Kensington Centre from K&CC. When Mr. Redpath's opinion was requested on the possibility of a transaction, his response was neutral, stating that the merits of any potential collaboration with K&CC should be assessed in the same way as with any other organisation and that it would require demonstrable benefits for both RBKC's financial or policy objectives and for K&CC. No further email correspondence was identified by Kroll that suggested Mr. Redpath had an active role in the decision-making process to acquire the Kensington Centre and he could not recall any further conversations about the acquisition in interview. Mr. Redpath stated in interview that he set out at the outset with management of K&CC that if any conflict of interest were to arise, he would have to separate himself from that particular aspect of K&CC business. Mr. Redpath later stepped back from his role as Governor in February 2016, five months prior to the sale being completed, due to his own identification of a separate conflict of interest as he had taken on a strategic role in the assessment of FE institutions London-wide, the outcome of which could have impacted K&CC.

Conflict of interest – Lambert Smith Hampton

Lambert Smith Hampton ("**LSH**") entered into a framework agreement with RBKC in 2012 with responsibilities to "*carry out reviews of [RBKC's] property portfolio and be a partner in the delivery of cost savings, efficiencies and new opportunities*". LSH was also the advisor to K&CC during the time of the Kensington Centre Transaction, upon the recommendation of RBKC since K&CC required professional advice. According to the K&CC Kroll Report, LSH confirmed to K&CC that members of staff involved in the Transaction would not simultaneously act on any engagements with RBKC. In relation to the Kensington Centre Transaction, RBKC took specialist property advice from CBRE.

Kroll identified that LSH was instructed on 6 April 2016 by RBKC to prepare a Marketing Strategy Report in relation to a development at Chelsea Creek, which was completed on 14 April 2016, prior to RBKC and K&CC completing the Transaction. Stephen Armitage from LSH stated that, in line with the agreement with K&CC, the same members of staff were not involved in the engagement with K&CC and RBKC. Additionally, he stated the active involvement in the negotiation on behalf of K&CC had been completed on 15 March 2016, at which point the matter was passed onto solicitors and therefore there was no breach of the agreement with K&CC.

3.9 Cultural considerations

As set out in section 1.2, part of the scope of work was to consider whether the decisions made in relation to the Relevant Transactions reflected a cultural dynamic in place at the time, which may not have considered the broader views of the local community.

Given that the review was limited to only four Transactions, and was predominantly focussed on reviewing internal documentation and communication surrounding those Transactions, the scope to comment on overall cultural considerations is limited, particularly given the complexity and range of service delivery in local government and the plurality of political views. However, Kroll is aware that there has been commentary by some external parties around the culture of how decisions were made. Kroll has considered two themes around these allegations in the context of the documents reviewed and interviews conducted. Details are set out below.

Focus on revenue generation above community impact

There have been a number of allegations that revenue generation was the sole focus of the Corporate Property Department to the detriment of the provision of community services and the maintenance of historical community assets. As stated in section 3.3, there is a historical and demographic context which meant that the Strategy itself was unpopular in certain parts of the community, which felt that community assets should remain in the community and that the leasing of those assets had a negative impact on the community itself. In a blog post in May 2016 in relation to the leasing of the INC, the Grenfell Action Group draws the conclusion that the disposal of the public resources was based “purely on the profitability of any such action.”

While Kroll’s review did identify that there was a proactive and commercial approach to generating revenue through the leases in scope of the Review (and the acquisition and leaseback of the Kensington Centre), the actions taken by the Corporate Property Department were in line with the Strategy, i.e. to leverage the assets that the Council owned to generate revenue to contribute to a sustainable long-term strategy and ultimately benefit the communities and residents of the borough.

As set out by Michael Clark in his update on the Strategy in February 2015, the Council had achieved its objectives to double the income from property by 2020 in only three years, from the beginning of the implementation of the strategy in 2011. While the focus on revenue maximisation may have appeared to be the sole focus, the overall objective was, according to documents reviewed by Kroll, to benefit the community as a whole. The maintenance or improvement of service provision in the face of financial challenges demonstrated that the Strategy made a significant contribution to maintaining the revenues of the Council. In terms of the specific uses of the relevant buildings, documents showed a plan to maintain the same level of service provision in each instance at alternative sites.

Lack of commitment to engagement and dialogue with community groups

The Grenfell Action blog refers to a culture of "*hostility to the concerns of the general public, and particularly the interests of working-class communities*" in the blog post of March 2016 which refers to the INC, the WIC and the NKL transaction. In documents reviewed by Kroll, while there was a clear rationale for the decisions surrounding the transactions, we did not identify specific details of detailed consultation with community members, other than the communications highlighting the plans in the Westway Newsletters and the public announcements of the planned relocation of the NKL. As is evident from the protests around the library, the petition and the blogs of certain community groups, a number of residents felt that their views had not been taken into consideration and have persistently lobbied to change the policy. In interviews, the view was expressed that, although a number of people may have disagreed with the proposals, they were set out clearly, were based on clear rationale and were ultimately driven by the objective of maintaining council services for the most vulnerable. It should be noted however, that the INC and the WIC were predominantly used for internal Council activities, for which alternative plans had been considered as part of the SPACE programme and the development of the Malton Road Hub. With regards to the NKL, there was a public consultation around the usage of the new library, in which a proportion of people objected to the move or the lease to a private school for the existing NKL.

3.10 Summary of overall conclusions

The table below summarises the overall conclusions of the review in the context of the specific questions which were set out in Section 1.2. The summary of conclusions refers to other sections of this Executive Summary where more details can be found relating to the specific question.

Question for consideration	**Summary of conclusions and link to relevant section of the Executive Summary**
Was there a Property Strategy in place which covered these Transactions and was the Strategy followed in the decisions made to acquire/ lease the properties listed?	This question is covered in section 3.3. There was a strategy in place and this strategy was the main driver of the decisions around the relevant Transactions.
Was a formal options appraisal undertaken prior to each acquisition/lease and was this presented to and approved by Members?	This question is broadly aligned with the principle as defined in the Constitution of "*Making clear what options were considered and rejected in the making of the decision*", as set out in the sections above. Kroll's analysis concluded that there was consideration of various options in relation to each of the Transactions. One example was identified when an options appraisal was conducted after the decisions had already been approved, but these broadly supported the context and rationale for the decision.
What were the decision-making/governance processes around the proposed acquisition/lease and what was the extent of Member involvement through the process?	Decision making according to the principles set out in the Constitution and in the context of the Relevant Transactions is considered in section 3.5. The question of Member involvement is considered in section 3.7. The Review did not identify any areas where the decision making processes were not aligned with constitutional requirements set out at the time. With regards to scrutiny of decision-making, the Review identified some weaknesses around the process which meant that at times the scrutiny

	committees were not able to provide useful, timely scrutiny. These are set out in more detail in section 3.6.
Was appropriate financial, property and legal advice sought, given and considered in all cases? Was the advice appropriate to the matters under consideration?	This question is broadly aligned with the principle of good decision-making defined in the Constitution of obtaining "*Due consultation and the taking of professional advice from Officers*". Consideration was given to other stakeholders within the Council and external advice was obtained for each of the transactions. There were instances noted when there was not enough time for Officers in support functions to provide detailed analysis, particularly in relation to the Kensington Centre.
What other options were considered by Officers of the Council which considered the financial situation and potential non-financial impact?	This question is considered in the section "*Making clear what options were considered and rejected*" as well as in the overall cultural consideration section. Various options were considered for each of the transactions and the decision was made according to the best consideration for the Council.
Were any valuations obtained (if relevant) and were these appropriate and fair?	For the leased properties, professional property consultants were engaged to provide estimates for valuation and options appraisals. For the acquisition of the Kensington Centre, a red book (detailed surveyor) valuation was obtained prior to the acquisition.
How was best consideration (section 123, Local Government Act 1972) for RBKC demonstrated?	This question is considered in the section around the principle of decision making "*Reasonableness and Rationality (including best consideration)*". With regards to the NKL, questions were raised around how the Council could determine best consideration considering the property was leased off-market. The review identified that professional valuations valued the

	rental value at lower than what was ultimately obtained.
Were lease / rental figures fair to all parties?	This question has been considered in the section around the principle of decision making “*A presumption in favour of openness*.” The review identified that negotiations for the lease of the NKL took place without an open bidding process, although there was a clear rationale for this given the specific interest of NHP in the site. NHP raised a number of concerns about the lack of clarity over the consideration of community benefits in the INC bidding process. Given that the successful bidder, Alpha Plus, also pledged to match any community benefits, the decision was ultimately taken on the basis of best financial consideration.
Did the Transactions offer the best value for RBKC and the residents of RBKC?	This question is partly considered under the best consideration question above, in that the Council made decisions about the Transactions based on commercial criteria. There was evidence that the Transactions were in good faith and founded on the overall intention to maintain the provision of front line services to benefit all parts of the community. The Review did not identify any specific mention or consideration of “Best Value” in the relevant Cabinet Decision Reports, although there was consideration of maintaining or improving service provision.
Was there any indications of wrongdoing or conflict of interest in the way that the Relevant Transactions were handled and ultimately executed?	The review did not identify any indications of wrongdoing. With regards to conflicts of interest, the review did not identify any evidence that the parties concerned exerted any undue influence.

Were there indications that the decisions made in relation to the Relevant Transactions reflected a cultural dynamic in place at the time, which may have not considered the broader views of the local community?	This question is considered in the "*Cultural considerations*" section. The Review concluded that the culture of attempting to achieve best consideration and make the best use of the asset base was ultimately driven by the Strategy and the context surrounding the funding difficulties which the Council was under. There were, however, some community groups who felt that their voices were not heard.

4. Legal and strategic framework

This section sets out an overview of the legal framework under which local governments, including RBKC, are required to operate and gives an overview of the strategic and contextual framework which was in place at the time of the Relevant Transactions.

4.1 Legislation relevant to the transactions

Local authorities are established by statute, and their functions are set out in numerous Acts of Parliament. The scope of this review does not cover a legal analysis or commentary on the legality of the Transactions in scope. However, there are some key areas of legislation which provide a framework for the standards of behaviour which are expected of local authorities as the trustees of public funds, as well as defining the frameworks under which local authorities must develop their strategies or make decisions.

A summary of key areas which are relevant to this Report is set out below. This is not intended to be an exhaustive list, but highlights some of the key themes which are relevant in the context of the analysis of the Transactions.

Local Government Act 1972

- Section 2(1) of the Local Government Act 1972 sets out the core principles of the role of local government, namely that local governments are mandated to do anything that is required to achieve the objectives of promotion or improvement of the economic, social or environmental well-being of the area.
- With regards to ethical conduct, each local authority is mandated to have a code of conduct to which Members and co-opted Members are required to adhere, and which should set out the basic ethical principles which the Members commit to.
- Officers of local authorities are required by law to disclose any conflict of interest which may arise through any contractual arrangement that the Council is entering into. The law refers particularly to any "*pecuniary interest*" and does not specifically cover personal non-financial benefit as a result of decisions made.[18]

[18] Exhibit 8, Local Government Act 1972, Section 117, weblink here

- With respect to the acquisition or disposal of land by local authorities, the law states that land "*may be used for any purpose of the council's functions*". With regards to disposal of land, the law sets out that land can be disposed of in any manner that a local authority wishes and that any disposal of land should be undertaken for the best consideration which can reasonably be obtained.
- Certain information is exempt from disclosure to the general public based on a number of defined factors, for example if the information contains any personal data, or if the information relates to the financial or business affairs of any particular person.[19]
- Section 123 of the Local Government Act 1972 sets out that councils may not dispose of land for a consideration "*less than the best that can be reasonably obtained*", except with the consent of the Secretary of State for Housing, Communities and Local Government.

Best Value Statutory Guidance

The Department for Communities and Local Government released guidance in September 2011 relating to the 'Duty of Best Value', which states that councils should "*make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness*". Therefore, councils should consider overall value, including economic, environmental and social value when reviewing service provision. In deciding how to fulfil their obligations, authorities are under a statutory duty to consult representatives of a wide range of local persons. Councils must consult representatives of council taxpayers, those who use or are likely to use services provided by the authority, and those appearing to the authority to have an interest in any area within which the authority carries out functions. Authorities should include local voluntary and community organisations and small businesses in such consultation. This should apply at all stages of the commissioning cycle, including when considering the decommissioning of services.[20]

2004 Planning and Compulsory Purchase Act

The 2004 Planning and Compulsory Purchase Act (The "2004 Act") replaced the Unitary Development Plan, the previous formal planning system for local government, with the Local Development Framework ("**LDF**"), a collection of documents maintained by a local authority focused on development objectives and a strategy for achieving them.

[19] Exhibit 8, Local Government Act 1972, a full list can be found in schedule 12A, weblink here
[20] Exhibit 9, Best Value Statutory Guidance, September 2011, weblink here

The 2004 Act introduced the concept of "spatial planning" and changed the focus of planning from solely controlling the development of land, towards a wider focus, including taking into consideration how places are used, and how other public services influence the quality of places.[21]

The 2004 Act is relevant to the Independent Review because the planning strategy ("Core Strategy"), as part of the Local Development Framework, the requirement for which was established under the 2004 Act, was taken into consideration as part of the WIC transaction.

Town and Country Planning Act 1990

The Town and Country Planning Act 1990 was cited in a legal consultation in relation to the sale and leaseback of the Kensington Centre. Relevant clauses mandate that local authorities can acquire land for development purposes provided that one or more of the following objectives are met:

- the promotion of improvement of the land and economic wellbeing of the area;
- the promotion or improvement of the social wellbeing of the area; or
- the promotion of improvement of the environmental wellbeing of the area.

Equality Act 2010

The Equality Act 2010 provides legal protection for people from discrimination in the workplace and in wider society. As part of the Act, the Public Sector Equality Duty came into force in April 2011 requiring public bodies to consider all individuals when carrying out their day-to-day work – in shaping policy, in delivering services and in relation to their own employees.[22]

It also requires that public bodies have due regard to the need to:

- eliminate discrimination;
- advance equality of opportunity; and
- foster good relations between different people when carrying out their activities.

RBKC's published guidance states that an Equality Impact Analysis ("EqIA") ought to be considered when formulating policies, practices or new proposals which will impact communities, such as through service closures or reductions. The EqIA enables Officers to assess whether the impacts are positive, negative or

[21] Exhibit 10, RBKC Local Development Framework 2010, weblink here
[22] Equality Act 2010, weblink here

unlikely to have a significant impact on different groups. The guidance states that "*wherever appropriate, the outcome of the EqIA should be summarised in the Cabinet/Cabinet Member report and equalities issues dealt with and cross referenced as appropriate within the report*".[23]

4.2 Consideration of financial factors

It is important to consider the background to the formulation of the strategic direction of the Council which is set out in the following sections. In 2010, following the financial crisis of 2007/8 and the corresponding increase in Government borrowing, the coalition government pursued a policy of eliminating the budget deficit within five years.[24] Part of the mechanism to achieve this was cutting public spending and in the period between 2010 and 2016, which is broadly the timeline during which the decisions around the Transactions were made, Communities and Local Government funding was the hardest hit of all Government Departments in the Treasury Spending Reviews, with a reduction in allocated budget of over 50% over a 5-year period.[25]

With regards to RBKC specifically, the income from general central government grants and non-domestic rates[26] fell from GBP 141.8 million in the year to March 2010 to GBP 101.7 million by March 2016, a reduction of close to 30%. During this time the Council's revenue budget[27] decreased by only 14%. This demonstrates that there was significant increased pressure on RBKC to identify other sources of funding given the reduction in general funding from central government (as well as from pressure to maintain current levels of Council tax).

Between the period 2010 and 2016, the Council significantly underspent its revenue budget by a total value of GBP 91.7 million for the 7-year period (against a total budget of GBP 1.2 billion in the period). This represented an overall underspend against planned revenue activity of around 7%. Across the relevant period, the underspend was either carried forward to the next financial year or transferred to

[23] Exhibit 11, Equality Impact Analysis Tool, undated, weblink here

[24] Exhibit 12, "At-a-glance: Conservative manifesto", *BBC News,* 13 April 2010, weblink here

[25] Exhibit 1, "Spending Review: Department-by-department cuts guide," *BBC News*, 24 November 2015, weblink here

[26] NNDR and Non-ringfenced government grants are considered together due to a change in accounting policy with the NNDR retention scheme in 2013 – the source of this is from the financial statements for the years 2010-2016 (Note - Taxation and non-specific grant income). It does not include specific ringfenced grants allocated for specific services or the contribution from council tax, which remained broadly consistent throughout the period.

[27] Revenue budget is net budget, excluding specific grants and other revenue generation – it represents the amount which is funded from Taxation and non-specific Government grants)

a variety of useable reserves, for example the Transformation Fund[28], the Property Strategy Reserve[29] or the Council's Capital Expenditure Reserve. Although more in-depth financial analysis was not within the scope of the Independent Review and the reasons for the underspend have not been confirmed, it appears that if the budget spend had been met for the relevant period, the Council reserves would have been significantly depleted as the funding gap which was not funded by specific grants, general grants or taxation, widened during this period. Documents examined by Kroll demonstrated that the need to generate revenue from other sources was a contributing factor in the strategic choices set out below.

4.3 Consideration of political and demographic factors

There are number of contextual factors that ought to be considered when reviewing decisions taken by RBKC during the relevant period of the Transactions. RBKC has been governed by a Conservative Party majority since 1964. The May 2014 Local Elections resulted in the Conservatives holding 37 of the 50 seats in the Council. Kroll understands from interviews that this political stability allowed the Council to consider longer-term strategies than other local authorities without the threat of redrawing plans because of political change / uncertainty.

The demographic of RBKC, however, is more polarised than other councils in London and in the UK. The average earnings are significantly higher than the national or London average, and the demand for private education is significant, with, according to interviews undertaken by Kroll, over 50% of children in the borough attending fee-paying schools, compared with a UK average of only 6.5%. [30]

Against this backdrop, wards situated towards the north of the borough, such as Golborne, Dalgarno and St. Helen's, have been rated as some of the most deprived areas in the UK and ranked in the top 10% of deprived LSOAs by rank in 2011.[31] As of September 2020, these wards were all represented by Labour Councillors.[32] The North Kensington area, where the properties involved in the Relevant

[28] Useable reserves for the Transformation Fund include: (i) resources for 'invest to save' opportunities identified as part of the business and financial planning processes (cost reduction); (ii) resources to support the introduction of transformative projects (local initiatives); and (iii) resources to meet the costs of potential job losses (severance).

[29] Useable reserves used to meet the cost of feasibility studies and condition surveys to assist in asset management and capital budget planning.

[30] https://www.isc.co.uk/research/

[31] A Lower Layer Super Output Area (LSOA) is a geographical hierarchy designed to improve the reporting of statistics in small areas within England and Wales.

[32] Exhibit 13, Deprivation in the Tri-Borough Area, March 2011, weblink here

Transactions are situated, are based in the Golborne and Colville Wards in the northern part of the borough.

While the focus of this review does not include the equity of provision of Council services between the various wards in the borough, it is evident from our Review that despite the overall perception of a maintenance and even improvement of provision of Council services during the period, there were some parts of the community which held the view that the Council's objectives of regenerating North Kensington did not take into account the hardships and need for better community infrastructure in the more disadvantaged wards.

For example, the Kensington Labour Group published a number of statistics in February and March 2014 highlighting the disparities between the north and south of the borough.[33] Examples of these have been included below:

- The RBKC average for child poverty was approximately 28%. In Henry Dickens Court, Norland, the average was 57.6%. Henry Dickens Court is a housing estate located in the Notting Dale Ward.
- Life expectancy in the Golborne Ward was 72 years for men, whereas it was 92 years in Hans Town, Knightsbridge.
- 63% of children and young people between the ages of 0 and 19 in the Golborne Ward lived in overcrowded homes, compared to 19% in the Campden Ward.

4.4 Strategic frameworks and external influence

Within the overall legal framework highlighted above, RBKC developed a number of strategic plans which considered the most effective way to deliver on the statutory mandate of "*promoting or improving the economic, social or environmental well-being of the area*".[34] The Independent Review has focussed particularly on the strategic plans relating to property in the context of the Relevant Transactions, as set out in the sections below.

4.4.1 Corporate Property Strategy 2020

In 2010, the Council had 125 operational units housing 166 operations valued at GBP 606 million, with an annual operating cost of around GBP 17 million, as well as an investment portfolio of 418 interests

[33] Exhibit 14, "*The Most Unequal Borough in Britain – revisited*", Cllr Dent Coad, 21 October 2020, weblink here
[34] Exhibit 8, Local Government Act 1972, defined as one of the core responsibilities of local governments, weblink here

with a value of GBP 147 million, generating an income of approximately GBP 7 million per annum.[35] The portfolio was fragmented and devolved throughout the organisation, which made it difficult to assess / monitor the extent to which property management contributed to overall Council objectives. In 2010, the Council commissioned property consultants King Sturge to review this property portfolio and identify sites which were the worst-performing operating properties and which could be leased or sold in order to generate long-term revenue for the Council and therefore to protect front-line services (the "**King Sturge Review**").

Three of the Transactions which are the subject of this review (NKL, WIC and INC) were classified as surplus to requirements in the King Sturge review.

Taking into consideration the advice obtained from the King Sturge review, in February 2011, RBKC adopted the Corporate Property Strategy 2020 ("**the Strategy**"), led by RBKC's Corporate Property Department. The Cabinet agreed that creating this strategy would provide a long-term framework for how the Council managed its property portfolio, and help it align with the Council's commitment to maintain its provision of public services.[36]

The Strategy had three main objectives for its future commercial property portfolio:[37]

- **Cost and space efficient** – RBKC would use floor space more efficiently, resulting in a reduction of floor space and buildings occupied. RBKC would also seek to increase income from surplus operational property to contribute towards the costs of front-line services. The savings would be in line with targets set by RBKC.

- **Suitable and sufficient** – RBKC would ensure properties are fit for purpose, in the right locations and of the right quality to provide for the needs of customers and staff.

- **Shared** – Where possible, property would be shared with partner organisations.

The Strategy stated that commercially let properties would be subject to the Local Development Framework (see below) and "*other community considerations*".[38]The Strategy included a significant

[35] Exhibit 15, RBKC Report by the Executive Director for Finance, Information Systems and Property, 17 February 2011, weblink here
[36] Exhibit 15, RBKC Report by the Executive Director for Finance, Information Systems and Property, 17 February 2011, weblink here
[37] There were two additional objectives of the Strategy that are ancillary to the review: properties being sustainable and flexible as well as being energy and water efficient.
[38] Exhibit 4, Corporate Property Strategy 2020, weblink here

change programme around the Westway area, which became known as the Westway Strategy.[39] The leasing of the INC, the WIC and plans for a new library to replace the NKL were part of the Westway Strategy, amongst plans for other properties such as the Malton Road Hub.

In February 2015, Michael Clark, the Director of Corporate Property, provided an update on the performance of the Corporate Property Department in pursuit of the Strategy. Mr. Clark set out that by 2014 RBKC had achieved GBP 9.2 million per annum in income from the property portfolio, against the Council's target of GBP 6.27 million per annum at the time. Mr. Clark summarized that "*we effectively doubled the Council's income in three years, six years ahead of schedule*". Mr. Clark also suggested an amended target of GBP 20 million per annum in income and savings by 2020 for the Corporate Property Department.[40]

4.4.2 SPACE Programme

In February 2009, RBKC's Cabinet approved funding for the SPACE Programme. The Programme was originally focussed on the refurbishment of Kensington Town Hall, where the majority of the Council's staff were based and provided "*a great opportunity to re-think the way office space was provided and utilised*".[41] The project had the objective of creating energy and space efficiencies and increasing the number of people working out of the Kensington Town Hall from 1,058 to 1,607.

The programme was considered successful and was expanded to include refurbishing other offices where Council staff were based. The SPACE Programme concluded in November 2013 "*as a result of creating and capitalising on opportunities to condense work phases and accelerate current moves*".[42] The transition of Council staff moving into a newly refurbished hub at 2 Malton Road ("**the Malton Road Hub**") in June or July 2014 was confirmed as a 'post programme activity' to be completed after November 2013. The objective of the construction of the Malton Road Hub was to consolidate Council offices into one modern facility and release other council properties that consequently became surplus to requirements, including the INC and WIC, to be considered for lease.

[39] The Westway area comprises the surrounding areas of the Westway, an elevated dual carriageway section of the A40 road in West London running from North Kensington to Paddington.

[40] Exhibit 5, Property Portfolio Performance Update by the Director of Corporate Property and Customer Service, undated.

[41] Exhibit 16, Report by the Space Programme Manager, 15 November 2010, weblink here

[42] Exhibit 17, Closure Report for the SPACE Programme, 6 November 2013, weblink here

4.4.3 Local Development Framework, Core Strategy 2010 and the Consolidated Local Plan 2015

Following the implementation of the Local Development Framework ("LDF") under the 2004 Planning and Compulsory Purchases Act, RBKC adopted its Core Strategy, a part of the LDF, on 8 December 2010 (the "**Core Strategy**") .[43]

This document sets out the following three planning policy objectives relating to the North Kensington Area:[44]

- to stimulate regeneration in North Kensington through the provision of better transport, better housing and better facilities;
- to enhance the reputation of national and international destinations by supporting and encouraging retail and cultural activities; and
- to uphold residential quality of life so that [the borough] remains the best place in which to live in London, through cherishing quality in the built environment, acting on environmental issues and facilitating local living, including through strengthening neighbourhood centres.

The Core Strategy set out a specific strategy for Westway – that it "*will be transformed from an oppressive negative influence into one which celebrates public life and creativity*". In the years following the establishment of the Core Strategy 2010, the Council was facing increasing pressure from Central Government and the Greater London Authority to increase its housing capacity. The GLA completed a Strategic Housing Marketing Assessment in 2013, which found that London required approximately 62,000 more homes per year in order to accommodate its growing population.[45] The Core Strategy also included a commitment to build 2,500 new homes in the north of the Borough by 2028.

RBKC, and particularly its Corporate Property Department, identified potential regeneration opportunities in North Kensington as a way of providing this housing supply as well as meeting the objectives of the Core Strategy and the Property Strategy. Plans to stimulate regeneration in North Kensington were later codified in the Consolidated Local Plan 2015 ("**the Local Plan**") which set out future development plans for the area and a housing target of building 5,850 new homes by 2021, 50%

[43] Exhibit 18, RBKC Local Development Framework Core Strategy, weblink here
[44] Exhibit 18, RBKC Local Development Framework Core Strategy, weblink here; the objectives are summarised for the purpose of this Independent Review – full detail can be found in the LDF Core Strategy 2010.
[45] Exhibit 19, Greater London Authority Strategic Housing Market Assessment 2013, weblink here

of which would be affordable housing.[46] The Relevant Transactions all take place under the context of this commitment to the regeneration of North Kensington.

The objective of the Local Plan was to secure better transport, housing and social infrastructure for North Kensington in the following 20 years which would "*have a positive influence on deprivation and both physical and mental health*".[47] It should be noted that whilst the Kensington Centre was referred to in the Local Plan, the Plan made specific reference to the building "*not being programmed for redevelopment unless it is beneficial to the wider community and sufficient funding is identified*".[48]

The Local Plan was brought into place in July 2015 as an updated version of the Core Strategy, in line with changes in national policy, which referred to the terminology of a Local Plan rather than a Core Strategy.

4.4.4 The Community Strategy

The Community Strategy was adopted in 2008[49] and set out goals that all the local organisations and individuals whose activities had an impact on quality of life in Kensington and Chelsea could work towards. It details the "Kensington and Chelsea Partnership," which was an umbrella group chaired by the former Leader of the Council, bringing together various stakeholders in the community to achieve the principles of:

- Valuing the rich diversity of people living and working in the borough;
- Acting in a positive way so that all sections of the community are able to play a part in improving the quality of life in Kensington and Chelsea; and
- Adopting a structure which is representative of the various stakeholders, with open and transparent decision-making and a commitment to community consultation and involvement.

The Community Strategy sets out the challenges faced in North Kensington, acknowledging that "*the highest levels of deprivation are found in North Kensington, highlighting the need to focus on this area*".

[46] Affordable housing is defined in the National Planning Policy Framework ("**NPPF**"), published by the Ministry of Housing, Communities & Local Government, as "housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers)" and which complies with one or more of a series of definitions as set out in Annex 2 of the NPPF
Exhibit 20, Ministry of Housing, Communities & Local Government, National Planning Policy Framework, weblink here
[47] Exhibit 21, RBKC Consolidated Local Plan, Section 3.1.5, weblink here
[48] Exhibit 21, RBKC Consolidated Local Plan , Section 21.2.8, weblink here
[49] https://www.rbkc.gov.uk/wamdocs/community_strategy2008-181.pdf

It states that the "*Partnership plays an important role in working to direct mainstream resources […] towards co-ordinated and targeted initiatives that address the causes and consequences of deprivation in North Kensington*".

Particularly relevant to this Report are the sections of the Community Strategy which consider Homes and Housing. The Community Strategy recognises that a number of the borough's housing estates are in significant need of improvement due to aging stock. This is relevant to the Kensington Centre, which was planned to be redeveloped into a mixed-use building, and which would be used as a decant site while improvements were made to existing social housing stock.

4.4.5 Bi- and Tri-Borough Shared Service Agreements

RBKC also entered into Bi- and Tri-Borough Shared Services Agreements with the London Borough of Hammersmith and Fulham and Westminster City Council during the period of the Transactions, starting in June 2011.[50] The programme sought to combine certain services from the three London boroughs to deliver savings without compromising the provision of services.

[50] Exhibit 6, Tri-Borough Executive Decision Report for Corporate Services, 17 April 2013, weblink here

5. RBKC's constitutional framework and decision-making process

The Council is governed by a Constitution which sets out the framework and ethical principles around how decisions are made, and the procedures that are followed to ensure that decisions taken by the Council are "*efficient, transparent and accountable to local people*".[51]

The Constitution requires the Council to maintain and update the Constitution periodically to ensure that the aims and principles of the Constitution are achieved.[52] Consequently, Kroll has reviewed a number of versions of the Constitution written between 2012 and 2017 (collectively "the **Constitution**").

The sections below give an overview of the decision-making processes of the Council during the time of the Transactions as set out in the Constitution and introduce the relevant committees which had responsibility for scrutiny in relation to the Relevant Transactions.

5.1 Approach to decision-making

The principles surrounding the decision-making process at RBKC are set out in the Constitution. During the timeline of the Transactions, the Constitution set out the framework of decisions made by the Council in the context of the principles set out below:

- clarity of aims and desired outcomes;
- A presumption in favour of openness;
- proportionality, so that the action taken is proportionate to the desired outcome;
- reasonableness and rationality, as set out in the Wednesbury Principles;[53]
- due consultation and the taking of professional advice from Officers; and
- making clear what options were considered and rejected in the making of a decision and the reasons behind it.[54]

[51] Exhibit 22, RBKC Constitution (June 2012 and February 2016), Part 1, Article 1.02.
[52] Exhibit 23, RBKC Constitution (February 2016), Part 2, Article 14.01.
[53] The Wednesbury Principles set out an overriding principle and threshold for unreasonableness, which was defined as being "*so outrageous in its defiance of logic or accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it*". Exhibit 24, RBKC Constitution (February 2016), Part 2, Article 12.02.
[54] Exhibit 24, RBKC Constitution (June 2012, December 2014 and February 2016), Part 2, Article 12.02.

5.2 Structure of decision-making

5.2.1 The Executive

The Executive is responsible for taking the majority of the Council's decisions.[55] It is comprised of elected officials from the party which has won the majority of seats in Local Government elections. With respect to RBKC, the Conservative Party had the majority of the Council seats throughout the timeline of the Relevant Transactions. During this time, when the Executive met, it was referred to as 'the Cabinet', and the individuals in attendance as 'Cabinet Members'. Each Cabinet Member had oversight of a particular function of the Council, such as education or housing. Typically, the Executive comprised between eight and ten Cabinet Members. During the time of the Transactions, the Cabinet Member for Housing, Property and Regeneration was Cllr Rock Feilding-Mellen, who was also the Deputy Leader of the Council. The Cabinet was renamed the Leadership Team in 2017. .

5.2.2 The Corporate Property Department

The Corporate Property Department had the mandate to "*ensure that the Council's property is used to its full potential, and to advise on all property matters"*.[56] Specific areas of relevance to the Transactions which the Corporate Property Department has are:

- undertaking the estate management of the Council's commercial property portfolio including leasehold properties held to enable the Council to discharge its statutory duties and policies;
- identifying opportunities to maximise the use of the Council's property portfolio to generate additional income;
- acquiring accommodation for Council departments and voluntary groups;
- disposal of surplus Council property; and
- negotiating on all aspects of property management on behalf of the Council and its Business Groups.

[55] Certain functions were reserved for Full Council (i.e. all 50 Councillors), committees or sub-committees. These functions are set out in Exhibit 25, RBKC Constitution (October 2012, December 2014 and February 2016) in Part 2, Article 7.
[56] RBKC Corporate Property website contact page, weblink here

5.2.3 Key Decisions

The Relevant Transactions covered in this report involved "*Key Decisions*" as defined in the Constitution at the time as those which (i) involve expenditure of GBP 100,000 or more;[57] and (ii) were determined as likely to have a significant impact on the community in one or more electoral wards.

According to the Constitution, Key Decisions were taken by the Cabinet, and the Council was required by the Constitution to give a minimum of 28 days' notice of any Key Decision to the public before the decision was approved by Cabinet. Notice was provided by publishing the decision on the Forward Plan, a list of decisions which were planned for the following four months. The Forward Plan was published on the Council's website and included details of which body would make the decision, the relevant contact Officer, the earliest date the decision could be made and details of any planned consultation. The Cabinet was required by the Constitution to provide a written statement for every decision taken, which should have included a record of the decision and the reasons behind it, amongst other requirements. Whilst the Constitution set out that the written statement, including these details would "*comprise the minutes of the meeting*". [58]

Once a decision was made by Cabinet, the decision could be called-in up until 5pm on the day following the Cabinet meeting. If the Director of Strategy and Local Services did not receive a request for call-in, then the decision would be *"implemented"*, or actioned. When a decision was called-in, the Cabinet was notified and the implementation of the decision was deferred for five days to allow the scrutiny committee to consider the matter and to possibly ask the Cabinet to reconsider its decision.[59]

5.2.4 Scrutiny

Decisions taken by the Council were subject to scrutiny from committees ("**Scrutiny Committees**") which were made up of Councillors from outside of Cabinet. Scrutiny Committee meetings were open to the public. Each committee determined its own method of working, including when/which Key Decisions it wished to scrutinise.[60] Membership of Committees was proportionate to the political representation across the elected Membership. The primary role of a Scrutiny Committee was to hold decision-makers to account on behalf of borough residents, and to make recommendations to the

[57] Although at the time of the Relevant Transactions, there was no reference to revenue or capital spend with regards to Key Decisions, this was revised later on to define as a Key Decision any capital spend and / or sale of property or interest in property (e.g. leases) to the value of in excess of GBP 1.5 million.
[58] Exhibit 25, RBKC Constitution (October 2012, December 2014 and February 2016), Part 2, Article 7.07.
[59] Exhibit 26, RBKC Constitution (October 2012, December 2014 and February 2016), Part 2, Article 7.10(h)
[60] Exhibit 27, RBKC Constitution (June 2013, May 2015 and February 2016), Part 2, Section 6.12.

Executive and Officers to help develop policies and initiatives that met the Council's aims and objectives.

At the time of the Relevant Transactions, there were five Scrutiny Committees in the Council.[61] The committees were led by the Scrutiny Steering Group (the "**SSG**"), which had overall responsibility for coordinating scrutiny and was made up of the Chairs of the other committees.[62]

The Housing and Property Scrutiny Committee (the "**HPSC**") [63] was responsible for scrutinising decisions involving the Corporate Property Department, including housing strategy, development and corporate asset management.

The Cabinet and Corporate Services Scrutiny Committee (the "**CCSSC**") was responsible for reviewing areas of corporate management at the Council, including decision-making processes, budgeting and approach to best value.

In order to assist the Chairs of Scrutiny Committees and focus scrutiny on the most important areas, all decisions entered onto RBKC's Forward Plan were assigned a 'diamond' rating by the relevant Officer from the relevant department based on the level of impact and/or public interest. The classification was approved by the relevant Chair.

The classification for ratings was as follows:

- ◊◊◊ (3 diamonds) - High impact/high public interest: A key decision that is likely to have a major impact on service users, residents or businesses and where there is a prospect of significant public interest.
- ◊◊ (2 diamonds) - High impact/low public interest: Such a key decision would meet all the above criteria on impact, or would be expected to be of particular public interest.
- ◊ (1 diamond) - Routine/low public interest: A key decision that is of a relatively routine nature.[64]

[61] Housing and Property Scrutiny Committee, Adult Social Care and Health Scrutiny Committee, Cabinet and Corporate Services Scrutiny Committee, Family and Children's Services Scrutiny Committee, Public Realm Scrutiny Committee.

[62] Exhibit 28, RBKC Constitution (June 2013, May 2015 and February 2016), Part 2, Article 6.02

[63] Eight conservative, three Labour Members

[64] Exhibit 29, Key Decision Diamond Rating Criteria

5.2.5 Decision-making processes and consultation panels undefined in the Constitution

Kroll identified a number of advisory panels related to Corporate Property which were not defined by the Constitution but were minuted, with these minutes being circulated within the Corporate Property Department.

5.2.5.1 Property Policy Board

It is Kroll's understanding that during the period in which the Relevant Transactions took place, any major decision relating to Corporate Property should have been discussed at the Property Policy Board (the "**PPB**"). The Property Policy Board was an advisory panel that provided weekly or bi-weekly updates to the Cabinet Member for Housing, Property and Regeneration, deputised by the Town Clerk and Executive Director of Finance. Officers from Corporate Property whose projects were likely to go before Cabinet also attended.

According to the Terms of Reference for the PPB, the scope of the board covered all Corporate Property activity and property assets of RBKC relating to: operational property; investment portfolio; facilities; capital projects; school capital development; and housing assets used for operational purposes/redevelopment opportunities. The main roles of the PPB involved the development of the Corporate Property Strategy, including setting the long-term vision or direction for all property assets, as well as monitoring and reporting on their strategic performance. [65]

The membership of the PPB comprised of the following Officers and Members from RBKC:

Full Time	**Optional**
Cabinet Member for Housing, Property and Regeneration (Chair)	Cabinet Member for Adult Social Care and Public Health
Town Clerk (Deputy)	Cabinet Member for Education and Libraries
Executive Director of Finance (Deputy)	Cabinet Member for Environment, Environmental Health and Leisure
Bi-Borough Executive Director of Environment	Cabinet Member for Families and Children

[65] Exhibit 30, Property Policy Board Terms of Reference.

Bi-Borough Executive Director of Transport	Cabinet Member for Planning Policy, Transport and Arts
Director for Corporate Property and Customer Services	Any Cabinet Member (if they wished to attend)
Executive Director of Planning and Borough Development	Any other Member at the discretion of the Chair
Head of Housing	PCT; Police; TMO; adjoining boroughs
Tri-Borough Director of Children's Services	
Tri-borough Director of Libraries and Archives	
Tri-Borough Director of Public Health	
Tri-Borough Executive Director of Adult Social Care	

5.2.5.2 The Leader's Group

The Leader's Group was a group of Cabinet Members which met privately to debate forthcoming decisions and to receive reports on ongoing initiatives which were being progressed by the Council.

5.3 Member/Officer responsibilities

5.3.1 Members

Members, also known as Councillors, are elected individuals who are accountable to the electorate for their actions. The section below provides a high-level summary of the key responsibilities of Councillors, as set out in the relevant Constitution and as relevant to the Transactions. This is intended to provide a framework for the cultural responsibility of Members rather than an exhaustive list of responsibilities against which the Relevant Transactions have been assessed.

Councillors were required under the Constitution:[66]

- to carry out a number of strategic and corporate management functions collectively as the ultimate policy-makers;
- to represent their communities and bring their views into the Council's decision-making process;
- to deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- to balance the different interests identified within the ward they represent and to represent the ward as a whole;
- to be involved in decision-making;
- to be available to represent the Council on other bodies; and
- to maintain the highest standards of conduct and ethics.

5.3.2 Officers

According to the Constitution, Officers, or staff, were responsible for giving advice, implementing decisions and managing the day-to-day delivery of services. Officers had a specific duty to ensure that the Council acts within the law and manages its resources wisely. A high-level summary of some of the key responsibilities is set out below. As above, this is intended to provide a framework for the ethical responsibility of Officers rather than provide an exhaustive list of particular responsibilities against which the Relevant Transactions have been assessed. The Officers are required under the Constitution:

[66] Exhibit 31, RBKC Constitution (June 2012, January 2015 and February 2016), Part 2, Article 2.03

- To give the highest possible standard of service to the public, and where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.
- To serve the Council as a whole. It follows that they must serve all Councillors and not just those of the majority party and must ensure that the individual rights of all Councillors are respected.
- To follow every lawful expressed policy of the Council and to not allow their own personal or political opinions to interfere with their work.
- To remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community as defined by the policies of the Council.
- All Officers must obtain consent of their relevant superior Officer to take any outside employment. All Officers should be clear about their contractual obligations and should not take outside employment which conflicts with the Council's interests.[67]

[67] Exhibit 32, RBKC Constitution (June 2012, December 2014 and February 2016), Part 5B

6. Overview of transactions

The table below sets out the broad timeline and high-level overview of the Transactions.

Transaction	**Relevant time-period for analysis and decisions**	**Nature of transaction**
The Isaac Newton Centre (“**INC**”)	February 2012- March 2014	The INC was leased to Alpha Plus, the owner of an independent prep school in the borough.
North Kensington Library (“**NKL**”)	February 2012- November 2015	The Library was leased to Notting Hill Prep School (“NHP”).[68]
Westway Information Centre (“**WIC**”)	Late 2012 - November 2015	The Westway Information Centre was leased to NHP. [69]
The Kensington Centre, Kensington & Chelsea College (“**K&CC**”), (“**Kensington Centre**”)	November 2012 - July 2016	RBKC acquired the Kensington Centre from K&CC.

The following sections set out the analysis of each of the Relevant Transactions in turn.

[68] The decision to lease the Library was abandoned in September 2017.
[69] The school moved into the building in 2017.

7. Isaac Newton Centre

This section focuses on the 2014 leasing of the Isaac Newton Professional Development Centre ("**INC**") to Alpha Plus Group ("**Alpha Plus**"). The INC is owned by RBKC and previously housed teacher-training and other educational support and social programmes. The INC was historically a community school operating under a number of names including Portobello Road School and the Isaac Newton School for Boys. This Transaction has attracted controversy around the award of the lease arising from allegations that:

- Cllr Feilding-Mellen was predisposed towards private schools in the borough because his two children were on waiting lists for these schools;
- RBKC was unfairly influenced in its selection of a tenant by bidders' political donations; and that
- when assessing competing bids from private schools, RBKC improperly prioritised financial considerations and did not sufficiently take into account the schools' contributions to their local community.

Whilst taking the above allegations into consideration, our approach has focussed on the following areas: the formal decision-making process surrounding the lease, including RBKC's demonstration of best consideration and best value; internal consultation and scrutiny; the involvement of external advisors; and RBKC's community engagement before and during the Transaction.

Decision-making and timeline

Following the King Sturge review of the Council's property portfolio and considering the implementation of the SPACE Programme, the INC was classified as surplus to the Council's operational requirements, meaning its release from RBKC ownership could save the Council running costs and earn revenue to support front-line service delivery. In 2012 and 2013, a number of options were considered by the Corporate Property Department for the INC site, including sale to a private developer, leasing to a private school and development into rented housing. Various lease structures were also considered, including a long-term lease for private redevelopment and a shorter lease for the site in its current form. An offer to purchase the site made by a private company was rejected in early 2013 on the basis that it did not offer the best long-term value to the Council and the Corporate Property Department recommended in the summer of 2013 to look instead at leasing options.

The tender process was marketed by HNG Chartered Surveyors ("**HNG**"), a real estate agent, and ran between September and December 2013. During this time, the Corporate Property Department had also been negotiating with one of the bidders, Notting Hill Prep School ("**NHP**"), on a separate potential lease of part of the INC car park, which led to some concerns from Alpha Plus that the Council was too close to NHP and likely to give favourable terms to them. The Corporate Property Department ultimately recommended to Cabinet in December 2013 that the lease be awarded to Alpha Plus, the owner of private school Chepstow House, which would occupy the site, on the basis that the obtainable rent over 10 years offered the highest financial return to the Council over this period.

Following the recommendation, a number of concerns were raised by NHP. First, NHP complained that the award of the lease to Alpha Plus threatened its survival, as its existing site was spread over two buildings immediately adjacent to and across the road from the INC. Further, NHP alleged that there was a lack of clarity over whether *"community benefits"* had been considered in the awarding of the lease. NHP complained that the community benefits included in their offer, such as providing bursaries and sharing facilities with a youth centre, were not considered. In March 2014, a representative of HNG denied in email correspondence with a Senior Development Surveyor from RBKC that they had been misleading or unclear with regard to the assessment criteria.

The Corporate Property Department defended its recommendation to lease the site to Alpha Plus, emphasising that financial considerations had always been the primary drivers in the decision-making process. In an email from Michael Clark, the Director of Corporate Property and Customer Services, to Cllr Feilding-Mellen dated 17 March 2014, Mr. Clark questioned the basis for the complaint, suggesting that NHP had always understood that community benefits were outside the bidding criteria. Cllr Feilding-Mellen also noted in an email to Cllr Nicholas Paget-Brown, the Leader of RBKC, on 17 February 2014 that Alpha Plus had matched the community benefits offer put forward by NHP. The Property Particulars document, sent to prospective bidders by HNG, did not include any detail about the criteria on which the bids would be assessed.

In order to address NHP's complaint, RBKC engaged a QC in February 2014 to provide a legal opinion on the Officer's recommendation to award the lease to Alpha Plus. This opinion concluded that the bid submitted by Alpha Plus represented best consideration and that assessments of best consideration should be made purely on the basis of commercial value and not on social value, unless there was a corresponding tangible commercial value. Cllr Feilding-Mellen reiterated this view in other internal communications, arguing that the best way to achieve social and environmental well-being in the community was to increase the funds available to run Council programmes.

The full Cabinet was originally scheduled to meet on 24 February 2014 and make the decision to award the lease to Alpha Plus. However, the final decision was delayed for several weeks, as NHP submitted an additional bid with a higher rental figure, asking for the bidding to be reopened, and filed a petition to the Council which repeated NHP's concerns about the bidding process and argued that leasing the site to Alpha Plus would result in a serious strain on road traffic. The Corporate Property Department sought internal legal advice, which concluded that reopening bids would contravene the agreed tender process. The CCSSC met on 17 March 2014 to review the bidding process and recommended that Cabinet reconsider its decision to award the lease to Alpha Plus as it found that there had been a lack of clarity in the process. Following this call-in, the Cabinet confirmed its decision on 20 March 2014 to lease the INC to Alpha Plus, based on the understanding that this provided best consideration for the Council.

Internal consultation and scrutiny

Kroll identified documents which demonstrated that internal consultation took place within RBKC as to the decision to offer a lease on the site, as well as to award the lease to Alpha Plus, particularly with the Education and Legal Departments. The case was also considered by two Scrutiny Committees.

Councillors for the Education Department had requested to be kept informed of the bidders' details during the initial rounds of the bidding process in November 2013. Corporate Property conducted some non-binding consultation on the top seven bids, and then the final three bids, with the Education Department in November and December 2013, stressing that evaluations by the Education Department would not form part of the assessment criteria. Email communication in mid-December 2013, during the finalisation of the bid process, showed that the Education Department had concluded that the educational provisions of the top three bidders were very similar.

The Corporate Property Department consulted the internal Legal Department on a number of occasions, including when NHP offered an increased, unsolicited bid in March 2014. The Legal Department deferred judgment back to the Corporate Property Department on this matter but advised that reopening the bids after the process had concluded could prompt any of the bidders to file for judicial review. The Legal Department was also consulted in relation to whether community benefit should be considered and advised that this should not be taken into account as the bids had been sought on a commercial basis.

The transaction was subject to scrutiny from the HPSC and the CCSSC. Documents we have seen showed some differences of opinion as to which Scrutiny Committee was appropriate and some concerns were raised by certain Members about the adequacy of scrutiny by HPSC, and whether or not CCSSC was eligible to provide additional scrutiny on the decision.

Members of the CCSSC complained that they were not provided with adequate documentary evidence prior to the decision being made and expressed dissatisfaction that the decision to lease the site appeared to have been driven solely by commercial factors without consideration of other potentially relevant policies.

A number of Councillors raised concerns about the level of involvement of Cllr Feilding-Mellen as the elected Councillor and lead Member for Corporate Property, alleging that he had delegated too much decision-making power to unelected Officers. Former Cllr Feilding-Mellen stated in interview that he had not delegated decision-making responsibilities to Officers - they were carrying out a technical analysis of the bids and the ultimate decision would be taken by Cabinet, who could have chosen to go against the recommendation of Officers.

External advice

The Council engaged external advisors on a number of occasions throughout this Transaction. The Council engaged real estate advisors HNG to take the lease to market in 2013 and obtained external legal advice to support the Corporate Property Department's view that best consideration did not comprise any non-commercial criteria.

Public relations and community engagement

The Corporate Property Department developed a plan for community engagement on transactions within the Westway Strategy in 2012 through the publication of the Westway Newsletter, a pamphlet sent to approximately 10,000 households within the Westway area about the Council's Westway Strategy. No consultation was completed prior to the decision being taken – according to notes from a Cabinet and Corporate Services Committee meeting on the INC lease, the Corporate Property Department did not consider a private school to be a controversial tenant and therefore did not consider external consultation to be necessary.

Following the Corporate Property Department's recommendation that Alpha Plus provided the best offer for the INC, we understand that there was significant protest from various interest groups, particularly NHP parents and other supporters of NHP. Cllr Feilding-Mellen and the Corporate Property Department defended the decision to award the lease to Alpha Plus as its bid provided the best consideration for the Council.

Documents reviewed showed that there were allegations from public interest groups that Cllr Feilding-Mellen had a vested interest in awarding the lease to NHP or Alpha Plus, as his children were on the waiting lists at the schools. We identified no evidence to substantiate these allegations of bias in the decision-making process.

7.1 Rationale for the transaction and formal decision-making

7.1.1 Decision to release the site

The disposal of the INC was in line with RBKC's strategic objectives beginning in 2009. Its release was considered in the 2010 King Sturge review and the 2020 Corporate Property Strategy, when it was designated *"surplus to requirements".*[70] Further correspondence from 2011 and 2012 indicated that the Property Policy Board considered that *"freeing up"* the INC *"will create significant savings and receipts (capital or revenue) for the Council",*[71] and could also *"allow the release of other assets".*[72] The minutes, which set out RBKC's Westway Strategy, noted that there were concerns that "*proposals do not appear to hold service needs at front of thinking"* and that RBKC may no longer "*be able to provide teacher training as part of teachers' CPD"* if the INC was closed.[73]

The INC was used for teacher- training courses, ICT teaching space for local schools, and support services for children and family programmes. Documents showed that consideration was given to the Council employees who used the INC, and alternative locations were identified for those activities. The teacher-training spaces were re-located to the newly built Fox Primary School which housed a teacher-training and ICT hub approximately two kilometres from the INC.[74] Support services for family and children programmes were re-located to the Malton Road Hub, a two-minute walk away from the INC.[75]

However, the terms of the lease to Alpha Plus required that possession of the INC be taken in phased stages; Kroll identified from correspondence it reviewed from the spring of 2014, an instance where a Learning and Development Officer responsible for running courses at the INC had had to cancel programmes or move them to other RBKC facilities because of a lack of space at the INC, and by the

[70] Exhibit 33, Attachment to email, *NHP Briefing 2nd*, 25 February 2014
[71] Exhibit 34, RBKC Property Policy Board Meeting Minutes, 14 July 2011
[72] Exhibit 35, RBKC Housing and Property Budget Planning Bilateral Meeting Minutes, 5 July 2012
[73] Exhibit 36, RBKC Property Policy Board Meeting Minutes, 14 July 2011
[74] Exhibit 37, RBKC Draft Executive Decision Report Fox Primary School, 23 May 2014
[75] Exhibit 38, Third edition of the Westway Newsletter, March 2014

time the Corporate Property had informed him that some space in the INC was still available to them, the Officer had already cancelled some courses.[76]

7.1.2 Options considered for the release of the site: sale for development vs. leasing

In 2012 and the first half of 2013, Corporate Property considered multiple future uses of the INC site, including selling it to a third party for development into a mixed residential-commercial development, leasing the property to a private school or free school or developing the land for private housing.[77]

In January 2012, RBKC entered into an agreement with a developer, PEL, which was given a year to develop a proposal for a development on the INC site.[78]

In April 2013, PEL offered RBKC GBP 10.3 million to purchase the INC land.[79] The Corporate Property Department did not consider the offer attractive: communications between Cllr Feilding-Mellen and Mr. Clark showed that the Corporate Property team felt that the GBP 10.3 million figure was too low and there would be no ongoing income stream from the site after the sale.[80] When the agreement expired in January 2013, RBKC decided not to extend it, instead tasking the Corporate Property Department to carry out a new feasibility study.[81]

The Corporate Property Department was still considering various categories of desired tenant or purchaser in June 2013. In a Property Policy Board meeting, the Director of Corporate Property, Michael Clark posited that, once RBKC staff had been re-located to Kensington Town Hall or the Malton Road Hub as part of the SPACE Programme, the site would be "*free to be leased to perhaps a private school or developed into Private Rented Housing, similar to the Young Street Deal*".[82] This was prior to the INC being offered to market, which was scheduled to happen in the following weeks. In a report

[76] Exhibit 39, Email from Learning and Development Officer, *RE: Building works at the Isaac Newton PD Centre*, 19 March 2014

[77] Exhibit 40, RBKC Leader's Group Progress Report on the Asset Review Programme, 22 November 2015; Exhibit 41, RBKC Asset Review Programme Ongoing Projects Westway Programme, 1 October 2015; Exhibit 42, RBKC Executive Decision Report Isaac Newton Centre Confidential Part B Appendix, 24 February 2014

[78] Exhibit 40, RBKC Leader's Group Progress Report on the Asset Review Programme, 22 November 2015; Exhibit 41, RBKC Asset Review Programme Ongoing Projects Westway Programme, 1 October 2015; Exhibit 42, RBKC Executive Decision Report Isaac Newton Centre Confidential Part B Appendix, 24 February 2014

[79] Exhibit 42, RBKC Executive Decision Report Isaac Newton Centre Confidential Part B Appendix, 24 February 2014; Exhibit 43, Email from Cllr Rock Feilding-Mellen, *Fwd: Isaac Newton Centre council meeting*, 5 March 2014;

[80] Exhibit 42, RBKC Executive Decision Report Isaac Newton Centre Confidential Part B Appendix, 24 February 2014; Exhibit 43, Email from Cllr Rock Feilding-Mellen, *Fwd: Isaac Newton Centre council meeting*, 5 March 2014

[81] Exhibit 44, RBKC Property Policy Board Westway Programme Update, 5 February 2013; Exhibit 45, RBKC Leader's Group Progress Report on the Asset Review Programme, 7 November 2013

[82] Exhibit 46, RBKC Property Policy Board Progress Report on the Council's Property Strategy, 27 June 2013

to the HPSC in March 2014 providing an update on the INC project, Mr. Clark added "*at the time of going to market, Corporate Property was aware that there was considerable demand in the borough from private school operators, but was not in a position to know if this high demand would result in an offer of income that was more attractive than the offer that had been received [from PEL]*".[83]

In July 2013, the Corporate Property Department was informed that a free school had expressed interest in the INC site, and also that an unknown party had applied to have the site registered as an *"asset of community value".* Both of these would have decreased the sum obtainable for the INC: the first because Corporate Property would have been forced to sell to the free school at the *"existing use value"* rather than the *"benefit of hope value"* that could be obtained from a developer; and the second by limiting the kinds of planning permission that could be granted for the site.[84] The advice given to Cabinet was that, if the site was subject to a third-party lease this obligation would not apply, and therefore it was preferable to lease to a third-party. The application to have the site registered as an "*asset of community value"* was not referred to in the public or exempt Cabinet reports.

7.1.3 Consideration of different lease options

According to the Executive Decision report for the INC presented to Cabinet in February 2014, the Corporate Property Department considered two main lease options for the site: a medium-term lease (up to 25 years) of the building in its current condition and D1 planning designation, and a long-term lease (125 years) where the existing buildings would be demolished and redeveloped into a predominantly residential, mixed-use scheme.[85] According to the Executive Decision Report, the Corporate Property Department received advice that advertising for both a medium- and long-term lease and then comparing the offers would *"send a confusing message to the market,"* and was *"unlikely to allow the best deal to come forward."*[86]

With regard to the allegations that private school providers were being given preference, Kroll did not identify any indications that there was a particular bias towards private schools as the preferred category of tenant for the INC. In the first half of 2013, Cllr Feilding-Mellen explicitly asked Officers to give equal access to information and site visits to both educational and non-educational parties,[87] such

[83] Exhibit 47, RBKC Housing and Property Scrutiny Committee Report on Isaac Newton Centre 13 March 2014
[84] Exhibit 42, RBKC Executive Decision Report Isaac Newton Centre Confidential Part B Appendix, 24 February 2014; Exhibit 48, Email from Mr. Michael Clark*, Re: PDC*, 4 July 2013
[85] Exhibit 49, RBKC Executive Decision Report Isaac Newton Centre, 20 March 2014
[86] Exhibit 49, RBKC Executive Decision Report Isaac Newton Centre, 20 March 2014
[87] Exhibit 50, Email from Cllr Rock Feilding-Mellen, *Re: Cllr Daniel Moylan Referral*, 12 July 2013; Exhibit 252, Email from Michael Clark, *Re: Cllr Daniel Moyland Referral*, 23 July 2013

as the Sheppard Trust, which was interested in the site to develop as housing for the elderly.[88] However, a report to Cabinet in February 2014[89] and the third Westway Newsletter,[90] distributed to the public in March 2014, both specify that the lease was intended to deliver the site for educational use. As this was at the conclusion of the bidding process, it was clear that the best bids were from private education providers. According to the Cabinet report, Corporate Property had been inundated with interest from school providers and wished to take advantage of the strong demand in the borough to obtain the maximum possible rental value.

Alpha Plus, one of the companies interested in leasing the INC for educational purposes, was highlighted in blog posts from Grenfell Action and 'From the Hornets' Nest' as being a subsidiary of Delancey Real Estate Management, a company founded by property baron James Ritblat. Sir John Ritblat, a prominent donor to the Conservative Party and James' father, was also the Chair of Alpha Plus' Board of Governors. Certain blogposts alluded to their being a political motivation for RBKC to ultimate award the lease of the INC to Alpha Plus. Kroll did not identify any document to substantiate this claim through a review of email correspondence and interviews.[91]

7.1.4 The tender process, consideration of lessor and decision to award the lease to Alpha Plus

The tender process ran in three rounds from September to December 2013, with three bidders, NHP, Alpha Plus, and Educas being selected for final consideration in the submission to Cabinet. NHP offered two rent options, one of which was the highest yearly rent figure of any bidder at GBP 2.04 million per year which included an eight-month rent-free period. Alpha Plus and Educas did not include any rent-free periods in their bids. In addition, Alpha Plus offered an upward-only rent review after the first five years, while both NHP and Educas offered an upward or downward review.[92]

Although NHP's offer of GBP 2.04 million per year was the highest annual rental value, when the Corporate Property Department took into account the rent-free period in the NHP bid together with the anticipated likely outcome of the five-year rent review, the Corporate Property Department determined that Alpha Plus' bid was the most attractive, offering RBKC a minimum of GBP 20.2 million over the first ten years compared with GBP 19.6 million being offered by NHP. Based on the comparison of rent

[88] Exhibit 51, Email from Cllr Rock Feilding-Mellen, *Re: Shepherds Trust*, 20 June 2013
[89] Exhibit 253, Attachment to email, *NHP Briefing 2nd*, 25 February 2014
[90] Exhibit 52, RBKC Draft Westway Newsletter, 25 March 2014
[91] "*North Ken Library – Bad Blood and Backroom Deals*", Grenfell Action, weblink here. "*Scrutiny Committee has chance to right a wrong tonight*", From the Hornet's Nest, weblink here. "*The Ritblat Family and our Council*", weblink here.
[92] Exhibit 53, Email from Senior Development Surveyor, *RE: Isaac Newton Centre PDC*, 18 December 2013

obtainable over ten years, Corporate Property recommended the lease be granted to Alpha Plus, and the Cabinet proceeded with this recommendation, in March 2014.

It was noted in the PPB meeting on 16 January 2014 that "*the Board agreed that a GBP 2 million value for the Isaac Newton Centre was a genuine surprise*".[93] The Cabinet decision had been scheduled for 24 February 2014 but was delayed for a number of weeks due to a complaint, from NHP over the Corporate Property team's selection of Alpha Plus as its recommended bidder. NHP raised allegations about the bidding process and the basis on which Alpha Plus was selected, as outlined previously in this Report.

7.1.5 NHP complaints about the tender decision

NHP made three main complaints to RBKC about the Corporate Property Department's decision to recommend Alpha Plus for the INC lease: the failure to consider community benefits, the threat to their own survival if a competitor were to move in next door, and related traffic considerations. These are considered in the following section.

First, NHP's bid had included a provision of *"community benefits,"* comprising the provision of several bursary places and its partnership and facilities-sharing arrangement with the Lancaster Youth Centre and the Scuola Italiana a Londra ("**SIAL**").[94] In a letter sent to Cllr Feilding-Mellen on 11 December 2013, NHP valued these contributions at GBP 170,000 per year. NHP claimed they had been told these community benefits would be considered in the judgment of the bids and that the Corporate Property Department had later changed its mind.

Secondly, given that NHP's current building was directly adjacent to the INC, NHP argued that *"the prospect of the Council renting the INC site to a direct competitor constitutes an existential threat to our longer term ability to survive".*[95]

Finally, NHP asserted that as a local school founded by neighbourhood parents, it had a greater commitment to maintaining a low impact on area traffic, in contrast to Chepstow House, a newly-established school run by a "*profit-seeking corporation*," which it believed would seek to attract pupils from across London and would therefore pay less attention to local traffic.[96] NHP further alleged in

[93] Exhibit 54, Property Policy Board Minutes, 16 January 2014
[94] Exhibit 55, Isaac Newton Centre Draft Heads of Terms Notting Hill Preparatory School, 3 March 2014; Exhibit 56, Notting Hill Preparatory School Letter to Cllr Rock Cllr Feilding-Mellen, 11 December 2013
[95] Exhibit 57, Notting Hill Preparatory School Letter to Cllrs Paget-Brown, Lightfoot and Cllr Feilding-Mellen, 3 March 2014
[96] Exhibit 58, Complaint from NHP on tender process, 13 February 2014

February 2014 that the Corporate Property Department had applied for a Certificate of Lawful Existing Use and Development ("**CLEUD**") for the INC specifically in order to prevent the Planning Department from assessing the traffic implications of Alpha Plus moving in.[97] A project update document shows that the CLEUD application had been submitted as of 23 January 2014[98] and approved as of 11 April 2014.[99]

7.1.6 RBKC's response to complaints about the tender process

Cllr Feilding-Mellen defended the Corporate Property Department's approach to handling the bids in several internal emails in February and March 2014. In the first instance, he stated to RBKC's Leader, Cllr Nicholas Paget-Brown that financial considerations had *"always"* been *"the primary drivers in the decision-making process,"* in line with the Strategy, and that Alpha Plus *"pledged to match the community benefits offered by any other bidder".* [100]

On the issue of bursaries, he wrote that accepting a lower rent level for the sake of a small number of bursaries to a private school ran counter to the Council's aim of generating as much revenue from the property as possible. He offered the hypothetical alternative of the Council offering its own bursaries rather than effectively sponsoring bursaries over which it had no control: *"If the Council decides that it should be spending tax-payers' money on sending disadvantaged children to private schools, would it not be more sensible for us to maximise the rent we receive and then run the bursary programme ourselves, so we can make sure it meets our own objectives and criteria".*[101]

On the issue of traffic, Cllr Feilding-Mellen stated that as NHP planned to lease its existing building to SIAL, there would be a large increase in the number of school children in the immediate area no matter which bidder was successful. He wrote in an email to Cllr Paget-Brown that "*we will require a gold standard travel management plan (like NHP) as a condition in the lease"* from Alpha Plus since NHP had included this as part of their offer.[102]

In an internal RBKC email discussion on 17 March 2014, Mr. Clark also suggested that NHP had understood community benefits were outside the bidding criteria, saying: "*Why go outside the process*

[97] Exhibit 59, Complaint from NHP on tender process, 13 February 2014
[98] Exhibit 60, RBKC Investment Dashboard Isaac Newton Centre, 28 January 2014
[99] Exhibit 61, RBKC Investment Dashboard Isaac Newton Centre, 22 April 2014
[100] Exhibit 62, Email from Cllr Rock Feilding-Mellen, *Fwd: NHP hearing at the Scrutiny Committee for Cabinet & Governance today, Monday 17th February 2014,* 17 February 2014
[101] Exhibit 63, Email from Cllr Rock Feilding-Mellen, *Draft email to group members??*, 28 February 2014
[102] Exhibit 62, Email from Cllr Rock Feilding-Mellen, *Fwd: NHP hearing at the Scrutiny Committee for Cabinet & Governance today, Monday 17th February 2014,* 17 February 2014

if their agent and NHP believed we were accepting these types of benefits. Quite the opposite. NHP knew we weren't accepting them, so went out and lobbied for them to be accepted".[103]

The PPB discussed NHP's likely responses to the awarding of the lease at a meeting in March 2014. One of the scenarios discussed involved the possibility of NHP issuing a judicial review against the Council in response to the decision. The minutes stated that "*[the Council] must ensure that we can demonstrate that a properly considered process was adhered to. The strongest arguments around monetary considerations, as opposed to social economic considerations, should be maintained (particularly as these are the views of the majority party"* in response to a potential judicial review.[104] Kroll is not aware of any judicial review application filed by NHP against RBKC relating to the decision.

7.1.6.1 Demonstration of best consideration

RBKC was required to demonstrate that the INC bid selected represented *"best consideration"* under section 123 of the Local Government Act 1972. This was documented at several points: The Corporate Property Department's recommendation of Alpha Plus in January 2014, the Leader's Group endorsement of the recommendation in February, and the Cabinet's ultimate decision in March. The Corporate Property Department, the marketing agents HNG and an independent QC whose opinion was commissioned by RBKC in February 2014, all concluded that Alpha Plus' bid represented best consideration.

The Corporate Property Department's assessment in January was based on financial criteria including covenant strength, rent level at several intervals, rent-free period, and rent-review percentages and conditions.[105]

The independent QC's legal opinion,[106] submitted to RBKC on 26 February 2014, specifically stated that according to the body of case law on Section 123, best consideration was primarily demonstrated by the commercial value. The QC determined that some additional factors could be included in the calculation of best consideration, for example the retention of legal rights in the property, but was clear that these additional factors must have a quantifiable commercial value and that this did not include elements of purely social value.

[103] Exhibit 64, Email from Mr. Michael Clark, *RE: Documents from NHP*, 17 March 2014

[104] Exhibit 65, Property Policy Board Minutes, 6 March 2014

[105] Exhibit 66, Corporate Property Department Isaac Newton Centre Bid Summary, 14 January 2014

[106] For further detail on external legal advice, see section 7.3, involvement of external advisors.

In March 2014, three months after bids were closed, NHP submitted a further, unsolicited bid with a higher rent figure, arguing that bidding should be reopened and that failing to do so would be a breach of section 123 of the Local Government Act.[107] NHP also highlighted Circular 06/2003 on General Disposal Consent from the Local Government Act to bolster its case, stating that this circular gave a local authority the ability *"to take a decision based on the promotion of the social, economic and environmental well-being of the community even if to do so does not necessarily achieve the best commercial value (provided the difference between competing bids is less than GBP 2m)."*[108] NHP noted that the Council had previously relied on this circular in other recent Decisions.[109]

The Corporate Property Department sought internal legal advice on whether they needed to reopen bidding and were told it would contravene the agreed tender process.[110] In addition, the QC assessed NHP's revised bid and found that the higher rent figure did not provide best consideration because it was *"contingent upon both finance and the successful sub-letting of NHP's existing premises,"* meaning that Alpha Plus' bid was still stronger *"in terms of deliverability and strength of covenant."*[111] RBKC also consulted its marketing agent, Mark Belsham of HNG, who wrote that *"on balance,"* he did *"not feel that [NHP's] revised bid is substantially above Alpha's".*[112]

7.1.6.2 Analysis of other bidders' community offers

As outlined in the previous section, RBKC maintained that Alpha Plus' offer represented best consideration. However, faced with a significant volume of emails from constituents in December 2013 supporting NHP's bid, with special emphasis on the community benefits, the Corporate Property Department decided informally to assess the community benefits offered by all three top bidders in order to address NHP's concerns. In order to do this, in December 2013, RBKC asked the other two top bidders, Alpha Plus and Educas, for details on their community offerings in order to make a comparison, although an internal email stressed that this would be only *"for information and will not form part of any recommendation."*[113] In response, both Alpha Plus and Educas emphasised they would be active members of the local community: Alpha Plus outlined the bursaries it provided and pledged

[107] Exhibit 67, RBKC Letter to Notting Hill Preparatory School, 10 March 2014
[108] Exhibit 68, Notting Hill Preparatory School Letter to Cllr Rock Cllr Feilding-Mellen, 6 March 2014
[109] Decisions involving 67 Golborne Road and 1 Webb Close, Dalgarno
[110] Exhibit 69, Email from Principal Solicitor (Property), RE: *Legal Q: s123 LGA - Isaac Newton Centre CORRECTED VERSION*, 2 March 2014
[111] Exhibit 70, Independent QC - Opinion with addendum, 6 March 2014
[112] Exhibit 71, HNG Letter to RBKC on NHP, 6 March 2014
[113] Exhibit 72, Email from Mr. Richard Egan, *RE: The Isaac Newton Centre-response*, 19 December 2013

to match any *“community benefits”* offered by other bidders, and Educas stated it would build a new auditorium which would be available for use by local groups.[114]

7.1.6.3 Lack of clarity on bid criteria in communication to bidders

HNG, the marketing agent appointed to run the tender process, communicated directly with the bidders and their agents. HNG’s main interlocutor at RBKC was a Senior Development Surveyor in the Corporate Property Department. The Surveyor’s mailbox was not available for review due to the Council’s previous data retention policy,[115] so our analysis has relied on email correspondence she had with colleagues and some messages forwarded to them in early March 2014, in order to reconstruct the nature of communications to the bidders during tendering from September to December 2013.

NHP alleged that HNG had misled them during the bidding process, and that they had been informed that the *“community benefit”* offered by a bidder would be taken into account as one of the judgment criteria.[116] They reported that they had been told that financial offer, covenant strength, and social benefits would be equally weighted in the assessment of bids. Emails from other NHP supporters to Councillors also referenced their belief that *“the Council is considering these bids not only from a financial perspective, but also in terms of the quality of the tenants and their contribution to the wider community.”* [117]

The Property Particulars document published by HNG does not include any detail about the categories on which the bids would be assessed. It does request that all bids include the following information: identity of the tenant, company number, audited accounts, *"description of business and intended use,"* lease terms, rental bid, and other technical details.[118] According to Richard Egan, Head of Investment and Development at the Corporate Property Department in December 2013, *“no direction was given with regard to how bids would be evaluated .”*[119] HNG’s representative asserted to RBKC in March 2014 that he had never led NHP to believe bids would be evaluated equally in three parts, noting that *“community benefits is an NHP expression. None of the interested parties were asked to value community benefits.”*[120]

[114] Exhibit 53, Email from Senior Development Surveyor, *RE: Isaac Newton Centre PDC*, 18 December 2013
[115] See Section 2.3, Data Retention Caveat
[116] Exhibit 73, Witness Statement of Mr. Patrick Ryan, Levy Real Estate LLP, 13 March 2014
[117] Exhibit 74, Email from Dr. G J Savage, *Notting Hill Preparatory School,* 9 December 2013
[118] Exhibit 75, Property Particulars Isaac Newton Centre, 20 February 2014; Exhibit 254, Marketing Proposal Isaac Newton Centre, 7 August 2013
[119] Exhibit 72, Email from Mr. Richard Egan, *RE: The Isaac Newton Centre-response*, 19 December 2013
[120] Exhibit 76, Email from Mr. Mark Belsham, *RE:* , 17 March 2014

No references to community benefits were found in copies of HNG's emails to bidders saved by the Senior Development Surveyor and later shared with colleagues in response to protests by NHP.[121]

7.1.6.4 Internal confusion on bid criteria

Correspondence shows that while HNG was presenting analysis of the bids primarily based on financial criteria, it was not understood across the board at RBKC that community benefits would not be considered during the period when the bids were being judged.

HNG prepared comparison charts of the bids for the second,[122] third,[123] and fourth[124] rounds of bids. These tables measured the bidders against multiple criteria, mainly financial in the early rounds, but including both financial and softer criteria for the fourth round of bids, which comprised the top three bidders, such as *"community," "motto," and "style."* For instance, NHP's *"style"* was *"founded by local parents to service the needs of local residents for primary school education,"* and Alpha Plus' *"style"* was *"London and South East schools' group. Co-educational, Non-denominational, independent school pre-prep and prep school from reception class to year 8 (13 yrs old)."*[125]

Multiple emails from Cllr Feilding-Mellen to colleagues in December 2013 suggested that he understood that community benefits could be considered. On 16 December 2013, he wrote that bidders should be told *"the key considerations (rent, community benefits, covenant, etc?) that we will assess when making a decision."*[126] On 16 December 2013, he wrote to Councillor Emma Will that *"In the end we'll [the Cabinet] have to weigh up the headline rent, the covenant, and any other relevant issues (extra traffic, community benefits, etc). It is all pretty close right now I think."*[127] On 17 December 2013, he wrote to all RBKC Councillors saying, *"Cabinet will still consider all elements in the round, including the possible community benefit from each bid. However, the financial implications of each bid (rental offer and covenant strength) will be very important as has always been the case – remember that Cabinet's priority was to secure the highest income stream from this property, NOT to get a new private school there."*[128]

As late as 20 February 2014, Cllr Feilding-Mellen questioned how the criteria for judgment had been communicated to bidders: *"Is it a bit worrying that the marketing particulars state in bold that we might*

[121] Exhibit 77, Email from Mr. Mark *Belsham, Isaac Newton Centre*, 5 December 2013
[122] Exhibit 78, Isaac Newton Centre Comparison of Second Round Bids, 22 November 2013
[123] Exhibit 79, Isaac Newton Centre Rent Ranking of Second Round Bids, 26 November 2013
[124] Exhibit 80, Isaac Newton Centre Comparison of Fourth Round Bids, 19 December 2013
[125] Exhibit 80, Isaac Newton Centre Comparison of Fourth Round Bids, 19 December 2013
[126] Exhibit 81, Email from Cllr Rock Feilding-Mellen, *FW: The Isaac Newton Centre*, 16 December 2013
[127] Exhibit 82, Email from Cllr Rock Feilding-Mellen, *Re: The Isaac Newton Centre*, 17 December 2013
[128] Exhibit 83, Email from Cllr Rock Feilding-Mellen, *Re: Bid for the Isaac Newton Centre*, 17 December 2013

NOT accept the highest bid??"[129] This was picked up by NHP's head Jane Cameron in an email to Cllr Feilding-Mellen on 28 February 2014: *"One of the few written conditions was that 'the Council reserves the right not to award the bid to the highest bidder'. This was subsequently directly contradicted both on paper and at recent public meetings, at which Councillors stated that highest financial value was the sole criteria in their recommendation and always had been."*[130]

The Corporate Property Department discussed this lack of clarity internally at the Property Policy Board on 13 March 2014, with Cllr Feilding-Mellen asking if future lettings criteria could include a statement on RBKC's property strategy, and Mr. Clark agreeing *"to give best consideration for our marketing tactics."*[131]

7.1.6.5 Applicability of RBKC strategies and codes

Internal correspondence shows that the Corporate Property Department received complaints both from bidders and other Councillors about its treatment of the INC disposal as a commercial transaction, and about alleged disregard shown for the Council's other objectives and responsibilities, as outlined in several strategies and codes.

In February 2014, the Cabinet and Corporate Services Scrutiny Committee Chair, Labour Councillor Emma Dent Coad, considered that there was a *"disconnect"* between the Core Strategy 2010 and the way the Property Department had operated in the leasing of the INC.[132]

Cllr Dent Coad emailed Nicholas Holgate, RBKC's Town Clerk, in late March 2014, stating that the disposal of the INC on purely commercial terms violated the 2020 Corporate Property Strategy. She provided an excerpt from a summary of the Strategy, which stated that commercial leases should be *"subject to the current local development framework and other community considerations."* A member of the Corporate Property Department responded to Cllr Dent Coad's claims, stating that because the INC was retaining its D1 educational use and the Corporate Property Department had applied for a CLEUD, the lease was technically not subject to the local development framework. The response additionally stated that "*if a change of use were sought, then this would equate to 'development' in planning terms and would require planning permission, which would also need to accord with the relevant planning policies"*.[133] A statement was also provided by the Executive Director of Planning and

[129] Exhibit 84, Email from Cllr Rock Feilding-Mellen, *Re: Draft note on NHP*, 20 February 2014
[130] Exhibit 85, Email from Ms. Jane Cameron, *5th March RBKC Debate over bid for INC W11*, 28 February 2014
[131] Exhibit 86, Reference from the Cabinet and Corporate Scrutiny Committee to Cabinet, 17 March 2014
[132] Exhibit 87, RBKC Report of the Cabinet and Corporate Services Scrutiny Committee, 24 February 2014
[133] Exhibit 88, Email from Mr. Michael Clark, *RE: Response to Cllr Dent Coad: Property Board/Property Stakeholder Board/Corporate Property Strategy*, 4 April 2014

Borough Development, reiterating the same, stating "*The Core Strategy is part of the statutory development plan for the borough. The development plan contains policies which set out the Council's approach to the development of land. It only bites where development is involved. But the use as a school is not development. There is no policy in the Core Strategy that can be applied to favour one D1 activity over another, because no planning control is exercisable*".[134]

7.1.7 Communications with bidders

Before and during the bidding process, Officers from the Corporate Property Department were also undertaking separate negotiations with NHP over the development of the INC car park, part of which had been leased to NHP for use as a playground since 2008.[135] This gave rise to allegations from Alpha Plus that RBKC was closer to NHP than to the other bidders and that this gave them an unfair advantage. This perception persisted despite the fact that NHP's bid for the INC lease was not successful. Communications reviewed by Kroll showed the Corporate Property Department was aware of the perception that discussions with NHP could appear unfair and therefore attempted to minimise engagement with NHP during the bidding process.

Before the start of the tender process, NHP had general meetings with RBKC, one of which included a discussion of NHP's *"priorities and wish list of ideas"* for the use of the INC at a Property Digest Meeting in November 2012.[136] Communications with NHP show that Corporate Property overtly kept these discussions separate from the bidding process for the INC building itself, refusing two requests from NHP in December 2013 for a meeting to discuss the bid.[137] The team also redirected communications from SIAL, the Italian immersion school which intended to sublet NHP's existing building, to the marketing agent rather than dealing with them directly, with the explanation that they were *"trying to run a fair tender process for all parties."*[138]

On 7 January 2014, Graham Able, CEO of Alpha Plus, wrote to Cllr Feilding-Mellen suggesting *"there may have been further more specific dialogue"* with NHP on portions of their bid, to which Cllr Feilding-Mellen replied stating, *"I have had no 'more specific dialogue' with any of the bidders"*.[139]

[134] Exhibit 89, Statement from the Executive Director of Planning and Borough Development, March 2014.
[135] Exhibit 90, Draft Delegated Authority Decision Part Car Park Isaac Newton Centre, 9 August 2011
[136] Exhibit 91, Property Digest Meeting Minutes 22 November 2012
[137] Exhibit 92, Attachments to Mr. Patrick Ryan's Witness Statement 17 March 2014
[138] Exhibit 93, Email from Mr. Michael Clark, *RE: Isaac Newton Centre - Bid*, 22 November 2013; Exhibit 94, Email from Cllr Nicholas Paget-Brown, *RE: Bid for the Isaac Newton Centre*, 18 December 2013
[139] Exhibit 95, Email from Mr.Graham Able, *Private & confidential re Lancaster Road*, 7 January 2014; Exhibit 96, Email from Cllr Rock Cllr Feilding-Mellen, *Re: Private & confidential re Lancaster Road*, 8 January 2014

Only after the Corporate Property Department issued its recommendation of Alpha Plus as the preferred bidder to Cabinet, Cllr Feilding-Mellen began engaging in direct correspondence with the bidders, including both Jane Cameron, headmistress of NHP, and Richard Jones of Alpha Plus.[140] In particular, Cllr Feilding-Mellen arranged to meet with several NHP representatives in the weeks following Corporate Property's recommendation Alpha Plus to *"discuss [their] needs for the future"."*[141] Further discussions with NHP focused on the school's interest in the North Kensington Library, as described further in Section 8.1.2.

[140] Exhibit 97, Email from Mr. Graham Able, *Lancaster Road*, 21 January 2014
[141] Exhibit 98, Email from Ms. Jane Cameron, *Re: Isaac Newton Centre*, 31 January 2014; Exhibit 99, Email from Cllr Rock Cllr Feilding-Mellen, *Re: The Isaac Newton Centre*, 15 January 2014; Exhibit 100, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014; Exhibit 101, Email from Mr. Michael Clark, *RE: Isaac Newton Centre bids*, 7 February 2014

7.2 Internal consultation and scrutiny

Kroll identified evidence of internal consultation with other RBKC departments, including education and legal, during tendering, and in the first few months of 2014 as the Council prepared to award the lease to Alpha Plus. The decision was also considered by two scrutiny committees.

7.2.1 Consultation with internal stakeholders

This section sets out specific concerns raised by internal Council stakeholders, as well as other consultation with the Education and Legal Departments regarding the progression of the transaction. The Planning Department was not consulted as Corporate Property had applied for a CLEUD[142] and therefore no planning permission was necessary to lease the site to a school.

The public decision report noted that it was considered that no equality implications were to arise from the leasing of the INC.

7.2.1.1 Education Department

The Senior Development Surveyor wrote to two Education Department colleagues on 26 November 2013 asking for their "*feedback*" on the top seven bidders, while stressing that it would "*not form part of the scoring criteria used to assess the bids*".[143] However, when Cllr Emma Will from the Family and Children's Services Scrutiny Committee asked to be informed of bidders' details the same month,[144] Mr. Clark indicated that the team needed to "*wait until full and final offers come in and then we can discuss the proposals with Education colleagues and seek input from Cllr Will*".[145]

When the Corporate Property Department did meet with Councillor Will in December 2013 to discuss the top three bids, she raised no objections, according to Property Policy Board meeting minutes.[146] Emails to bidders from mid-December soliciting final offers indicate that the Education Department had concluded that the educational provisions of the top three bidders were very similar.[147]

[142] Certificate of Lawful Existing Use or Development – a legal document granted by a local planning authority to retroactively approve development activity, which certifies that the use of the building is lawful and prevents enforcement action being taken.
[143] Exhibit 102, Email from Mr. Ian Heggs, *FW: Isaac Newton Centre bidders*, 27 November 2013
[144] Exhibit 103, Email from Cllr Emma Will, *Re: Isaac Newton Centre - bid*, 22 November 2013
[145] Exhibit 104, Email from Mr. Michael Clark, *RE: Isaac Newton Centre - bid*, 22 November 2013
[146] Exhibit 105, RBKC Property Policy Board Meeting Minutes 5 December 2013
[147] Exhibit 106, Copy of email from Mr. Mark Belsham, *Isaac Newton Centre*, 13 December 2013

7.2.1.2 Legal Department

The Corporate Property Department sought internal legal advice at several junctures, including when NHP offered an increased, unsolicited bid in March 2014,[148] and in response to NHP's view that RBKC was wrong to not consider community benefits.

In the first case, Tasnim Shawkat, Director of Law, recommended that Cllr Feilding-Mellen defer judgment to Mr. Clark as the Director for Corporate Property and Customer Services, as he would be the most familiar with how the offer was presented and "*would be able to advise you on the options based on the particular facts of this case*".[149] In the second case, a solicitor for RBKC advised that the Council could have opted to make its decision "*based on social or economic well-being*" but that as it had sought bids on a commercial basis, there was a risk of legal action by the other bidders if the criteria for assessment were changed after the fact. He advised Cabinet "*not to take this [NHP's community benefit offer] into account*."[150]

RBKC subsequently retained outside counsel to give an opinion on these issues as NHP remained unsatisfied (see Section 7.3, involvement of external advisors).

7.2.2 Scrutiny committees

Kroll's review of internal communications has identified that the decision to lease the INC was subject to scrutiny from both the HPSC and CCSSC. The decision was "*called-in*" after concerns were raised by the CCSSC. Following further consideration by Cabinet the Cabinet upheld its original decision to award the lease to Alpha Plus.

7.2.2.1 Diamond rating

The decision to award the lease to Alpha Plus was allocated a 'one diamond' rating.[151]Given the high level of interest from certain groups supporting NHP and the strength of NHP's allegations about the bidding process, in retrospect the appropriateness of the allocation of a one-diamond rating was questionable. However, despite the rating, the decision was discussed at Scrutiny Committee meetings for the HPSC and CCSSC, as set out below. This indicates that, whilst it could be argued that the

[148] Exhibit 107, Email from Cllr Rock Cllr Feilding-Mellen, *Isaac Newton Centre bids*, 5 February 2014
[149] Exhibit 108, Email from Ms. Tasnim Shawkat, *RE: Isaac Newton Centre bids*, 6 February 2014
[150] Exhibit 69, Email from Principal Solicitor (Property), *RE: Legal Q: s123 LGA - Isaac Newton Centre CORRECTED VERSION*, 2 March 2014
[151] Exhibit 109, Email from Cabinet Co-Ordinator, *RBKC Key Decisions 02/12/2013*, 12 February 2013; Exhibit 110, RBKC Key Decision Report for the Isaac Newton Centre 2014, weblink here

diamond allocation did not consider certain members of the public who felt that the decision had a significant impact, this did not affect the level of scrutiny the decision received.

7.2.2.2 Housing and Property Scrutiny Committee

The HPSC's responsibilities included scrutinising *"corporate asset management."*[152] The record identified for its review of the INC lease indicates the decision was placed on the agenda for the meeting on 13 March 2014,[153] when the Cabinet had originally planned to confirm the decision on 24 February 2014. No details of the HPSC's discussion on the INC were present in the meeting minutes. The section on the INC stated, *"the report was noted"*.[154] The Chair of this committee commented in interview that this did not mean that no scrutiny had taken place around the decision, but reflected that no members of the committee felt that there were unanswered questions following the review of the report. This included no further challenge or clarification from opposition Councillors on the committee.

7.2.2.3 Cabinet and Corporate Services Scrutiny Committee

The Cabinet and Corporate Services Scrutiny Committee discussed the INC at two of its meetings: it was on the agenda for one meeting held before the decision was taken by Cabinet, and the CCSSC *"called-in"* Cabinet's decision with a cross-party majority for further scrutiny after the fact. Kroll understands from interviews that call-ins of decisions at that time were exceedingly rare at RBKC from Scrutiny Committees. Additionally, one Member of the CCSSC, expressed concern in a February email that CCSSC Members were not getting access to documentary evidence in time to review it properly ahead of the Cabinet decision.[155]

Cllr Quentin Marshall, Chair of the HPSC, queried whether CCSSC was the appropriate Scrutiny Committee on the basis that the INC transaction was *"very obviously a property matter so under HPSC."* In an email to Cllr Feilding-Mellen, he suggested that CCSSC Members may have been using their position to *"build political momentum in their favour."*[156] Based on RBKC's Constitution, it appears CCSSC was within its mandate to scrutinize the INC lease, as its remit included "*the achievement of effective, transparent and accountable decision-making by the Council," "consultation with the public,"*

[152] Exhibit 27, RBKC Constitution (June 2012), Part 2, Article 6
[153] Exhibit 111, Email from Governance Administrator, *HPSC - Final list of agenda items for 13 March Meeting - for information & action*, 15 January 2014
[154] Exhibit 112, RBKC Housing and Property Scrutiny Committee Meeting Minutes 13 March 2014
[155] Exhibit 113, Email from Cllr Julie Mills, *Re: Confidential - Isaac Newton Centre - Response to Jane Cameron's email*, 28 February 2014
[156] Exhibit 114, Email from Cllr Quentin Marshall, *Re: Confidential - Isaac Newton Centre - Response*, 1 March 2014

and *"regeneration and economic development"."* The Scrutiny Steering Group was ultimately responsible for mediating any disputes between committees on their respective boundaries.[157]

In its first discussion of the INC on 17 February 2014, Members of the CCSSC were concerned that the communication around the tender process had been too focused on the commercial aspect: *"Members commented that the Council cannot be a purely commercial operator. It has a community responsibility. There was now a more commercial approach to the disposal of its surplus assets and this needed to be handled more sensitively".*[158]

On 7 March 2014, the CCSSC unanimously *"called in"* the Cabinet's decision on the INC lease for further discussion. It met on 17 March 2014, and as a result of its discussions, agreed to *"recommend the Cabinet to reconsider the decision",* on several grounds, including: legal and procedural questions regarding *"best consideration;"* the relevance of Council policies including the Core Strategy and Community Strategy; and *"confusion of terms/appearance of fairness and transparency".*[159] The Cabinet met to go over the CCSSC's recommendations and ultimately upheld its decision to lease the INC to Alpha Plus.

Following Cabinet's decision to proceed, Cllr Dent Coad, the Chair of the CCSSC, requested a number of documents in late March 2016 from the Town Clerk, Mr. Holgate, to "*help her understand the decision-making process relating to the disposal of Council-owned property"*, which included minutes and agendas from the PPB. According to email communication, Kroll understands that Mr Holgate did not provide these to Cllr Dent Coad, stating that since the PPB was not a decision-making body that "*access to information requirements"* did not apply to the meetings. Mr. Holgate offered to explain this to Cllr Dent Coad and the uses for which the information would be used under the "*Protocol on Members' Rights of Access to Information"* from RBKC's Constitution.[160]

7.2.2.4 Issues raised over Member involvement in decision making

A number of councillors wrote to Cllr Feilding-Mellen and other colleagues in November and December 2013 raising concerns that his approach was too 'hands-off' and that Officers were taking decisions which should have been the responsibility of Councillors. In November, one member of the CCSSC wrote to Cllr Feilding Mellen asking , *"Who's running The Council!!!!! Last I heard it was Elected*

[157] Exhibit 28, RBKC Constitution (June 2013), Part 2, Article 6.02
[158] Exhibit 87, RBKC Report of the Cabinet and Corporate Services Scrutiny Committee, 24 February 2014
[159] Exhibit 86, RBKC Reference from the Cabinet and Corporate Service Scrutiny Committee, 20 March 2014
[160] Exhibit 115, email correspondence provided by Cllr Dent Coad.

Members. Or are we getting told now by Executive Directors and their staff what we must advise, do and think". [161] In December, another councillor expressed similar concerns that as Cllr Feilding-Mellen was on holiday *"the bidding will now be handled solely by the property department".* [162] Cllr Feilding-Mellen stated in interview that Officers were not making decisions but were performing technical analysis on the bids and that decisions made on the INC would ultimately be taken by Cabinet, based on the recommendations provided by Officers.

On several occasions in internal communications, Cllr Feilding-Mellen was clear that he believed it was correct for the Officers, as property experts, to run the process.[163] It appears the majority of the responsibility for managing the tender process was delegated to the Senior Development Surveyor. Mr. Clark wrote to her in March 2014 congratulating her for her work, saying, *"Really well done. I didn't really provide you with much guidance or steer (for a change) on how to market and run the bidding process and both yourself and the agent you employed were put under a fine microscope and came out with flying colours in all areas".*[164]

[161] Exhibit 116, Email from Cllr Julie Mills, *Fw: Isaac Newton Centre - Bid*, 22 November 2013
[162] Exhibit 255, Email from Cllr Catherine Faulks, *Bid for the Isaac Newton Centre*, 17 December 2013
[163] Exhibit 83, Email from Cllr Rock Cllr Feilding-Mellen, *Re: Bid for the Isaac Newton Centre,* 17 December 2013
[164] Exhibit 256, Email from Ms. LeVerne Parker, *FW: INC letting*, 21 March 2014

7.3 Involvement of external advisors

RBKC commissioned external property advice from several outside experts in the years leading up to the INC lease and to manage the tender process itself, and also obtained independent legal advice in response to objections raised by NHP.

The external property experts engaged include King Sturge in 2010;[165] Lambert Smith Hampton in 2012, in relation to the wider *"asset rationalisation programme;"*[166] the developer PEL through an exclusivity agreement in 2013;[167] and HNG Chartered Surveyors as marketing agents also in 2013.[168]

As documented above in Section 7.1.6.1(demonstration of best consideration), RBKC obtained legal advice from an independent QC, in response to complaints from NHP about alleged irregularities in the bidding process. The QC reviewed the marketing process and the recommendations made to Cabinet and concluded that although no independent valuation of the property had been obtained, the marketing process was appropriate and proper, and in accordance with the Local Government Act section 123.

[165] Exhibit 257, RBKC Leader's Group Progress Report on the Asset Review Programme, 7 November 2013
[166] Exhibit 117, RBKC Cabinet Report Appointment of a Supplier to Deliver Strategic Property Consultancy Services 22 March 2012
[167] Exhibit 44, RBKC Property Policy Board Westway Programme Update, 5 February 2013; Exhibit 257, RBKC Leader's Group Progress Report on the Asset Review Programme, 7 November 2013
[168] Exhibit 118, Corporate Property Executive Decisions as at 26 July 2013

7.4 Public relations and community engagement

Review of internal communication revealed differing views within the Corporate Property Department regarding the necessary level of consultation and public involvement in decision making in relation to the INC. External stakeholders including the bidders and members of the public raised concerns that RBKC's communications with them were misleading.

7.4.1 Community Engagement

In April 2012, Michael Clark instructed four Officers in the Corporate Property Department to start developing a *"comms/stakeholder engagement plan"* for the INC and other properties forming part of the Westway Strategy, together with the communications team.[169] Whilst Kroll has not been able to identify a specific document highlighting a plan, we understand that this included the distribution of the Westway Newsletter published in November 2012,[170] July 2013,[171] and March 2014, which contained overviews of the various options considered for the INC amongst other items. The March 2014 issue contained an announcement that a private school had been selected as a lessee.[172]

A November 2013 report to the Leader's Group on the Corporate Property Strategy 2020 stated that *"Corporate Property have continued to ensure all necessary stakeholders, including business groups are engaged and consulted as the above projects have developed, this process will continue".*[173]

No external public consultation was carried out by the Council in relation to the INC. This could be explained by a draft response prepared by the Corporate Property Department to questions from the Cabinet and Corporate Services Scrutiny committee which set out that: *"The proposed use as a private school was felt not to be a controversial tenant, unlike a supermarket or chain retailer and so was not consultated [sic] on with ward members or residents".*[174] A summary of the INC Key Decision points circulated internally at RBKC on 29 March 2014 contained a section for external consultation, which stated, *"Consultation details: no external consultation".*[175]

[169] Exhibit 119, Email from Mr. Michael Clark, *RE: PDC*, 11 April 2012.
[170] Exhibit 120, The Westway Newsletter Issue 1, 16 November 2012
[171] Exhibit 121, The Westway Newsletter Issue 2, 12 August 2013
[172] Exhibit 52, RBKC Draft Westway Newsletter, 25 March 2014
[173] Exhibit 122, Report by the Director of Corporate Property and Customer Services to the Leader's Group, 7 November 2013
[174] Exhibit 123, RBKC Cabinet Report Reference from the Cabinet and Corporate Service Scrutiny Committee, 20 March 2014
[175] Exhibit 124, Email from Cabinet Co-Ordinator, *RBKC Key Decisions for the week ending 29 March 2014*, 29 March 2014

7.4.2 RBKC response to NHP supporters' mass email campaigns

A significant number of advocates for NHP wrote to RBKC in December 2013 and February 2014 to complain about unfairness in the tender process. The first of these email campaigns was triggered by an email from HNG to NHP clarifying that *"community benefits"* were not part of the bidding criteria, and the second was triggered by Cllr Feilding-Mellen's email to the Head of NHP informing her that Corporate Property was recommending Alpha Plus for the lease. One email from a likely parent of NHP stated that RBKC had *"set aside the needs of the broader community in favour of a small, profit seeking, minority"* [176] Based on internal documents and communications reviewed, Cllr Feilding-Mellen coordinated a measured, consistent response to the campaigns.

On 8, 9, and 10 December 2013, a large number of NHP parents and other supporters emailed Cllr Feilding-Mellen and other Councillors advocating for the school. One of these advocates was the Italian ambassador to the United Kingdom, who wrote in support of the Scuola Italiana a Londra, which intended to sublet NHP's existing school building across the street from the INC. [177] Councillors responded noncommittally; in one email Cllr Feilding-Mellen stated *"in the end the decision will be taken by the whole Cabinet, not just me, and we will have to go with the bid that delivers best value to the Council (i.e. local Council tax payers)."*[178]

In a similar campaign to the one conducted in early December 2013, a large number of NHP supporters sent emails to RBKC Councillors on 17 February 2014 and several days following.[179] One of these described the lease as a *"crackpot scheme…that was conceived just to make as much money as possible. That surely cannot be the primary purpose of any responsible Council body."*[180] On 4 March 2014, Cllr Feilding-Mellen wrote to the NHP supporters who had lobbied him in support of the school to explain Corporate Property's rationale for recommending Alpha Plus, noting that the team had *"reviewed the marketing and evaluation processes in great detail and made sure to double-check all the issues raised by NHP".*[181] RBKC's response to NHP supporters' concerns is laid out in Section 7.1.6 (RBKC's response to NHP's complaints).

[176] Exhibit 125, Email from Mr. Mike Humphries, *FW: Rock Feilding-Mellen response on Lease of the Isaac Newton Centre*, 5 March 2014
[177] Exhibit 126, Italian Ambassador letter to Nicholas Paget-Brown, 10 December 2013
[178] Exhibit 127, Email from Cllr Rock Feilding-Mellen, *Re: The Isaac Newton Centre*, 4 December 2013; Exhibit 128, Email from Cllr Rock Cllr Feilding-Mellen, *Re: Isaac Newton Centre*, 8 December 2013
[179] Exhibit 129, Email from Ms. Cosima Spender, *Isaac Newton Centre bid*, 17 February 2014; Exhibit 130, Email from Ms. Henrietta Conrad, *The Isaac Newton Centre in Lancaster Road*, 17 February 2014
[180] Exhibit 131, Email from Ms. Laura Sanderson, *FW: Proposed plans for the Isaac Newton Centre*., 20 February 2014
[181] Exhibit 132, Email from Cllr Rock Feilding-Mellen, *Fwd: Lease of Isaac Newton Centre*, 14 March 2014

7.4.3 Alleged conflict of interest: Councillors' children attending bidding schools

Grenfell Action Group alleged that Cllr Feilding-Mellen had a conflict of interest in his involvement in the INC lease as his children were on the waiting list for both NHP and Alpha Plus. At the Cabinet meeting on 20 March 2014, when the final decision was made on the INC lease, Cllr Feilding-Mellen disclosed that *"his twins were on the waiting list for Notting Hill Prep and on the waiting list for a nursery owned by Alpha Plus."*[182] We have not identified any evidence of undue influence based on these affiliations in internal email correspondence. As set out in section 7.1.3, other potential lessors were considered in the early stages and the rationale for the decision to lease to private schools was in order to achieve the best consideration.

7.5 Conclusions

In overview, the documents and communications reviewed by Kroll identified a number of examples whereby Officers and Members adhered to the requirements and standards as set out by the Constitution, including the seeking of advice, escalating decisions appropriately and demonstrating best consideration for the lease of INC. Alternative options were appraised by the Corporate Property Department and external consultation was considered.

7.5.1 Alignment with strategy

The decisions surrounding the INC lease were in line with the Corporate Property Strategy 2020, which sought to *"reduce operational property running costs"* by reducing floor space and releasing unneeded or badly-performing sites *"to produce commercial income".*[183]

Labour Councillor Emma Dent Coad objected to Corporate Property's management of the INC lease on the grounds that the release of properties under the Corporate Property Strategy 2020 needed to be in alignment with the Local Development Framework and *"other community considerations".*

Communications between the Planning Department and the Corporate Property Department concluded that as the use of the building was not being changed (i.e. it was to retain its D1 classification), it did not constitute a development to which the Local Development Framework would be applicable.

[182] Exhibit 133, RBKC Cabinet Meeting Minutes 20 March 2014, weblink here
[183] Exhibit 134, RBKC 2020 Corporate Property Strategy, weblink here

Although NHP's bid specifically referred to community benefit, Corporate Property did not take this into account in the determination of best consideration and obtained independent legal advice supporting that decision. Alpha Plus also committed to match the community benefits proposed by NHP. Cllr Feilding-Mellen articulated to his colleagues on several occasions that the Corporate Property Department's remit was to obtain the highest obtainable rent, specifically in order to fund RBKC programmes which would benefit the community.

7.5.2 Decision making and scrutiny

Based on the documents reviewed, Officers and Members conformed to RBKC's constitutional framework in the decision making process around leasing of the INC. Internal and external advice was sought at multiple stages in the process; decisions were escalated to two scrutiny committees; and Officers and Members were able to demonstrate that they achieved best consideration for the lease on the site. Kroll identified that RBKC considered several options internally, including a sale for redevelopment and several lengths of lease to different potential categories of tenants. The Corporate Property Department undertook a multi-round tendering process, managed through an external agent.

Despite this, Kroll found that during the decision-making process, it did not always appear to be clear, to the bidders and in some instances in internal communications, whether or not non-financial benefits to the community were to form part of the decision-making process, and it was only after the decision had been made that Officers and Members conclusively argued that they had obtained best consideration for the site, with support from external legal advice, in the face of considerable opposition from one of the unsuccessful bidders.

With regards to communication with stakeholders and public engagement, the Westway Newsletters published in November 2012 and July 2013 provided updates on RBKC's plans for the INC. The decision was placed on the publicly available Forward Plan and was discussed at a Cabinet meeting, which was open to the public. The Corporate Property Department did not conduct any external consultation on the decision as: (i) they did not consider NHP to be a controversial tenant; and (ii) as the building was underutilized and provided back office services for the Council rather than community services.

With regards to the level of involvement of the responsible Cabinet Member in decision making, Kroll identified differing views between Members about the appropriate level of involvement. Certain Members alleged that Cllr Feilding-Mellen devolved too much responsibility for the INC lease decision to the Corporate Property Officers, but he countered that the Officers, as professionals in their field, were performing analysis of the bids, and that their work would inform their recommendation to Cabinet.

Cllr Feilding-Mellen emphasised this point in interview, confirming that it was the job of the Officers to analyse the various options surrounding the transactions and present these to Cabinet for debate and approval. This is in line with Kroll's understanding of the constitutional requirements of Officers.

The review also identified internal disagreement on which scrutiny committee was eligible to concern itself with the INC lease, with concerns expressed that CCSSC Members were involving themselves in matters beyond their purview with a political motivation. the CCSSC recommendation not to grant the lease to Alpha Plus was ultimately disregarded by Cabinet in favour of the recommendation from Corporate Property.

Review of meeting minutes for the HPSC did not identify any detailed consideration of the Transaction prior to the adoption by Cabinet. This was in contrast to the CCSSC meeting, during which Members raised a number of other points for consideration, including whether community benefits should have been considered and risks of delaying the decision, including potential judicial review and loss of income for RBKC.[184]

Documents reviewed by Kroll showed that RBKC identified suitable replacement accommodation for the services provided from the INC. Kroll identified just one instance where a Learning and Development Officer of the Council cancelled classes due to the perception of a lack of space at the facilities.

7.5.3 Response to specific allegations

Kroll's review identified the following specific allegations relating to the lease of the INC. Each allegation is considered in the context of the detailed analysis set out in the preceding sections.

Allegation 1 – Community benefit

NHP raised objections in early 2014 that the Council had not properly considered the value of NHP's community engagement considerations in reaching their decision to lease the INC to Alpha Plus. A group of parents and other local residents also wrote to the Council following the decision to lease the site to Alpha Plus, expressing their dissatisfaction with the decision on the basis of potential increased traffic impact and their allegiance to NHP as an existing local school.

[184] Exhibit 135, RBKC Cabinet Part B Minutes, 6 March 2014

Kroll analysis:

RBKC's advertisement of the lease did not include detail on the criteria it would use for assessing the bids, and internal emails showed some different views as to what the bidding criteria would be during the bidding process. Documents reviewed by Kroll support the conclusion that the decision was ultimately made on financial criteria, i.e. obtaining the best consideration for the Council. Kroll also identified evidence of consideration of community benefits, deemed to be broadly equivalent, and not included as part of the rationale for Cabinet's final decision. This approach was confirmed as properly achieving best consideration by independent legal advice.

Allegation 2 – Conflict of interest

The Grenfell Action Group ("**Grenfell Action**") raised concerns of a potential conflict of interest involving Cllr Feilding-Mellen. Specifically, Grenfell Action raised concerns that Cllr Feilding-Mellen recommended that *"public community resources"* should be leased to private schools *"in which he had personal interests."*[185] This refers to the allegation that Cllr Feilding-Mellen's children were on the waiting list of the schools which would benefit from this (and the NKL) transaction.

Kroll analysis

At the Cabinet meeting on 20 March 2014, Cllr Feilding-Mellen made a formal disclosure that his children were on the waiting list for a nursery school owned by Alpha Plus and for NHP. From the analysis conducted, Kroll did not identify any evidence that Cllr Feilding-Mellen was exerting any undue influence for any personal benefit. Earlier in the process, a number of non-educational providers were considered as potential lessees. Both Alpha Plus and NHP were given consideration in the INC transaction as well as the other transactions set out in the following sections.

Allegation 3 – Conflict of interest

Grenfell Action alleged that decision making around the awarding of the lease to Chepstow House (and its owners Alpha Plus) was influenced by political motivations, particularly that the owner of Alpha Plus, Jamie Ritblat and his father John Ritblat were major Conservative Party donors during the relevant period, and this gave them an unfair advantage in the decision of granting the lease.[186]

[185] Exhibit 136, "*Cllr Feilding-Mellen Bang To Rights? – Not Just Yet*!" Grenfell Action Group, 29 June 2016, weblink here
[186] Exhibit 137, "North Ken Library – Bad Blood And Backroom Deals," *Grenfell Action Group*, 4 May 2016, weblink here

Kroll analysis

Public records indicate that the Ritblats and their companies did make donations to the Conservative Party.[187] From internal correspondence reviewed by Kroll, no evidence has been identified that would suggest that Alpha Plus received an unfair advantage in the bidding based on this. Correspondence between RBKC and Alpha Plus executives was limited to factual presentation of Alpha Plus' bid, and Jamie and John Ritblat were copied on several of these emails.

[187] Searches of the UK Electoral Commission's database of donations have identified a donation of GBP 10,000 to the Conservative Party from Jamie Ritblat in 2015,187 and nine donations totalling GBP 250,000 between 2011 and 2015 from Delancey Real Estate Asset Management Limited. This company is part of the Ritblats' Delancey Group according to media reporting and is ultimately controlled by Jamie Ritblat according to UK corporate records.187 UK corporate records show that Alpha Plus Holdings PLC, which owns Chepstow House, the school occupying the INC, is also part of the same corporate structure: it is ultimately controlled by BVI company DV4 Limited, reportedly an "investment vehicle of Delancey Real Estate Management Limited,"187 funded by independent investors.

8. North Kensington Library

This section focuses on the decision to lease the NKL to NHP. NKL was the first purpose-built library in Kensington, opened in 1891.[188] The library has been a Grade II listed building since 1984 and is adjacent to NHP. In July 2017, RBKC took the decision to halt all regeneration projects in the borough and as a result NKL remains a public library.

The transaction was chosen for review due to public interest surrounding the library – in particular:

- Community group pressure to keep the library as a public resource;
- Questions raised over whether or not best consideration or value was achieved for the Council by leasing NKL to NHP and whether an appropriate competitive tendering process was followed;

Analysis of this transaction is presented with consideration to the following: Formal decision-making process, internal consultation and scrutiny, the role of advisors and the extent of engagement with the community and other stakeholders.

Timeline and decision making

In February 2012, RBKC's Head of Library Service, and the Tri-Borough Director of Libraries and Archives[189] presented a document to the Property Planning Board, which recommended that RBKC seek an alternative site for NKL, due to shortfalls in the existing site (set out below) and the potential to raise revenue through its redevelopment.

In May 2013, RBKC's Corporate Property Department presented an option to the Cabinet Member for Housing, Property and Regeneration, Cllr Feilding-Mellen, that NKL would be converted and let to a private school or used for community use.[190] In June 2013, a report was prepared updating the Cabinet Member on various projects by the Director of Corporate Property, which at that time estimated that rental income of GBP 150,000 / year could be achieved through letting the NKL. The estimated cost

[188] Exhibit 138, "New chapter for North Kensington Library," RBKC, 19 October 2018, weblink here
[189] Certain administrative services are consolidated for Westminster City Council, Hammersmith and Fulham Borough Council and RBKC – these are referred to as the "Tri-borough" services.
[190] Exhibit 139, "*Introduction to Corporate Property*", 20 May 2012

for developing a new library facility nearby was GBP 3,000,000, which would be funded in part by the leasing of the Isaac Newton Centre (see section 0).[191]

A document circulated to a PPB meeting in January 2014 cited NHP as a likely tenant for NKL.[192] Cllr Feilding-Mellen confirmed this to the Headmistress of NHP in an email in January 2014 and indicated the Council's support for NHP's future ambitions.

Following a further PPB meeting in February 2014, the Director of Corporate Property, Michael Clark, drafted an email to Cllr Warwick Lightfoot Council's to send to NHP on 17 February 2014, setting out that if full market value could be achieved for RBKC, then he could recommend to Cabinet that the lease be approved without an open market exercise – the Council set out a number of criteria in order to negotiate this, including that rental levels would be on open market terms, and that if there were any plans in the future to develop the INC, then NHP would not object to such developments.

Documents prepared by RBKC's Corporate Property Department during this time, as well as internal RBKC correspondence, detailed a number of issues with NKL, which constituted the key rationale for RBKC Cabinet's decision to find an alternative site. These included (but were not limited to): high staffing costs and issues around accessibility for mobility impaired clientele, and the significant level of investment required to resolve these issues on the current site. As part of the 2020 Corporate Property Strategy, there was also a commitment to generate a new stream of rental income from leasing NKL to protect front-line services.

In September 2014, NHP formally confirmed its interest in leasing NKL and offered to pay a "*marriage value*" above market rent to reflect the fact that the NKL was adjacent to their existing site. It was agreed that market rent would be determined by collaboration between the two parties' respective advisors, HNG for RBKC and DJ Levy for NHP. RBKC Cabinet approved the development of a new facility to replace NKL in June 2015. The paper provided to Cabinet set out that a larger library which included space for Community Use and Adult Learning would be built on the site of the Lancaster Youth Centre and adjacent council land.

In September 2015, the decision to lease the NKL to NHP was entered onto the Forward Plan, which Kroll understands was the first public announcement of the discussions with NHP. On 19 November 2015, RBKC Cabinet approved a 25-year lease over NKL with NHP, with an annual rent of GBP 350,000,

[191] Exhibit 140, Report by the Director of Corporate Property and Customer Services to the Property Policy Board, June 2013
[192] Exhibit 141, Property Policy Board minutes, 13 February 2014

and a 12-month rent free period spread out over the first five years. RBKC's Corporate Property Department advocated that this offer represented a premium to open market value, based on commercial advice that found that NHP's status as an adjoining tenant meant no other bidder would offer the same rental levels. There was no marketing exercise to attract other bidders, and the transaction took place off-market. The alternative option considered by Cabinet was to wait until the new library was completed before seeking a new tenant. As above, the option to retain NKL as a public facility was considered, and decided against, given that the Cabinet had already approved the building of the new facility.

Following the decision, a number of local community groups protested in April 2016 and petitioned the Council in October 2016, campaigning to keep the existing library in public use. The Council responded to this petition on 19 October 2016 and did not vote to change the decisions around the transaction.

Following a decision in July 2017 to put all regeneration projects on hold, the lease for NKL was cancelled and the library remains in public use. RBKC Councillors pledged in October 2018 to protect the existing NKL as a front-line facility.

Internal consultation and scrutiny

Outside of RBKC's Corporate Property department and Cabinet, RBKC's Head of Library Services and the Tri-borough Director also provided internal advice which fed into the decision.

RBKC's Housing and Property Scrutiny Committee scrutinised the decision to lease NKL to NHP after the decision had been implemented, in January 2016. The Committee was not satisfied that an adequate competitive process had been followed. Labour Councillors also raised concerns about the timing of the scrutiny and the fact that the decision to lease the NKL was given a one diamond rating according to the scrutiny criteria set out in the Constitution, which classified it as of low public interest and therefore low priority for scrutiny.

The process of scrutiny more generally was challenged by the Chairman of the HPSC, which resulted in an investigation into the Key Decision Process and Scrutiny by RBKC's Scrutiny Manager. The report identified a number of shortcomings in the scrutiny process, including inadequate information presented to committees to assign appropriate diamond ratings, inappropriate allocation of diamond ratings and the need for scrutiny, insufficient time for scrutiny and that the threshold for higher risk transactions that was too low to properly identify those which required more scrutiny.

External advisors

RBKC engaged two external advisors with regards to this transaction: Property agency HNG provided commercial advice and property consultancy Sweett Group conducted a retrospective options appraisal setting out detailed scenarios for redevelopment of the NKL facility with associated costs.

HNG advised RBKC that NHP's status as an existing adjoining tenant to NKL meant that no other bidder would submit a higher offer than NHP. Kroll understands that RBKC also received advice as to the level of expected rent that NKL could generate. Communications showed that RBKC's Corporate Property Department believed this commercial estimate to be too conservative, based on previous experience leasing similar sites. Ultimately, the rental level agreed for NKL with NHP was higher than both the commercial and internal estimate.

RBKC commissioned a report in 2016 by Sweett Group, to appraise three options for retaining NKL as a public facility. The purpose of the report and the content was challenged in a local community blog, which brought into question the accuracy of the projections, given that NHP would have to undertake such refurbishments and would therefore require significant investment itself. As the report was commissioned following the decision, the details contained in the report were not available to decision makers prior to the decision to lease the NKL to NHP.

Public relations and community engagement

RBKC communicated its plans for a new library through the Westway Newsletter, first starting in November 2012. Updates were provided on RBKC plans in each of the newsletter's eight editions until March 2017. In addition, the Council created a dedicated website for its plans and released an article to the media in June 2015 following the announcement that the Council would develop a new library.

No public consultation was carried out prior to the November 2015 decision to lease the NKL to NHP. Consultation was carried out by the Libraries Department in July 2016 on the plans for the new library. Of the 629 respondents, 10% of respondents made comments indicating they were against the re-location of the library or that they were against the NKL being used by a private school. The responses were made in the 'other comments' section of the survey.

The main opposition to this transaction arose after the decision had been taken to lease NKL to NHP and took the form of protests in early 2016 followed by a petition to retain NKL as a public facility in October 2016. The primary concern of those opposed to the decision was that appropriate public consultation was not undertaken prior to the decisions being made, and that the decision-making process lacked transparency.

The Council defended its treatment of the transaction, highlighting the defects with the existing site and highlighting the rental premium which would be obtained and would be used to protect front-line services. Following the tabling of specific action points including the reversal of the decision and a commitment to demonstrate that the new building would better serve the community, the Cabinet ultimately voted to uphold its previous decision to lease the library.

An additional complaint was raised by Edward Daffarn, a community activist and blogger behind the Grenfell Action site, that the Council could not demonstrate best value without a competitive tendering process. Nicholas Holgate, Town Clerk, defended the Council, citing the advice provided by HNG and listing examples of evidence of transparency by the Council in the decision-making process. Mr. Daffarn also complained to the Local Government Ombudsman, who concluded that Mr. Daffarn had not been caused any injustice and that therefore the complaint would not be taken any further.

8.1 Rationale for the transaction and formal decision-making

This section examines the basis and rationale for the two key decisions which were made in relation to this transaction: the decision to build a new library and the decision to release NKL from Council operations.

8.1.1 The decision to build a new library

The internal proposal to develop a new facility to replace NKL was put first put forward by RBKC's Head of Library Service and the Tri-borough Director of Libraries and Archives to the Property Policy Board in February 2012, with the principal rationale that there were shortfalls in the existing site which meant that it was no longer fit for purpose.[193] The proposal stated that NKL was not appropriate for redevelopment to a modern library facility without significant investment to convert the Grade II Listed building.[194] Additionally, analysis conducted by RBKC's Corporate Property department found that NKL had inherent flaws as a modern site. These included that the four-floor layout presented issues for access for the mobility impaired and had higher staff requirements.[195] Heating costs and corresponding environmental impact for the old building were also cited as another operational inefficiency.[196] In light of these factors, the Corporate Property Department suggested that replacing the NKL would reduce operational costs while maintaining service provision.

A further rationale was that the development of a new site would create revenue generating opportunities for the Council, in line with the Corporate Property Strategy. RBKC's Corporate Property Department engaged external advisors to assist with the development of the plans to develop a new facility to replace NKL.[197] In January 2014, the department appointed both an architect and Quantity Surveyor, HNG, to undertake an options appraisal and feasibility study for developing a new facility to replace NKL, including the design of a youth centre and Multi Use Games Area ("**MUGA**"), and surplus space to generate income as part of the same facility.

The Leader's Group discussed the potential new NKL at a meeting on 23 April 2015. According to the minutes of the meeting, Cllr Feilding-Mellen "*was keen to seek views and advice from Leader's Group about whether to honour a previous agreement with Notting Hill Prep to let commercial space in the old library to them at the market rate plus 30%*". Nicholas Holgate, the Chief Executive, noted that the

[193] 28 , Property Policy Board minutes, 13 October 2011
[194] Exhibit 143, RBKC Executive Decision Report North Kensington Library, 11 June 2015
[195] Exhibit 144, RBKC Property Board Report Kensington and Chelsea Public Libraries, 9 February 2012; Exhibit 120, The Westway Newsletter Issue 1, 16 November 2012
[196] Exhibit 145, RBKC Executive Decision Report North Kensington Library, 11 June 2015
[197] Exhibit 145, RBKC Executive Decision Report North Kensington Library, 11 June 2015

Council must be able to demonstrate that any potential deal with NHP would be a ”*distinct advantage over the current market rate*”. The minutes state that “*some members expressed reservations*” but it was suggested that Michael Clark, the Director of Corporate Property, ought to offer NHP market rate plus 30% to NHP and report back to the Leader’s Group with NHP’s response.[198]

On 11 June 2015, the RBKC Cabinet took the decision to build a new facility to replace NKL[199] at 128a Lancaster Road, fifty metres away from NKL. RBKC’s Corporate Property Department set out three options to RBKC Cabinet, as part of their report on developing a new facility as follows:

- **Option 1:** Retain the existing library, which would need to be refurbished, updated and maintained on an ongoing basis. This would require substantial capital and revenue funding. This funding would still not provide a suitably accessible building to house a modern library. Additionally, retaining the existing Youth Centre building would fail to maximise the potential of the site.
- **Option 2:** Build a new, two-storey building containing a new library, youth centre, and roof top multi-use games area. The library would be on the ground floor. The area on the first floor was of insufficient size for the youth centre and MUGA, which meant that the MUGA would need to be accommodated at second floor level. This would result in approximately half the first floor becoming surplus, after allowing for the area required by the youth centre. This surplus space could be let for educational or office use to provide an income for the Council.
- **Option 3:** Carry out the redevelopment proposed and build a new three storey building on a separate site nearby. This would contain a new library and youth centre, with a roof top MUGA. This would result in the entire first floor, plus approximately half of the second floor becoming surplus accommodation after allowing for the area required for the youth centre. Construction costs would be higher for Option 3 than Option 2, but the surplus accommodation could be let for educational or office use. This would provide a higher income than Option 2. This would also optimise the development potential of the site.

Officers from Corporate Property recommended Option 3, which Cabinet approved.

The Corporate Property report which accompanied the Cabinet decision to develop the new facility included detailed figures for Option 2 and Option 3, but not Option 1.

[198] Exhibit 146, Leader’s Group Minutes, 23 April 2015
[199] Exhibit 145, RBKC Executive Decision Report North Kensington Library, 11 June 2015

The accompanying report also highlighted the need for a clear communications strategy, noting that "*local and national evidence shows that the closure of libraries is often controversial, therefore, clear communications are essential to ensure that the project is not perceived as being negative*". Ultimately the new facility was not built after RBKC put all regeneration projects on hold in July 2017.

8.1.2 The decision to award the lease to Notting Hill Preparatory School

One of RBKC's conditions for awarding the NKL lease to NHP in an off-market sale was confirmation that NHP would not challenge Corporate Property's development plans for INC following its unsuccessful bid. Cllr Warwick Lightfoot, the Cabinet Member for Finance, raised the proposal to lease the NKL to NHP to Cabinet, which they later endorsed. According to documentation surrounding the decision, the lease to NHP was not intended to start until after the new library had been completed, so there would not be any interruption of service provision for library services.

Notes from the PPB meeting on 16 January 2014 state that whilst disquiet was expected following the Council's decision to award the INC lease to Alpha Plus, "*there were other options available for NHP i.e. space in the vacant library"* and that the PPB "*agreed to work with them"*.[200] The first contact related to this transaction between representatives of RBKC and NHP appears to have been a telephone conversation on 14 February 2014 between Michael Clark and representatives of NHP. The intention of the meeting, according to the minutes, was for Mr. Clark to discuss NHP's aspirations with regards to expansion. NHP's Bursar, Caroline Armstrong, emailed Mr. Clark on 14 February 2014 following the meeting to send information about NHP's property requirements.[201] Ms Armstrong asked Mr. Clark to let her know if NHP's proposal was what the Council was looking for to assist with their thoughts around the development of NKL. Mr. Clark responded to Ms. Armstrong to say that "*you asked me to write to you to confirm the process and commitment to Notting Hill Prep wit [sic] regards to the proposed future development and letting of existing Ladbroke Grove Library (NKL) and the development of the INC car park land*."[202]

[200] Exhibit 147, Property Policy Board minutes, 16 January 2014
[201] Exhibit 148, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014
[202] Exhibit 148, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014

Mr. Clark set out in his response to Ms Armstrong's email that he would be willing to recommend to RBKC's Cabinet that the Council enter into an agreement to lease NKL to the School without an open marketing exercise, were negotiations to lead to full market value, according to the following criteria:[203]

- That rental terms would be also based on open market terms, although as with the rental levels this would not be tested by the market;
- That the above rental levels and terms were reflective of the unique location of the existing NHP school facilities with the adjoining surplus Council facilities, i.e. marriage value and opportunity cost of moving elsewhere;
- That terms were agreed within 6 months of detailed negotiations beginning on the rental levels and lease terms, to be initiated by the Council; and
- That NHP would not object to the Council's development plans and would grant consent to any development rights needed to undertake a development on the INC site, which is adjacent to NHP.

This commitment came after RBKC informed NHP in January 2014 that it would be leasing the INC to Alpha Plus, rather than NHP as set out in section 0 of this report. Prior to sending the email, Mr. Clark sent a draft to Cllr Warwick Lightfoot, the Cabinet Member for Finance, stating that Cllr Lightfoot had asked him to write to the School about the commitment, detailed above, which the Council wishes to make.[204]

Representatives of NHP formally confirmed the school's interest in leasing NKL at a meeting with RBKC officials on 17 September 2014, according to notes of the meeting identified in emails reviewed by Kroll. According to these notes, the school committed to pay the "*marriage value*" rental premium.[205] It was proposed at the meeting that commercial advisors HNG and DJ Levy would act for RBKC and NHP respectively, to determine market rent.

On 24 November 2014, further discussions were held between NHP and RBKC.[206] Following this meeting, there was some disagreement about the agreed outcomes – according to email correspondence between representatives of RBKC and NHP, NHP representatives understood that if

[203] Exhibit 148, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014
[204] Exhibit 148, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014
[205] Exhibit 149, Grenfell Action Group FOI North Kensington Library Notes of Meeting with NHPS 2014, weblink here
[206] Exhibit 150, Email from Caroline Armstrong, *RE: NKLYC – notes of letting strategy meeting with NHP on 24/11/14,* 28 November 2014

the two commercial property advisors were unable to agree on the determination of "market rent", a third party adjudicator could be appointed. A Senior Development Surveyor at RBKC stated in email correspondence that there was no mention of a third-party adjudicator in his meeting notes.[207] He also said that a third party would be of little help to RBKC, as they would need to demonstrate that "*market value*", plus an uplift to reflect the marriage value, had been obtained. This disagreement took place in email correspondence between representatives of the School and the Council. Mark Nelson-Smith, NHP's Finance Director, stated that the School proposed to pay an uplift of five percent above market rent. Mr. Nelson-Smith stated that the School's proposal was structured so that both NHP and RBKC could agree on a "*market rent*" without going to market.[208]

Representatives of RBKC and NHP met again on 27 November 2014. According to notes of the meeting, it was agreed that the Council would lease NKL without making any alterations, with any necessary works being carried out by NHP.[209]

8.1.2.1 The Lease Agreement

RBKC Corporate Property recommended that Cabinet approve entering into a lease with NHP over NKL. The following terms were proposed by NHP. Cabinet approved the lease for NKL on 19 November 2015.[210]

Basis of lease	**NHP**
Term of lease	25 years
Annual Rental	GBP 350,000
Rent free period	12 months spread out over five years
Value of rent free period	GBP 350,000
Total value of rental	GBP 8,400,000

[207] Exhibit 151, Email from Caroline Armstrong, *RE: NKLYC – notes of letting strategy meeting with NHP on 24/11/14,* 28 November 2014

[208] Exhibit 151, Email from Caroline Armstrong, *RE: NKLYC – notes of letting strategy meeting with NHP on 24/11/14,* 28 November 2014

[209] Exhibit 152, Email from Mr. Mark Nelson-Smith, *RE: NKLYC - Notes of letting strategy meeting with NHP on 24/11/14*, 28 November 2014

[210] Exhibit 153, RBKC Executive Decision Report for the North Kensington Library Lease Part B, 19 November 2015

The one-year rent-free period was based on a fit-out cost of GBP 50 per square foot. The area of NKL, according to the report approved by Cabinet, was 6,742 square foot, excluding external areas, thereby resulting in a total nominal cost of GBP 337,100. The rental free period therefore resulted in a net saving for NHP of GBP 12,900.

8.1.3 Consideration of alternatives to leasing NKL to NHP

The decision made by RBKC Cabinet on 19 November 2015 to enter into a lease agreement with NHP for NKL also considered the alternative option of leaving NKL empty until the new facility was complete. The report accompanying the decision outlined the two options, as follows:[211]

- **Option 1:** Council does nothing and waits until completion of the new Library facility before securing a new tenant. Under this option, the rental value and future of the building would be uncertain, and the opportunity to obtain a premium above open market value may be lost. Meanwhile, the Council would be obligated to fund maintenance and running costs.
- **Option 2:** Council enters into an Agreement to Lease based upon a significant premium above open market value. Open market value would be indexed from the date of entering into the agreement until the date of the handover, following the relocation to the new library facility. NHP would not be able to use the facility until the new library was operational. This option would remove the risk and uncertainty by securing a letting based upon a predetermined rental level to provide a return to contribute to the cost of the new library building. This would also remove the obligation for both the fit-out of the building and ongoing costs of maintenance which were relatively high due to the age configuration and design of the building.

The report recommended Option 2, to enter into a lease with NHP, on the basis that this would secure future revenue for the Council and that this revenue had a premium above open market value.

8.1.4 The decision to keep the library in its current use

NKL remains a public library following the reversal of the decision to lease the facility to NHP. On 24 July 2017, RBKC announced to Channel 4 News that all regeneration plans in the borough, including the development of a new library, were on hold.[212] RBKC said in a statement that "*following the Grenfell*

[211] Exhibit 154, RBKC Executive Decision Report for the North Kensington Library Lease, 19 November 2015
[212] Exhibit 155, "*Kensington Council library plan on hold after Grenfell*," *Channel 4 News*, 24 July 2017, weblink here

tower fire and the subsequent selection of a new Council leader and Cabinet, we are looking again at project's across the borough to take stock and listen to local communities". On 20 October 2018, RBKC Councillors presented a cross-party memorandum of understanding to campaigners opposed to the leasing of NKL, with a pledge to protect the library as a public facility.[213]

8.2 Internal consultation and scrutiny

8.2.1 Internal consultation

Documents reviewed by Kroll identified that during the decision making process to build a new facility to replace NKL, the Corporate Property Department engaged with several internal stakeholders, including representatives of the Library Service and the Youth Centre, RBKC's Head of Strategic Procurement, RBKC's Director of Law, representatives of RBKC internal Corporate Finance Department, the Cabinet Member for Families and Children's Services, and the Cabinet Member for Education and Libraries.[214,215].

The decision to lease NKL to NHP was subject to scrutiny by the Housing & Property Scrutiny Committee. However, the timing of the scrutiny raised some questions which are discussed in more detail below.

8.2.2 Timeliness of scrutiny

RBKC's Housing & Property Scrutiny Committee had the opportunity to scrutinise the decision to lease NKL to NHP only after Cabinet had approved the decision on 19 November 2015, and after the lease had been signed on 23 November 2015.[216] The report provided to HPSC for its meeting on 5 November 2016 contained details on the appointment of contractors and consultants to complete the refurbishment works.[217] According to the minutes of the same meeting, Councillor Press requested confirmation on whether consultation had started on the proposed redevelopment, to which Cllr Feilding-Mellen responded that the consultation would be managed by the Library Service and Mr.

[213] Exhibit 156, "*North Kensington Library campaigners triumph as Kensington and Chelsea council seeks to rebuild trust after Grenfell*," *MyLondon*, 26 October 2018, weblink here
[214] Exhibit 157, RBKC Executive Decision Report North Kensington Library, 11 June 2015
[215] Exhibit 158, Email from Mr. Michael Clark, *RE: NHP draft proposal*, 17 February 2014
[216] Exhibit 159, Email from Cllr Quentin Marshall, *Re: Key Decision re: North Ken Library Lease*, 7 January 2016
[217] Exhibit 160, Housing and Property Scrutiny Committee, Report by the Cabinet Member for Housing Property and Regeneration, 5 November 2015, weblink here

Clark would provide further details to the Committee.[218] As the Cabinet paper was not finalised on the decision to lease the NKL to NHP, limited information was provided to the HPSC on the decision.[219]

The next meeting of the HPSC was on 6 January 2016[220]. Cllr Quentin Marshall, the Chair of the HPSC, requested confirmation at the meeting that RBKC obtained best value, to which Mr. Clark responded that the process undertaken had been agreed by Cabinet. According to the available minutes, the HPSC "*expressed concerns that an open, competitive process had not been followed"* in the case of NKL. Mr. Clark responded to these claims, stating "*a significant premium had been agreed with NHP and that the base value and the premium was supported by an independent agent and local agent"*. The HPSC expressed dissatisfaction with the process and Marshall requested the decision to be investigated and called-in if possible.[221]

In an email to the Senior Governance Administrator, and Tony Redpath, Director of Strategy and Local Services, on 7 January 2016, Cllr Marshall stated that the Committee was not aware of the decision until it had been presented to them and expressed serious concerns. Cllr Marshall stated that the committee would have "*called it in*" and outlined what he saw as clear failures in the scrutiny process. As the decision had been implemented, the Committee were unable to provide further scrutiny. Cllr Marshall stated that he was never consulted about the detail of the decision, although he stated in internal communication that this is not the fault of the Corporate Property team, but the process of scrutiny itself. According to internal communications from Cllr Marshall, the process would be better served by removing scrutiny entirely as it would remove the pretence of oversight and involvement, which he felt was lacking. [222] Cllr Marshall reiterated these concerns in an interview with Kroll, stating that it was not an effective process for scrutiny since the onus was on himself and other committee Members to identify the most significant decisions that warranted scrutiny, as opposed to on Officers to clearly flag relevant decisions.

As a result of Cllr Marshall's comments, an investigation into the Key Decision Process and Scrutiny was undertaken and reported on in February 2016 by RBKC's Scrutiny Manager and the Director of Strategy and Local Services. The report identified the following:[223]

[218] Exhibit 161, Housing and Property Scrutiny Committee, Minutes, 5 November 2015, weblink here

[219] Exhibit 162, Report by Scrutiny Manager and Director of Strategy and Local Services, February 2016

[220] Exhibit 163, Housing and Property Scrutiny Committee, meeting agenda 6 January 2016, weblink here

[221] Exhibit 164, Housing and Property Scrutiny Committee Meeting, Minutes, 5 January 2016, weblink here

[222] Exhibit 159, Email from Cllr Quentin Marshall, *Re: Key Decision re: North Ken Library Lease*, 7 January 2016

[223] Exhibit 165, Email from the Scrutiny Manager, *Disregard of Scrutiny Concerns & Duties*, 12 April 2016. Exhibit 163, Report by Scrutiny Manager and Director of Strategy and Local Services, February 2016

- Scrutiny Committee Chairs had previously raised concerns about the Key Decision Process.
- Cllr Marshall had raised concerns about the KD process related to the decision to lease the North Kensington Library.
- The Housing and Property Scrutiny Committee, chaired by Cllr Marshall, was not satisfied that there had been an appropriate competitive process for the lease. The call-in period (the period when scrutiny committees could address concerns over decisions) had lapsed by this point.

The report set out the following issues in relation to the adequacy of the scrutiny process:

- The Scrutiny Chairman and committee, as part of the normal process, were not provided with all the details of the transaction which were required to consider the transaction effectively. For example, the confidential sections of the report to Cabinet, Part B were not automatically included in the scrutiny pack and had to be specifically requested. With regards to NKL, Part B included specific details about the rationale for conducting the transaction off-market, and included details of the pre-let negotiations. Cllr Marshall was therefore unable to make an informed decision on the appropriateness diamond rating of one diamond which, as set out in Section 5.2.4., was the lowest rating from the perspective of impact and public interest.
- The HPSC was briefed at its meeting on 5 November 2015 that the decision of the Corporate Property Department to enter into an agreement to lease NKL and WIC would be presented to Cabinet on 19 November 2015. This was the deadline for papers to be submitted to the November Cabinet. The deadline for papers to be submitted for the November Scrutiny Committee was 21 October. This meant that the report was ready for November Cabinet, but not November Scrutiny.
- RBKC's financial threshold for a transaction to be considered a Key Decision was at that time GBP 100,000, meaning that the HPSC Chairman had a considerably high number of KDs to consider.

The report concluded that it was communications, and not the process itself, which were the crux of the issue. This does not address the discrepancy between the date for submission for scrutiny and for Cabinet, which ultimately resulted in the decision to lease NKL to be approved without adequate scrutiny.

8.3 Involvement of external advisors

RBKC engaged one external advisor, property agent HNG as part of the decision-making process related to this transaction. After the decision to lease NKL to NHP was taken, RBKC engaged Sweett Group, a physical assets management consultancy, to analyse the potential options for the future of NKL and to provide justification over the decision made to lease the library rather than refurbish it.[224] Details of the specifics of scope of the external advisors' work is set out below.

8.3.1 HNG

HNG, a property agency offering chartered surveying and property valuation and management, was engaged by RBKC to act as their representative in discussions with NHP regarding the lease for NKL. HNG also acted for RBKC in the INC transaction (see section 0).

HNG advised RBKC that no other bidder would offer a rent higher than NHP, as the adjoining tenant benefit enjoyed by NHP was unique. Nicholas Holgate, RBKC's Town Clerk, cited this advice to justify the Council's decision not to conduct an open bidding process.[225]

8.3.2 Sweett Group report

In September 2015, Sweett (UK) Limited ("Sweet Group"), a property consultancy, were appointed as consultants to facilitate the delivery of four capital projects being undertaken by RBKC, including the building of the new NKL facility. According to the Cabinet Report, Sweet Group's appointment would "*provide an opportunity to generate programme savings, provide consistency in service delivery, streamline and reduce reporting, reduce officer time and undertake one procurement exercise for all four projects*". Sweett Group, would provide project management, quantity surveying and contract administration services as part of these engagements.[226]

As part of the NKL engagement, Sweett Group appraised three different funding options for retaining NKL as a public library in 2016, after the decision had been taken to lease the NKL to NHP.[227]

[224] Note that this report was commissioned after the Key Decision had been made.

[225] Exhibit 166, email from Mr. Nicholas Holgate, *RE: Disregard of Scrutiny Concerns and Duties FORMAL COMPLAINT,* 31 May 2016

[226] Exhibit 167, Cabinet Report for the Appointment of the Client Side Team to lead and facilitate the delivery of the: (1) North Kensington Day Care and Community Hub; (2) Chelsea Old Town Hall; (3) North Kensington Library; and (4) Colville School, 17 September 2015, weblink here

[227] Exhibit 168, "*North Kensington Library",* Grenfell Action, 8 February 2017, weblink here

The report detailed the existing issues with NKL and set out an estimation of costs for the three options which were previously assessed by Corporate Property:

- **Option 1:** A minor refurbishment with no major changes, costing GBP 3 million**.**
- **Option 2:** A major refurbishment with the addition of a mezzanine floorplate, costing GBP 7 million.
- **Option 3:** A major refurbishment, remodelling and extension of a mezzanine floor plate, and an extension of 267 square metres, providing an extra floor at the upper level, costing GBP 10 million.

The report concluded that none of the options addressed the issues that existed with NKL, such as the layout of the site. Grenfell Action commented that RBKC had approached this budget estimating exercise in an "*underhand way*". According to Grenfell Action, RBKC requested that each option include the cost of installing a Multi-Use Games Area, which, according to Grenfell Action was inconsistent with the description of Option 1 as a minor refurbishment.

The blog appeared to bring into question the validity of the estimates, raising the challenge that NHP would not be interested in renting the property if it also had to undertake similar refurbishments as identified in the Sweett Report, and suggesting that the estimates had been inflated to justify the decision to build a new library and lease the old one. Kroll has not identified any evidence to support this allegation. Furthermore, no detailed plans for NHP's use of the building have been identified and to what extent the school would need to refurbish the building.

8.4 Public relations and community engagement

The following sections set out the steps that RBKC took to publicise the decisions and rationale surrounding the proposed new library building and the subsequent leasing of the existing building to NHP. This included a leaflet and poster campaign, a series of newsletters and a designated website.

In addition to this, a detailed survey was undertaken by the Libraries Service in July and August 2016 to understand the views from the public on the proposed new library's services.

Despite this, certain community groups felt that they had not been consulted in respect of the decision to lease the NKL, and their views had not been considered. This resulted in protests against the leasing of the library and a petition being brought to full council.

8.4.1 RBKC communication with the public regarding the transaction

RBKC produced a leaflet and poster regarding the proposal to develop a new facility to replace NKL in 2012 which was displayed within NKL. Additionally, library and youth centre staff were briefed so that they could respond to queries from local residents about RBKC's plans. RBKC set up a dedicated webpage, www.rbkc.gov.uk/nklibrary, which included information about the proposal to develop a new facility. The site gave users the opportunity to sign up to updates. The webpage is no longer active.

To communicate with local residents, RBKC published the first issue of the Westway Newsletter on 21 November 2012. [228] The newsletter's stated intention was to keep local people informed about ambitions and proposals for several Council owned sites in the Westway area. The first issue broached the idea of building a new Library, listed under the title '*Ambitions and Proposals*'. The second issue was distributed in February 2013, and detailed RBKC's intention to begin consulting with library users and local residents on what they would like to see in the new library.[229] RBKC continued to provide updates in the Westway Newsletters published in March 2014, September 2014, July 2015, June 2015, December 2015, June 2016 and March 2017.

The Media and Communications Officer for RBKC noted at a CCSSC meeting on 21 November 2016 that the NKL project had represented significant challenges for the team.[230] At the same meeting, Mel Marshman, the Head of Community Engagement at RBKC, introduced a report on the Council's consultation process. The minutes highlighted that "*various residents and residents groups in the North and*

[228] Exhibit 120, The Westway Newsletter Issue 1, 16 November 2012
[229] Exhibit 169, The Westway Newsletter Issue 2, 12 August 2013
[230] Exhibit 170, Cabinet and Corporate Scrutiny Services Committee Minutes, 21 November 2016, weblink here.

South of the Borough have complained about how the Consultation Process appears to operate, and this was especially true with regard to the proposed new North Kensington Library". The minutes stated that the consultation principles were outdated and there were financial pressures on the process. Cllr Dent Coad, the Chair of the CCSSC, was noted in the minutes suggesting that "*much mis-trust exists with residents around consultations"*. Cllr Dent Coad agreed to provide a further report to scrutinize the consultation process in a future meeting.[231] A working group was subsequently formed in March 2017 to scrutinize RBKC's consultation processes.[232]

8.4.2 Engagement with the community and responding to challenges

Following the decision to lease NKL to NHP the Council received a number of challenges from community groups, details of which are set out below.

8.4.2.1 Opposition to lease

The primary opposition to the lease of NKL came from Grenfell Action on its blog site and the 'Save North Kensington Library' petition. This opposition took place after the decision to lease NKL had been taken by Cabinet and took the form of protests and a petition to save the library.

Grenfell Action published their first article on the NKL decision in February 2016.[233] The article highlighted RBKC's plans to lease the NKL to NHP and stated their opposition to the decision. Edward Daffarn, the spokesperson for Grenfell Action made a complaint to RBKC about the decision-making process in March 2016, as detailed in Section 8.4.3.

8.4.2.2 Save North Kensington Library Petition

In early 2016, there were a series of protests outside NKL, peaking with a congregation of seventy-five on 26 April 2016, according to media reports.[234] These protests were followed by a petition to save NKL which was considered by RBKC on 19 October 2016.[235] The petition was initiated after the decision to lease NKL had already been taken.[236]

[231] Exhibit 171, Cabinet and Corporate Scrutiny Services Committee Minutes, 21 November 2016, weblink here.

[232] Exhibit 172, Cabinet and Corporate Scrutiny Services Committee Minutes, 20 March 2017, weblink here.

[233] Exhibit 173, "*What Future for North Kensington Library*?" Grenfell Action Group, 27 February 2016, weblink here

[234] Exhibit 174, "Council accused over plans to lease Kensington's oldest library to private school," *Evening Standard*, 29 April 2016, weblink here

[235] Exhibit 175, RBKC Council Meeting Documents 19 October 2016, weblink here

[236] Exhibit 176, Email from Head of Governance Services, *Save North Kensington Library - Petition, Report for Council (Ordinary Mtg) on 19 October*, 27 September 2016

The petition made the following demands:

- Keep NKL in public use, using the Council's cash reserves;
- Call on the Leader of RBKC to attend a public meeting to hear concerns on the lease, answer questions over plans and dealings with all public and community space in North Kensington, and address concerns about the lack of consultancy and transparency in the decision-making process;
- Hold a public consultation on how the building should be used if it is not to continue as a library; and
- RBKC's planning committee should consider community access as a factor in ascertaining 'best value'.

The petition quoted a Senior Development Surveyor and contact Officer for the decision to lease NKL, as saying residents were not consulted specifically about the provision of a new library. It is not clear when and where the Senior Development Surveyor said this. Grenfell Action echoed the point about a lack of public consultation in a May 2016 blogpost.[237]

The petition was considered by a cross-party group of RBKC Councillors at a Full Council debate on 19 October 2016.[238] The Councillors recommended that Cabinet Members note the representations of the petitions and any views expressed by Councillors. The minutes of the Council meeting note support for the petition from Councillors Thompson and Dent Coad, later Labour Member of Parliament for Kensington from 2017 to 2019.[239] Cllr Press proposed, the following points, which were subsequently seconded by Cllr Littler:

- The Council would *"publish and provide evidence to support its reasons for considering that the current building [was] no longer fit for purpose and that public funds [were] better spent on building a new library and not in repairing and improving the current building and preserving it as an upgraded library; and fully involve and consult with the community on this evidence."*
- The Council would "*review and reverse its decision to enter a pre-lease agreement with a private preparatory school on the current North Kensington Library building, recognising that the process did not involve an open and competitive tender and did not follow the Council's best practice guidelines and could be challenged.*"; and

[237] Exhibit 177, "RBKC - Autocratic Power and Sham Constitution," *Grenfell Action Group*, 22 May 2016, weblink here
[238] Exhibit 178, RBKC Corporate Property Draft Response to North Kensington Library Petition, 19 October 2016
[239] Exhibit 179, RBKC Council Meeting Documents, 19 October 2016, weblink here

- If "*the Council [could] demonstrate and the community agrees that a new building library [would] better service their needs, the old building [would] remain in public use, offering direct services to the public, and the Council [would] fully consult the community on its proposals for the building's future use as "an asset of community value*".

Cllr Will, the Cabinet Member for Education and Libraries, seconded by Cllr Faulks, proposed an amendment as follows:

- The Council supports the building of a new library. It will be bigger and better than NKL and will help to generate revenue to fund front-line services, including libraries.
- The successful management of the Council's property portfolio has made a significant contribution to improving quality of life for residents in the Borough, and leasing NKL will contribute to this.[240]

Cllr Will's amendment was approved by a vote of the Councillors. RBKC Councillors thereby reaffirmed their commitment to leasing NKL to NHP on the basis basis that the amended motion was the political will of the majority of representatives.

8.4.2.3 Consideration of equality impact

The decision to build a new library made in June 2015 included comments on the equality implications. The public report stated that an Equality Impact Assessment would be carried out in early May 2015, however the results were not confirmed in the decision report. The report noted that "*a favourable assessment is expected as the library will be relocated a short distance from the existing provision and accessibility of the new library premises will be to current standards"*.[241]

The public decision report noted that "*there are no equality implications arising from the contents of the report"* for the decision to lease the NKL and the WIC, and an Equality Impact Assessment was not carried out.

[240] Exhibit 180, Minutes of a meeting of the Council, 19 October 2016, weblink here
[241] Exhibit 181, Executive Decision Report, 11 June 2015, weblink here

8.4.3 Challenge to decision making process

Concerns about the decision-making process related to this transaction were raised by Edward Daffarn, as well as Members of the RBKC Labour Party group in March and April 2016.

Mr. Daffarn challenged RBKC's claim to have obtained best value in its negotiations with the School and the general lack of transparency, in a complaint sent to Mr. Holgate in March 2016.[242] Mr. Daffarn raised concerns that, without a competitive tendering process, RBKC could claim to have obtained best value and asked the Council to investigate why there was no such process.

Mr. Holgate responded to Mr. Daffarn's complaint defending the lack of a competitive tendering process.[243] He stated that HNG, the agent representing the Council in negotiations, had a track record in marketing numerous similar units in the local area, and as such were well placed to advise the Council. Mr. Holgate said that RBKC had instructed HNG to carry out a Royal Institute of Chartered Surveyors' 'Red Book' valuation of the asset, which would be sufficient to satisfy the requirement under Section 123 of the Local Government Act 1972 which requires Councils not to dispose of land for less than best consideration. Mr. Holgate defended the decision to grant the lease to NHP based on the advice received by HNG that, NHP was a special purchaser, due to their status as the adjoining tenant and as such, RBKC could expect a significantly higher rent from the School than any other potential bidder. Additionally, Mr. Holgate highlighted a number of actions taken by RBKC which outlined where the Council had made its intentions regarding NKL clear. These actions included:

- A paper sent to HPSC in May 2015 declaring RBKC's intentions to lease the NKL.
- The decision entered onto the Forward Plan on 14 May 2015 for the provision of a new North Kensington Library and Youth Centre redevelopment. A report was also provided to Cabinet in advance of their meeting on 11 June 2015 on the same matter.
- The decision entered onto the Forward Plan on 22 September 2015 for the Approval and Entry into Agreement to Lease and Lease for the WIC and NKL, which was subsequently approved by Cabinet on 19 November 2015.

Mr. Daffarn responded to Mr. Holgate that he did not accept his arguments, and expressed his intention to escalate his complaint. Later, in June 2016, Mr. Daffarn submitted a complaint to the Local

[242] Exhibit 182, Email from Cllr Quentin Marshall, *Re: Complaint- North Kensington Library*, 19 March 2016
[243] Exhibit 182, Email from Cllr Quentin Marshall, *Re: Complaint- North Kensington Library*, 19 March 2016

Government Ombudsman ("**LGO**").[244] The LGO contacted Mr. Holgate to inform him of the complaint, and attached its draft response, which stated it would not take its investigation any further as Mr. Daffarn has not been caused any injustice due to the Council's actions.[245]

In another challenge, the Leader of the Labour Party Grouping of RBKC Cllr Robert Atkinson submitted a complaint to Mr. Holgate via email on 11 April 2016, that the decision to lease NKL to NHP lacked due process and that scrutiny committee concerns were not recognised.[246] Cllr Atkinson commented that "*flagrant disregard of the scrutiny process*" as well as a "*very unwise approach to a highly sensitive decision being keenly observed by the local community*." Cllr Atkinson wrote that this would confirm to local taxpayers that their concerns are not valued, and neither are those of the HPSC, or Labour and Conservative Councillors.[247] Cllr Atkinson commented that the decision to lease NKL was opposed to by users of the library and local residents.

In response to Cllr Atkinson, Mr. Holgate sent a similar email to that which he sent to Mr. Daffarn in March 2016, as detailed above. Cllr Blakeman responded to Mr. Holgate's response on 23 May 2016, stating that Mr. Holgate's reply reinforced concerns about the democratic process of scrutiny, and its failure to be observed by RBKC.[248] Cllr Blakeman pointed to the purchase of K&CC's Kensington Centre and the options appraisal of Silchester East and West as further instances of RBKC not properly scrutinising decisions. See Section 10 for analysis of the Kensington Centre transaction. The Silchester East and West transaction is not in the scope of this Independent Review.

8.5 Conclusions

In overview, the documents and communications reviewed by Kroll identified that the decisions made relating to the NKL transaction were aligned with the Corporate Property Strategy 2020. As NKL would become surplus to requirements once the new library was completed and operational, the site could be leased to create additional revenue. Documents reviewed by Kroll demonstrate that the refurbishment cost for RBKC was significant if the facility was to be maintained.

In general, Kroll identified that Members and Officers appeared to adhere to the requirements and standards as set out by the Constitution, including the seeking of advice, escalating decisions

[244] Exhibit 183, Local Government Ombudsman Letter to Nicholas Holgate, 2 June 2016
[245] Exhibit 184, Local Government Ombudsman Draft Decision, 2 June 2016
[246] Exhibit 185, Email from Scrutiny Manager, *Disregard of Scrutiny Concerns & Duties*, 12 April 2016
[247] Exhibit 186, Email from Head of Governance Services, *RE: Disregard of Scrutiny Concerns and Duties FORMAL COMPLAINT*, 28 June 2016
[248] Exhibit 186, Email from Head of Governance Services, *RE: Disregard of Scrutiny Concerns and Duties FORMAL COMPLAINT*, 28 June 2016

appropriately and demonstrating best consideration for the lease of the NKL. Alternative options were appraised by decision making groups and external consultation was considered in respect of plans for the new library.

Challenges were raised from community interest groups that the off-market negotiations of the lease with NHP were not aligned with the principle of transparency of decision making. While the public were not informed of the specifics of the arrangement, documents reviewed by Kroll identified that there was a clear rationale for not running an open-market exercise, notably that revenue generated for the Council would be significantly higher under the arrangement with NHP than on the open market.

Scrutiny of the transaction did not allow sufficient time for the appropriate committees to challenge and call-in the transaction, and the decision was not brought to the HPSC until after the decision had been implemented (or actioned) on 23 November 2015 through an agreement to pre-let entered into by RBKC and NHP.

In terms of communication with the public, Kroll identified a number of channels whereby the decisions were presented to the general public, for example through the Westway Newsletter. Despite this certain groups still raised concerns on the level of Council engagement. The petition to save North Kensington Library was considered by Full Council and the decision was ultimately upheld based on the rationale as set out in the preceding sections.

8.5.1 Propriety of Officers and governance

Based on the documents reviewed, it appears that Officers and Members conformed to RBKC's constitutional framework in their leasing of NKL. RBKC sought out relevant internal and external advice at multiple stages in the process. The decision was discussed at the Property Policy Board and other relevant bodies. The decision was entered onto the Forward Plan before being approved by Cabinet. The Council was able to demonstrate that it had achieved best consideration for the lease of the site.

The review identified that the scrutiny process did not appear to have been effective in the context of the requirements set out in the Constitution. In particular, RBKC's 2015 Constitution, in force during the NKL transaction, states that scrutiny committees are empowered to "*review and scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions*". In this transaction, the Chairman of the Housing & Property Scrutiny Committee stated he would have called in the decision but it had already been implemented by the time the decision was discussed in a scrutiny meeting in January 2016. This issue was identified in the Scrutiny Manager's investigation into the scrutiny process, following complaints by Quentin Marshall, Chair of the committee.

8.5.2 Alignment with strategy

The decision to lease NKL formed part of the Council's policy of identifying and generating new revenue streams through releasing sites surplus to operational requirements. This policy was a core component of RBKC's 2020 Corporate Strategy. NKL was rendered surplus to requirements following Cabinet's decision to build a new library. From documents reviewed by Kroll it appears that there the impact on service level was considered to be positive, given the development of the existing NKL would only commence once the new library became operational and that the new library would be more accessible.

8.5.3 Consideration of options and rationale for decisions

During the decision-making process to build a new library, an option was considered to retain the NKL in its current use, according to the report which accompanied the decision. When the decision to lease NKL had already been made, a more detailed appraisal was conducted by Sweett Group which appraised some detailed analysis and costings of options. Kroll has not reviewed this report as part of the documents obtained from the Client but has identified part of this report from the Grenfell Action blog. This report supported the rationale of the decision to take the library out of public use and to lease it.

RBKC did not conduct an open market bidding process before deciding to award the lease to NHP. RBKC received commercial advice which opined that no other bidder would offer as much as NHP, due to the additional value that NHP would obtain from the lease due to their status as an adjoining tenant. When NHP submitted a detailed proposal, this did indeed offer a rental value which exceeded previous commercial and internal estimates for market rent.

8.5.4 Response to specific allegations

Questions were raised by Grenfell Action as to whether or not best value was achieved for the Council in respect of Section 123 of the 1972 Local Government Act by leasing NKL to NHP and whether an appropriate competitive tendering process was followed. In addition, there were concerns about whether there would be an effect on the provision of library services in the North Kensington area.

Kroll Analysis:

The Corporate Property Department identified from the onset of negotiations that they would need to confirm that NHP's offer represented best consideration. It was agreed with NHP that rental terms would be based on open market terms and reflective of the "*marriage value*" the site represented, being next to NHP's existing facilities. The offer of GBP 350,000 per annum represented a rental premium. No competitive tendering process was completed as the transaction was carried out off market. RBKC engaged HNG to comment on the rental levels offered, who subsequently advised that no other bidder would offer a rental figure higher than NHP.

The NKL would continue to operate until the newly developed facility was completed, at which point NHP would commence their tenancy. Kroll did not identify any indication that services at the library would be interrupted or affected.

The concept of “Best Value”, which states that councils should consider overall value, including economic, environmental and social value when reviewing service provision, was not referred to by RBKC in the Cabinet Reports and decisions taken in respect of the leasing of NKL. As stated above, service provision would have been unaffected by the decision as the NKL would remain in operation until the new facility had been completed.

9. The Westway Information Centre

This section focuses on the 2015 leasing of the Westway Information Centre (“**WIC**”) to Notting Hill Preparatory School (“**NHP**”). WIC was an RBKC facility that housed a variety of Council back-office support services including adult social care and social services support staff, as well as the Citizens Advice Bureau (“**CAB**”), a network of consumer charities. RBKC Cabinet approved the lease agreement over WIC with NHP in November 2015. NHP moved into WIC in 2018 and sub-let part of the space to the sandwich chain Pret a Manger.

The transaction was chosen for review due to particular public interest and concerns surrounding the transaction, specifically:

- That local action groups felt that the change of use of the WIC was in contravention of one of the central policies of the Local Plan, policy CK1, which relates to maintaining and promoting social and community uses for Council assets; and

- That the Council providing external renovations to the WIC prior to the lease to NHP constituted a form of subsidy to a private enterprise.

Analysis of this transaction is presented with consideration to the following: Formal decision-making process, internal consultation and scrutiny, the role of advisors and the extent of engagement with the community and other stakeholders.

Timeline and decision making

The King Sturge Review identified the WIC as one of three sites which were found to incur the greatest ongoing cost to RBKC and had the greatest potential for redevelopment. The review recommended the development of a new Council hub at Malton Road, to which RBKC back office services could relocate.

Discussions within RBKC about obtaining a tenant for the WIC began in November 2012, with initial proposals by the Corporate Property Department including that the WIC be leased to a major national retailer. In the same month, RBKC engaged property consultants Lambert Smith Hampton (“**LSH**”) to identify how the Council could generate the best rental income from the site. RBKC also first published the Westway Newsletter, a pamphlet for residents in the Westway area, in November 2012. It was announced in this Newsletter that Council offices housed within WIC could be relocated, and that the site would be better used as a commercial space.

In order to market the WIC to a wide range of bidders, RBKC sought to change the use of the site from D1, community use site to C1, commercial use. The application to change the use was submitted in February 2014. RBKC had set out its intention to change the use in the second issue of the Westway Newsletter, published in July 2013. Concerns were raised about the change of use by local community and stakeholder groups.

In October 2014, RBKC's Cabinet approved a budget of GBP 350,000 for strip-out works for the site.[249] The rationale for this decision, according to RBKC's Corporate Property Department, was that the Council would benefit from a shorter rent free period being sought by prospective tenants during lease negotiations for the site if fundamental refurbishments had been undertaken prior to the start of the lease. By the end of October 2014, the site had been vacated, apart from the CAB, which was relocated in January 2015 to a road parallel to the WIC. This was intended to be a temporary move, with the CAB being informally offered space in the new library building which was under discussion at the time. The Pepper Pot Club, a community group centre for elderly residents was also housed in the WIC but was outside the scope of the lease to NHP. The Pepper Pot Club remains on the site.

In early 2015, RBKC engaged property agency HNG to carry out an open marketing exercise and bidding process for the WIC. HNG were instructed to obtain best offers for the site by 23 October 2015.

The two highest bidders for the WIC were NHP and Second Home, a serviced office provider. In June 2015, the Cabinet Member for Housing, Property and Regeneration, Cllr Feilding-Mellen met with Second Home's founder, Rohan Silva. Second Home submitted their bid the day after the two met. Later, in July 2015, Cllr Feilding-Mellen highlighted Second Home's bid to RBKC's Director of Corporate Property, and RBKC's Head of Investment and Development. The Director of Corporate Property responded that RBKC should market the site "*like all the commercial sites we market which is for the highest and best offer*". By September 2015, NHP and Second Home had both submitted offers with an identical rental level, although other terms of the offers at that point were not clear. Second Home submitted an increased offer on 8 October 2015. NHP made its final offer shortly afterwards.

In September 2015, RBKC Cabinet approved improvements to the external façade of the WIC. The proposed improvements were, according to the Corporate Property Department, intended to deliver an improvement to the aesthetic quality and energy efficiency of the building, as well as providing the opportunity to optimise the potential rental income from the site. RBKC's Planning Committee also approved the Council's application to change the use of WIC in September 2015. The approval

[249] Exhibit 187, RBKC Cabinet Decision Report for WIC strip-out works, 30 October 2014

acknowledged that the application technically was not in line with RBKC Policy CK1, which seeks to protect community and voluntary spaces in the borough, but that the broader objectives of the Council, including protecting the long term provision of Council services could be better met by the leasing of the site to generate revenues for the Council.

RBKC Cabinet approved NHP’s proposal for NKL in November 2015, which offered a longer lease term, a higher rent, and a shorter rent-free period than the Second Home bid.

Protests took place at WIC in February 2018 as NHP and Pret a Manger moved into the site.

Involvement of external advisors

RBKC engaged three external advisors, all property consultants, to advise them on the transaction: Lambert Smith Hampton, HNG, and Daniel Watney LLP.

Lambert Smith Hampton conducted a feasibility study for leasing the WIC as part of its broader engagement with RBKC for providing property services. HNG were engaged to market WIC to bidders, and to manage the bidding process. Daniel Watney LLP (“**Daniel Watney**”) was engaged to submit the change of use application for the WIC. The involvement of Daniel Watney was criticised by community groups due to the perceived breach of policy CK1 of the Core Strategy.

Public relations and community engagement

Kroll identified communications between RBKC and local residents and stakeholder groups prior to and during the decision-making process to lease the WIC to NHP made through the Westway Newsletter. Eight issues of the Westway Newsletter have been published to date. RBKC plans for the WIC were included in all eight editions from November 2012 to March 2017. The first edition, published in November 2012, raised the suggestion that services within WIC could be rehoused, and that the site would be better utilised as a commercial space.

There was opposition to the change of use of WIC from local community groups, including Grenfell Action Group. Their concerns were focused on the Council’s willingness to ignore Policy CK1 in order to suit their commercial objectives. Concerns were also raised about a broader trend of a shortage of space within the borough designated for community and voluntary uses. It is Kroll’s understanding that the WIC was predominantly used for Council offices rather than for community / voluntary use and that these offices were predominantly relocated to the Malton Road Hub as part of the SPACE programme and alternative premises for the CAB were identified in close proximity to the WIC.

9.1 Rationale for the transaction and formal decision-making

9.1.1 The decision to release the site

WIC was identified by King Sturge's review (See section **Error! Reference source not found.**) of RBKC's property portfolio as one of three sites[250] which were incurring the greatest on-going cost to the Council and had the greatest potential for redevelopment.[251] King Sturge recommended the development of a Council Hub at Malton Road, adjacent to the location of the WIC on Ladbroke Grove, where the Council services located within WIC could be relocated. RBKC's Corporate Property department stated in recommending the release of the site from Council operations that the rental income obtained from WIC could be used to further the delivery of front-line services in the Borough.

Documents reviewed by Kroll showed that there had been an earlier proposition by Corporate Property to secure a major national retailer as a tenant for WIC, according to a report prepared by the Director of Corporate Property that was presented to RBKC Leader's Group in November 2012.[252] The same report stated that Lambert Smith Hampton ("**LSH**") were advising RBKC how they could generate the most rental income from the building - see Section 9.5.1. LSH's plan was to be implemented upon its completion in November 2012, according to the report.

RBKC instructed HNG in early 2015 to conduct an open marketing exercise and bidding process for WIC. Marketing material relating to WIC produced by HNG, on behalf of RBKC, stated a guide price for rental of GBP 37.50 per square foot and[253] listed three units as available:

- Unit 1: A retail unit or restaurant facing Ladbroke Grove;
- Unit 2: A retail unit or restaurant with access off Thorpe Close; and
- Unit 3: A self-contained first floor unit with private ground floor entrance, for B or D class use accessed off Thorpe Close.

The site was also listed as available in its entirety, with RBKC to be responsible for strip-out works and improving the exterior.

[250] The other sites were the EPICS (A Children's centre located in K&CC Hortensia Road) (outside the scope of the Independent Review) and the INC (See section 7)
[251] Exhibit 188, RBKC Leader's Group Draft Report Progress on Asset Review Programme, 11 October 2011
[252] Exhibit 40, RBKC Leader's Group Progress Report on the Asset Review Programme, 22 November 2015
[253] Exhibit 189, Westway Information Centre Property Particulars, 14 July 2014

RBKC instructed HNG to obtain best offers for the site by mid-August 2015.[254]

9.1.2 Refurbishments to WIC to increase the bid value

RBKC carried out refurbishments to WIC prior to and during the bidding process. Cabinet approved stripping out the building, at a cost of GBP 350,000, on 30 October 2014.[255] Improvements to the exterior of WIC (the elevations) were approved on 17 September 2015 by Cabinet, at a cost of GBP 792,000, although only GBP 700,000 of additional spending was required, due to an underspend of GBP 100,000 from the strip out works.[256] These refurbishments were initiated following advice from the Corporate Property Department which suggested that marketing WIC with a new exterior would result in the Council receiving a higher rental income than would otherwise be obtainable, according to the report which accompanied the decision to lease the site.

An October 2014 Report to Cabinet had estimated that the rental income available from WIC, without replacing the elevations, was GBP 331,250 per annum.[257] As of September 2015, when the elevation improvements were approved by RBKC Cabinet, the offers received for WIC included a proposal with a rental income of GBP 600,000 per annum. Corporate Property stated that the increased rental figure was due to RBKC including renovations to the elevations as part of their offer to bidders.

9.1.3 Change of planning permission to increase marketability

In order to market WIC for a wide range of uses, David Watney, a property consultant, submitted a request on 4 February 2014 on behalf of RBKC, to change the usage of the WIC.[258]

Planning applications are considered in the Planning Application Committee ("**PAC**"), which was made up of elected Councillors. WIC was initially a D1 facility, meaning it was a non-residential institution (used for social and community use). As set out in section 9.1.1, three separate units were marketed; in order to allow applications based on these three uses, RBKC applied to change the WIC usage to three units compromising Class A1 (shops and retail), A2 / A3 (restaurants and cafes), B1[259] or D1[260]

[254] Exhibit 190, RBKC Cabinet Confidential Part B Appendix Westway Information Centre and North Kensington Library Lease, 19 November 2016

[255] Exhibit 187, Executive Decision Report for the strip out of the WIC for re-letting, 30 October 2014, weblink here

[256] Exhibit 191, Executive Decision Report to carry out improvements to the elevations of the Westway Information Centre, 17 September 2015, weblink here

[257] Exhibit 192, RBKC Cabinet Decision Report Westway Information Centre elevations improvements, 17 September 2015

[258] Exhibit 193, Daniel Watney LLP Westway Information Centre Change of Use Planning Application, 3 February 2014, weblink here

[259] Being a use which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit

[260] Non-residential institutions

on 6 October 2015.[261] The application acknowledged that WIC was classified as a social and community space meaning that Policy CK1, which intended to protect social and community spaces, of the December 2010 Core Strategy was relevant, although, as stated above, the main usage of the WIC was for internal Council use rather than for public or community use.[262]

RBKC's PAC approved the change of use on 6 October 2015. The decision stated that, viewed in isolation, the change of use could be viewed as breaching policy CK1 but that the rationale for contravening CK1 was that in some instances a "*more holistic approach may be necessary to take account of the particular circumstances or the Council's wider regeneration objectives*".[263] A Planning Support Officer advised that the loss of community and social use was acceptable as the use would be retained in the immediate area following the relocation of WIC to the New Malton Road Hub.[264]

The planning conclusion outlined the following rationales for the change of use:

- It was part of a wider consolidation programme for the delivery of social and community facilities within RBKC.
- Policy CK1 allowed for redevelopment of community and social spaces if it could be demonstrated that there was a greater benefit for the Borough resulting from the development, as well as new or improved social and community spaces being provided elsewhere in the borough.
- Cuts to public sector funding had reduced the government grant received by RBKC. This warranted a holistic consideration as to how public services are best delivered.

9.1.4 The decision to award the lease to NHP

NHP was awarded the lease to WIC following an open marketing and bidding process carried out by HNG, as instructed by RBKC. The final two bidders were NHP and Second Home, a serviced office provider. RBKC approved NHP's proposal over Second Home's on the basis that NHP offered a longer term and higher rent.

[261] Exhibit 194, RBKC Planning Applications Committee Report 6 October 2015, weblink here
[262] See section 4.4.3 for details of CK1
[263] Exhibit 194, RBKC Planning Applications Committee Report 6 October 2015, weblink here
[264] Exhibit 193, Daniel Watney LLP Westway Information Centre Change of Use Planning Application, 3 February 2014, weblink here

9.1.5 Consideration of two main proposals

RBKC's Cabinet considered detailed proposals from Second Home and NHP. On 8 June 2015. Cllr Feilding-Mellen met with Rohan Silva, the founder of Second Home, following email correspondence initiated by Mr. Silva. Second Home submitted their proposal for WIC to HNG via email on 9 June 2015.[265] The proposal offered a fifteen-year lease at GBP 37.50 per square foot per annum, with an unstated rent-free period. The proposal also included rent reviews every five years with some limitations. As regards to works, Second Home proposed a contribution from RBKC of GBP 50 per square foot for Category A works, which constituted the exterior works set out in section 9.1.2. In email correspondence Corporate Property Officer Richard Egan highlighted that this required a capital payment of GBP 750,000 from RBKC. Second Home would, according to the proposal, pay for all Category B works. On 15 July 2015, in an email to Mr. Clark and Mr. Egan, Cllr Feilding-Mellen requested further details of the bids placed for the WIC and noted that Second Home's was "*very competitive*". Cllr Feilding-Mellen also expressed an opinion for how the site might be best used, stating "*the more I think about it, the more I like the idea of one of these enterprise hubs located there… It would certainly make better use of the position/active frontage than a school.*"[266] In response, Mr. Clark stated in an email dated 16 July 2016 that the Council must seek best consideration.[267]

NHP was the highest bidder for WIC as of September 2015.[268] NHP's proposal included an annual rent of GBP 37.50 per square foot, totalling GBP 600,000 per annum.

Second Home submitted an increased offer on 8 October 2015, to GBP 40 per square foot per annum.

9.1.6 Comparison of proposals

As the two highest bidders for the site, NHP and Second Home were requested to submit a final offer for WIC by 23 October 2015, according to the Cabinet decision that approved the lease. The report prepared by Corporate Property that accompanied the decision to lease WIC recommended NHP.

The table below compares the two final proposals from NHP and Second Home and demonstrates that the offer from NHP was commercially a better arrangement. Both offers proposed to undertake fit-out works at their own expense in exchange for a rent-free period. In addition, both proposals were based on the replacement façade works being undertaken by the Council. However, Second Home's proposal

[265] Exhibit 195, Email from Mr. Rohan Silva, *Fwd: Westway Information Centre*, 12 October 2015
[266] Exhibit 196, Email from Cllr Rock Feilding-Mellen, *WIC*, 15 July 2015
[267] Exhibit 197, Email from Mr. Richard Egan, *RE: WIC*, 17 July 2015
[268] Exhibit 198, RBKC Cabinet Decision Report Westway Information Centre elevations improvements, 17 September 2015

included provisions for an alternative design for the elevations based on its requirement for their own 'brand' which would require a new planning application. This cost is covered by the rent-free period proposed.

Basis of lease	**NHP**	**Second Home**
Term of lease	25 years	15 years
Annual Rental	GBP 687,500	GBP 682,344
Rent free period	16 months	24 months
Value of rent-free period	GBP 916,667	GBP 1,364,688
Other terms	Offer includes the proposal to lease NKL at an above market rate. Sub-let of part of the ground floor space to a café. RBKC does works on the site.	Provision for an alternative design for the replacement façade works being undertaken by the Council. This is based on Second Home's 'brand' and would require a new planning application.
Total value of rental	GBP 17,187,500	GBP 10,235,160
Total value of rental (15 year equivalent for comparison)	**GBP 10,312,500**	**GBP 10,235,160**

Taking into account the rent-free period of 16 months for NHP and 24 months for Second Home, as well as the additional outlay required for the Council, the NHP proposal appears to have been the more financially favourable, by a factor of a total of GBP 525,361.33 over 15 years. Calculation of this amount is shown in the table below.

Basis	NHP	Second Home
Base value of the lease (15 year equivalent)	GBP 10,312,500	GBP 10,235,160
Value of lease (inc. rent free)	GBP 9,395,833.33	GBP 8,870,472.00
Initial spend required for works	(GBP 792,000)	(GBP 792,000)
Net value of lease	**GBP 8,603,833.33**	**GBP 8,078,472**
Amount NHP lease is favourable	**GBP 525,361.33**	

Pret a Manger

Pret a Manger opened a retail unit in the site of the former WIC on 6 February 2018, according to media reports.[269] NHP's proposal for WIC included sub-letting between 2,000 and 2,500 square feet within the building.[270] Pret's lease agreement was therefore with the School, not the Council. The report that accompanied the RBKC Cabinet decision to lease WIC stated that Pret had submitted a proposal for this space, as detailed above.

Citizens Advice Bureau

The Citizens Advice Bureau ("**CAB**") was an occupant of WIC. Kroll's review identified several instances of consideration given to CAB's relocation in RBKC documents about the leasing of WIC. According to the minutes of the Property Policy Board on 14 July 2011, RBKC engaged with representatives of CAB about their space requirements at that time.[271] The agenda stated that this discussion was with reference to CAB's temporary and long-term space needs, as well as to understand their requirements in greater detail. A report prepared by the Corporate Property Department, discussed at the 10 October 2013 Leader's Group meeting, stated that leasing WIC was subject to CAB being relocated to "*suitable alternative accommodation*" [272] RBKC's application to

[269] Exhibit 199, "Westway Information Centre site: Demonstrations as Pret A Manger and Notting Hill Prep School move onto site," MyLondon, 12 February 2018, weblink here
[270] Exhibit 200, RBKC Executive Decision Report North Kensington Library Lease, 19 November 2015
[271] Exhibit 201, Property Board minutes, 14 July 2011
[272] Exhibit 202, RBKC Corporate Property Report Update on Asset Review Programme, 10 October 2013

change the use of WIC, submitted on 4 February 2014, stated that CAB was to relocate to 2 Acklam Road, London, W10 5QZ, a road parallel to WIC, in January 2015.[273]

This relocation was initially meant to be temporary, according to Lawrence Wilson, Deputy CEO of Kensington & Chelsea CAB, in email correspondence to RBKC Deputy Leader Cllr Taylor-Smith in January 2018.[274] Within the same email, Lawrence said that there had been an informal agreement between RBKC and CAB that CAB would be offered space in the new purpose built library which was to replace the existing NKL. Given that the library plans were terminated, the CAB remained until recently in temporary accommodation.[275]

Pepper Pot Club

The change of use and lease of WIC did not affect the Pepper Pot Club, which has continued to operate at the premises as normal, according to a draft of the third edition of the Westway Newsletter, published in March 2014.[276]

[273] Exhibit 203, Letter from Daniel Watney LLP Draft, 8 September 2014
[274] Exhibit 204, Email from Head of Asset Management, *RE: 74 Golborne Road, North Kensington*, 8 February 2018
[275] As set out in section 8, the new library was, in the end, never actually built.
[276] Exhibit 52, RBKC Draft Westway Newsletter, 25 March 2014

9.2 Involvement of external advisors

RBKC engaged three external advisors during the decision-making process of this transaction: property advisors Lambert Smith Hampton, HNG, and Daniel Watney.

9.2.1 Lambert Smith Hampton

RBKC engaged Lambert Smith Hampton in May 2012, under a five-year framework agreement, with responsibilities for "*carrying out reviews of the portfolio and be a partner in the delivery of cost savings, efficiencies and new opportunities*".[277] According to a Corporate Property report from November 2012, Lambert Smith Hampton carried out a feasibility study to advise the Council on they could achieve its aim of leasing the building for the WIC.

9.2.2 HNG

HNG is a London based property agency that also acts as a chartered surveyor.[278] RBKC instructed HNG to carry out an open marketing exercise and manage the bidding process for WIC. The date that HNG's engagement for this site began is unclear.

9.2.3 Daniel Watney

Daniel Watney is a commercial and residential real estate consultancy.[279] RBKC engaged Daniel Watney to apply for change of use for WIC. Daniel Watney's role in this application was criticised by local community groups, see section 9.3.3.

[277] https://www.lsh.co.uk/explore/research-and-views/news/2012/05/royal-borough-of-kensington--and--chelsea-appoints-lsh-as-property-adviser
[278] http://www.hng.co.uk/
[279] https://danielwatney.co.uk/

9.3 Public relations and community engagement

RBKC's communication with the public regarding this transaction took place through the Westway Newsletters, first published in November 2012. The Council did not carry out a specific public consultation process regarding WIC. Kroll understands that the rationale for this was that the WIC was an internal Council building, rather than a public facility like NKL. However, concerns were raised by local community groups about the change of use of WIC obtained by RBKC. The concerns were based on what was said to be a growing shortage of voluntary and community spaces in the borough, and the Council's willingness to ignore stated policies in order to further their commercial objectives.

9.3.1 RBKC communication with the public regarding the transaction

RBKC's first public communication regarding leasing WIC was contained within the first edition of the Westway Newsletter, published in November 2012.[280] The newsletter said that services housed within WIC could easily be rehoused, and that the site would be a "*great spot for commercial use*".

The Westway Newsletter was a local pamphlet initially prepared by RBKC's Head of Media and Communications. Eight issues of the Westway Newsletter have been published from November 2012 to March 2017, which provided updates on plans relating to the WIC and the works undertaken.

9.3.2 Change of use

Several community groups, including Grenfell Action and the Kensington Society, raised concerns with RBKC about the change of use of WIC.

Their concerns were primarily related to Policy CK1, an RBKC stated policy which seeks to protect community and voluntary spaces in the borough. The concerns raised included:

- RBKC did not demonstrate that there was no need for WIC as a community or voluntary space before deciding to change the use, as is required by CK1.
- The application for change of use did not provide for equivalent or better premises to replace the lost social and community space that the WIC provided to the Citizens Advice Bureau.
- That Daniel Watney, the external advisor engaged to submit the change of use of application, misrepresented Policy CK1 in the application.

[280] Exhibit 120, The Westway Newsletter Issue 1, 16 November 2012

The Cabinet Member for Housing, Property and Regeneration, Cllr Feilding-Mellen, defended the change of use in email correspondence with representatives of the local groups which had expressed concerns. Cllr Feilding-Mellen stated that only the space occupied by the Citizens Advice Bureau could be considered community space, and alternative space had been rented at Acklam Road for CAB to continue its provision of services. He added that "*it is very possible that we will end up letting more than 160sqm of the building as D1 space, thereby actually increasing the amount of community space available to local organisations benefitting local people within the very same premises*."[281]

9.3.3 Opposition to change of lease

Protests at the site of WIC took place in February 2018 as NHP and Pret moved into the site.[282] Media reports state that protests were opposing a community asset being put into private hands. Representatives of NHP were quoted as saying that the school was part of the community and that it works together with other schools in the area.

[281] Exhibit 205, email from Rock Feilding-Mellen, *RE: WIC*, dated 22 September 2015.
[282] Exhibit 206, "Westway Information Centre site: Demonstrations as Pret A Manger and Notting Hill Prep School move onto site," MyLondon, 12 February 2018, weblink here

9.4 Conclusions

9.4.1 Propriety of Officers and governance

From documents reviewed by Kroll, it appears that Officers and Members conformed to RBKC's constitutional framework in their leasing of the WIC. RBKC sought out relevant internal and external advice at multiple stages in the process. The decision was discussed at the Property Policy Board and other relevant bodies. The decision was entered onto the publicly available Forward Plan before being approved by Cabinet. The Council was able to demonstrate that it had achieved best consideration for the lease of the site.

9.4.2 Alignment with strategy

The decision to lease WIC was aligned with RBKC's 2020 Corporate Property Strategy, which intended to release surplus operational sites to create income streams for the Council. The King Sturge review identified WIC as one of three sites which had the greatest potential for redevelopment. The review recommended the development of a new hub for Council staff at Malton Road, which was implemented. This rendered WIC to surplus to the Council's requirements.

Allegations that the decision to change the use of WIC was in contravention of policy CK1, which seeks to protect community and voluntary spaces in the borough, were acknowledged by the Planning Department, but the end conclusion was that the decision could be approved on the basis that a more "*holistic*" approach is often necessary when considering planning applications.

9.4.3 Consideration of options and rationale for decisions

Kroll's review found evidence that RBKC gave consideration to alternatives before awarding NHP the lease to WIC. The Council instructed HNG to conduct an open marketing exercise, alongside a competitive bidding process. Corporate Property narrowed the bids down to the two highest, NHP and Second Home. NHP submitted a higher offer with a longer-term benefit to the Council.

9.4.4 Response to specific allegations

The following section sets out Kroll's analysis of specific allegations received in relation to WIC, based on the documents reviewed and the conclusions reached above.

Allegation 1 – Loss of community space in the Borough

Grenfell Action Group and other community groups raised objections with the Council that the change of use of WIC contravened Policy CK1. They stated that the Policy contains loopholes which allow RBKC to approve any decision that suits its interest.[283]

Kroll analysis

Given that the building was predominantly used to house Council internal services, Kroll did not conclude that the actual loss to the community of the reallocation of this building was significant. The CAB was re-located to a facility on Acklam Road, a road adjacent to the WIC, and the Pepper Pot Club's service was not affected by the development and continues to operate from the site.

Allegation 2 – Taxpayer subsidy provided to NHP

In a blog post Grenfell Action Group alleged that the Council provided a subsidy to NHP in the form of the external renovations to WIC which were funded by RBKC as part of the lease agreement.[284]

The post also raised questions about the purported environmental and aesthetic benefits which were a component of RBKC's rationale for completing the works. Grenfell Action questioned why the works had not been carried out before.

Kroll analysis

RBKC committed to funding the external renovations prior to the decision to lease WIC to NHP. Documents reviewed by Kroll showed that the rationale was to enhance the rental return obtainable from the site on a long-term basis.

By accepting NHP's proposal over Second Home's, the Council obtained a rental income that was financially more favourable. NHP's rental offer was worth GBP 525,361.33 more than Second Home's over a comparable 15-year period.

[283] https://grenfellactiongroup.wordpress.com/2015/10/13/westway-information-centre-rbkc-cashes-in-again/
[284] https://grenfellactiongroup.wordpress.com/2017/04/17/please-sir-can-we-have-some-more/

10. The Kensington Centre purchase and lease-back

This section focusses on the 2016 acquisition and lease-back of the Kensington Centre, located on Wornington Road, London (the "Kensington Centre"), one of the sites of Kensington & Chelsea College ("K&CC"), a further and higher education college located in RBKC.

This transaction was selected for review due to significant public interest surrounding the transaction, with focus in particular on the following:

- That Tony Redpath, a Governor for K&CC was also RBKC's Director of Strategy and Local Services for this period and that his involvement in the negotiations around the Kensington Centre constituted a conflict of interest;
- That the continuity of provision of adult education was not adequately considered by the Council;
- That the Council had breached its own local plan in order to justify the purchase of the site; and
- That the level of community engagement by RBKC was not satisfactory and that some Councillors were excluded from important conversations involving the potential acquisition.

Decision making and timeline

The following section provides a high-level summary to the transaction. The events surrounding the transaction are referenced in detail from section 10.1 onwards.

K&CC began experiencing financial difficulties from September 2012 after a loss of a major contract. RBKC had demonstrated an interest in developing the Kensington Centre since September 2013 and preliminary discussions had been held between the principal of K&CC and the Council's then Chief Executive Derek Myers.[285] In February 2014, Tony Redpath, the Director of Strategy and Local Services at RBKC was appointed as an external Governor of K&CC. The appointment was made at the request of K&CC Principal Mark Brickley, who wanted to strengthen the relationship between K&CC and RBKC. Discussions continued throughout 2014 and 2015 until RBKC submitted a formal proposal

[285] Exhibit 207, K&CC Kroll Report (p. 39)

in November 2015 for the sale and leaseback of the Kensington Centre.[286] Mr. Redpath stepped back from his role as a Governor of K&CC in February 2016, prior to the sale of the Kensington Centre.

Corporate Property produced a briefing paper for the Property Policy Board ("**PPB**") in January 2016 which set out the proposed purchase and leaseback of the Kensington Centre. The transaction was further discussed at a PPB meeting on 18 February 2016, along with the presentation of an analysis of financial options. The proposed acquisition was first endorsed by the Leader's Group in a meeting on 25 February 2016. Whilst there was no formal agreement or detailed plan in place at the time to secure additional facilities for K&CC after the expiry of the lease, agreements were drafted that would have provided K&CC with an option to lease another local facility to continue the provision of adult education as well as a short term lease at a Council-owned property next to K&CC's other site on Carlyle Road, located in the south of the borough.

The Key Decision to recommend the acquisition of the Kensington Centre was entered onto the publicly available Forward Plan on 23 March 2016, in line with the constitutionally required number of days for a decision being taken on 20 April 2016.[287] RBKC's Cabinet approved the acquisition of the Kensington Centre at a meeting on 20 April 2016. The Key Decision stated that RBKC intended to develop the Kensington Centre into a mixed-use site which would retain an educational space and additional accommodation, with the main goal to generate income for the Council. The acquisition was seen as key in helping RBKC fulfil its regeneration objectives in the north of the borough. The redeveloped accommodation units were also to be used as "*decant*" units for local regeneration projects as well as affordable housing.

A number of Labour ward Councillors complained that the Corporate Property Department failed to provide them with information on the proposal prior to the decision, which contributed to the feeling that "*the democratic process of scrutiny was [is] not being property observed by this Council*". Following a complaint from a Labour Councillor on these issues, an independent investigation completed by the Chief Solicitor of RBKC found that the Council's internal procedures were not "*strictly adhered to"*, but that this did not constitute a breach of legislative or constitutional requirements.

The sale was completed on 19 July 2016 and included a three-year leaseback to K&CC. The leaseback was agreed to allow RBKC time to consider development options for the site and to obtain relevant

[286] Whilst discussions were held over 2014 and 2015 where RBKC had demonstrated an interest in acquiring the Kensington Centre, Kroll has been unable to verify the precise circumstances and events leading up to RBKC's offer in November 2015 through the available email correspondence and interviews.

[287] The decision date was actually entered into the Forward Plan incorrectly as 21 April 2016.

planning permission. The leaseback period would also enable RBKC and K&CC to work together to identify a temporary facility in the north of the borough for K&CC while the Kensington Centre was being developed.

Internal consultation and scrutiny

Documents reviewed by Kroll identified internal consultation from three RBKC departments before the proposed acquisition was put forward to Cabinet: Planning, Legal and Finance.

Concerns were raised by members of the Finance team about the timeliness of consultation and the lack of appropriate details provided by Corporate Property to usefully comment on the financial impact of the acquisition. The decision was taken to the Cabinet on 20 April 2016 without a clear understanding of the financial implications, including the source of funding for the acquisition. Prior to March 2016, the acquisition was not included in RBKC's Capital Programme, despite the fact that the Key Decision of 20 April 2016 stated that there may have been a requirement for external funding for the acquisition if the Capital Programme was delivered in full. At the time of the decision RBKC was therefore uncertain whether they would have required to borrow funds externally to finance the acquisition.

The Cabinet Member for Education and Libraries, Cllr Emma Will, also raised concerns about whether the site was to be retained for adult education, as this was not mentioned specifically in the PPB meetings. The Corporate Property Department provided reassurance that K&CC would have the option to lease other properties in the borough to maintain the provision of adult education during the development process.

Planning advice obtained by Corporate Property identified that the development of the Kensington Centre for predominantly residential purposes would breach a key policy in the Local Plan 2015 – which stated that social and community uses for the development of the Kensington Centre [should be] "*protected and enhanced*". However, the Executive Director of Planning and Borough Development presented the argument that wider community benefits and the inclusion of a replacement D1 educational facility would provide benefits which would offset this breach.

Consultations with the RBKC Legal Department focussed on the legality of the transaction from the perspective of the Town and Country Planning Act and concluded that the economic benefit of the acquisition would constitute compliance with the regulations.

With regards to scrutiny, Officers assigned the decision to purchase and leaseback the Kensington Centre a ‘one diamond’ rating, despite the significant capital outlay and potential impact on the Golborne Ward and the wider community. The confidential minutes of the Housing and Property Scrutiny Committee meeting reflected a change in the diamond rating to three diamonds. The reason behind this was not documented in the minutes.

The transaction was discussed by the Housing and Property Scrutiny Committee on 11 May 2016, nearly three weeks after the Key Decision and the day before the exchange of contracts between RBKC and K&CC. Information about the Key Decision was sent to the Chair of the Committee, Cllr Quentin Marshall on 23 March 2016 but was not discussed until the May meeting. On the date of the Key Decision, Cllr Feilding-Mellen emailed Cllr Marshall asking whether he would be happy to review the decision “*after the fact*”. Cllr Marshall responded that he was happy that it would be reviewed after implementation.

External advisors

RBKC engaged two external parties to advise on specific aspects of the transaction: Commercial real estate advisors CBRE, to provide an analysis of available options for the development, the potential transaction structures and a ‘red book’ valuation of the site and Pinsent Masons LLP, a law firm, were appointed to negotiate the terms of the agreements between RBKC and K&CC and to comment on other legal questions, in particular to consider the possible timeline and implications of a judicial review surrounding the transaction.

Communications between CBRE and Corporate Property showed that CBRE had “*steered*” K&CC’s commercial advisors away from an “*open market testing*” approach, which CBRE advisors concluded would have the impact of significantly increasing the purchase price for RBKC. According to information in the K&CC Kroll Report, RBKC also threatened to withdraw its bid if the sale price was tested on the open market.

CBRE also considered a number of options for development of the Kensington Centre, concluding that of the five options presented, the most beneficial to RBKC would be to enter into a structured deal with a Private Rental Sector (“**PRS**”) developer by leasing the site to the PRS developer on a long leasehold. The PRS developer would then have responsibility for developing the property and could sell a number of units to cover the development cost. The remaining units would then be sold as a PRS product, with a revenue split between the developer and RBKC. CBRE estimated that the capital receipt for this scenario could result in a capital receipt of GBP 41 million, which could directly benefit front-line services.

CBRE also prepared a valuation of the Kensington Centre in April 2016, concluding its value to be GBP 28.6 million. The value of the payment to K&CC was reduced to GBP 25.35 million to take into account the lease value for the initial three years of GBP 1.1 million per year.

Lambert Smith Hampton ("**LSH**") was also the advisor to K&CC during the time of the transaction, upon the recommendation of RBKC since K&CC required professional advice. LSH had previously entered into a five-year framework agreement with RBKC in 2012 to provide strategic advice on the Council's property portfolio. According to the K&CC Kroll Report, LSH confirmed to K&CC that members of staff involved in the transaction would not simultaneously act on any engagements with RBKC.

Kroll identified that LSH was instructed on 6 April 2016 by RBKC to prepare a Marketing Strategy Report in relation to a development at Chelsea Creek, which was completed on 14 April 2016, prior to RBKC and K&CC completing the transaction. Stephen Armitage from LSH stated in an interview with Kroll that the same members of staff were not involved in both engagements. Additionally, he stated the active involvement in the negotiation on behalf of K&CC had been completed on 15 March 2016, at which point the matter was passed onto solicitors and therefore there was no breach of the agreement with K&CC.

Public relations and community engagement

As part of the negotiations surrounding the acquisition, RBKC and K&CC agreed to pursue a joint media strategy to announce the transaction. Documents reviewed by Kroll showed that K&CC delayed the release of a public statement announcing the transaction until 2 June 2016, over a month after the Cabinet decision had been made. Communications showed that RBKC representatives asserted pressure on K&CC to make a public statement, as this would be in their joint interest.

Local community groups questioned the Council regarding the sale of the Kensington Centre prior to any public announcement being made. For example, on 25 May 2016, Edward Daffarn emailed Cllr Feilding-Mellen about a "*nasty rumour*" which was circulating about the sale of the Kensington Centre. Cllr Feilding-Mellen provided a response to Mr. Daffarn on 3 June 2016 following an article in a local newspaper announcing the acquisition, sending a link to a local newspaper article which had reported on the acquisition.

On the Key Decision, the relevant ward where the Kensington Centre is situated was incorrectly listed as St. Charles, when in fact it was in Golborne Ward. Labour Councillors for Golborne Ward raised concerns that they had not been informed of the negotiations or recommendation in a complaint in May 2016. In its response, Corporate Property did not provide a reason as to why the Councillors were not informed prior to the decision being taken, stating that the misstatement was an error.

10.1 Rationale for the transaction and formal decision-making

10.1.1 Basis of the decision - RBKC

As set out in section **Error! Reference source not found.**, RBKC had committed to restructuring its commercial property portfolio through specific initiatives such as the Corporate Property Strategy 2020, with a particular focus on North Kensington, where the Kensington Centre was located. The K&CC Kroll report outlined that RBKC had historically shown an interest in acquiring the Kensington Centre from as early as June 2013, where it was recorded in confidential minutes of K&CC's Finance and General Purposes Committee. K&CC wanted RBKC's interest kept "*warm*" as long as the Council agreed to develop the site for educational purposes.[288]

In the Key Decision dated 20 April 2016, the Council stated its intention to create a mixed use development at the Kensington Centre, including a retained D1 (non-residential) space and a "*private rented sector development*" as well as affordable housing. The basis for this recommendation was threefold. Firstly, the sale and leaseback structure proposed provided K&CC with a significant capital receipt and certainty of occupation for the leaseback period between two and three years. Secondly, RBKC were able to develop affordable housing on the site that could be used for decanting purposes for surrounding regeneration projects. RBKC were undertaking significant regeneration projects in close proximity to the Kensington Centre, including the Barlby and Treverton estates, and the opportunity of decant housing in the area was considered a strategic benefit to the regeneration programmes. Thirdly, the opportunity for RBKC to pursue a PRS development meant they could generate significant revenue from the properties in conjunction with a developer in the long term which would fund front-line services.[289]

As part of the deal, K&CC would benefit from an option on a lease for a temporary facility to be established whilst the Kensington Centre was being developed, as well as alternative accommodation adjacent to their existing space in the Carlyle Building in a building owned by the Council.[290] K&CC would also have the option to lease the D1 space in the newly developed Kensington Centre once development was completed.

[288] Exhibit 207, K&CC Kroll Report (p. 38), weblink here

[289] Exhibit 208, Cabinet Decision Report, 20 April 2016, weblink here

[290] Exhibit 208, Cabinet Decision Report, 20 April 2016, weblink here. The Chelsea Centre is K&CC's campus located on Hortensia Road, Fulham.

10.1.2 Basis of the decision – K&CC

The K&CC Kroll Report documented details of financial difficulties at K&CC resulting from the loss of a contract for educational provision for the Offender and Learning Skills Service in November 2012, which resulted in a 45% reduction in income between 2012 and 2013. Along with the loss of this contract, K&CC were negatively affected by funding cuts in the Further Education and Adult Education sectors in the years following the loss of this contract.

In addition to funding pressures, a review of the strategic direction of London Further Education Colleges took place in mid-2016, called the Central London Area Review. Each college was asked to provide a business plan to the GLA to be reviewed, and there was a risk that the GLA would freeze any asset management initiatives until the review was completed. The outcome of the review would have a significant impact on K&CC's future funding and made the completion of the transaction time sensitive from the perspective of K&CC.[291]

Bill Blythe, the Vice Principal for Finance and Resources at K&CC, sent a letter to LSH, K&CC's commercial advisors (see section 9.6.1) on 14 December 2015 which set out that RBKC had approached K&CC to raise the possibility of the Council acquiring the Kensington Centre as they needed land to build two new schools as part of their Barlby regeneration proposals. [292] The letter set out that the Kensington Centre would also provide decanting solutions for residents currently residing on the Estates.[293]

[291] The review was published in February 2017 and recommended that K&CC merge with the City Literary Institute, a college based in Holborn. The review states that the merged college "*will strengthen its operating surplus and cash reserves to move towards financial benchmarks*". Negotiations between the parties broke down in 2017.
See Exhibit 209, Central London Area Review Final Report 2017, weblink here
[292] Exhibit 207, K&CC Kroll Report (p.26), weblink here
[293] The email and document review did not identify any internal or external correspondence involving RBKC Officers prior to the transaction where the provision of two new schools being developed at the Kensington Centre were discussed.

10.2 Internal Consultation and Scrutiny

The Corporate Property Department requested advice from a number of relevant internal parties prior to the decision to acquire the Kensington Centre. Such advice was requested by a Corporate Property Development Manager from the Planning, Legal and Finance departments on 4 April 2016, only two days before the key decision and report needed to be finalised.[294]

The decision was subject to scrutiny from the Housing and Property Scrutiny Committee in May 2016. A summary of the communications between internal departments and scrutiny panels identified by Kroll is set out below.

10.2.1 Planning considerations

In the Local Plan (See Section **Error! Reference source not found.**), the Kensington Centre was explicitly stated to be a building not designated for redevelopment unless the plans were "*beneficial to the wider community and sufficient funding was identified*".[295] Prior to the acquisition and proposed development, the building fell under D1, or community use.[296]

The Key Decision recommended that the Kensington Centre would be suitable for C3 residential accommodation and D1 use.[297] A review of the Local Plan and documents provided to Kroll has identified that a breach of the Local Plan was identified and considered in the process of recommending the acquisition of the Kensington Centre.

The D1 use of the Kensington Centre was protected under policy CK1 of the Local Plan, which stated that "*The Council will ensure that social and community uses are protected or enhanced through the Borough and will support the provision of new facilities*".

Graham Stallwood, the Executive Director of Planning and Borough Development, provided comments on Corporate Property's draft Cabinet paper for the Kensington Centre on 6 April 2016.[298] Mr. Stallwood acknowledged that the development of the Kensington Centre for predominantly residential purposes

[294] Exhibit 210, Email from the Development Manager, *Cabinet Paper – KCC Wornington Road,* 4 April 2016
[295] Exhibit 21, RBKC Consolidated Local Plan 2015, Section 21.2.8, weblink here
[296] D1 space, as outlined in the Town and Country Planning Act 1987, is for non-residential uses of property including "*the provision for education"*
See Exhibit 211, Town and Country Planning (Use Classes) Order 1987, Part A (D), weblink here
[297] C3 space, as outlined in TCPA 1987, is for dwelling houses (whether or not as a sole or main residence by a single person, a family or by not more than six residents living together as a single household
See Exhibit 211, Town and Country Planning (Use Classes) Order 1987, Part A (C), weblink here
[298] Exhibit 212, RBKC Cabinet Decision Report Draft Kensington and Chelsea College, 6 April 2016

would breach Policy CK1 of the Consolidated Local Plan 2015 as the development would not "*protect or enhance"* the Kensington Centre in its pre-existing D1 use as the space would be decreased.

Despite this breach, Mr. Stallwood argued that the wider community benefits of the development, such as investment in the Carlyle Building, the replacement D1 facility at the Kensington Centre and the "*crucial"* part the development would play in RBKC's regeneration objectives, would offset such a breach.

10.2.2 Legal considerations

An internal Solicitor for RBKC provided details on the legal justification for the acquisition and development of the Kensington Centre to a Development Manager and Mr. Egan for the transaction on 5 April 2016.[299] The justification was requested by Corporate Property in order to defend against any future judicial review applications and prove that RBKC's actions were in this case legal. The solicitor concluded that RBKC was legally permitted to acquire the land for planning purposes pursuant to Section 226 and 227 of the Town and Country Planning Act 1990 ("**TCPA1990**"). In order to purchase land that is likely to be used for development purposes, RBKC were required to achieve one or more of the following objectives:

- The promotion of improvement of the land and economic wellbeing of the area;
- The promotion or improvement of the social wellbeing of the area; or
- The promotion of improvement of the environmental wellbeing of the area.

The solicitor found that "*the economic wellbeing of the area will be improved as a result of the development as affordable housing tenants from other regeneration sites will be decanted into the development on this site which will be of a strategic benefit to the Council"*.

10.2.3 Financial considerations

The Finance department were required to provide sign off on the transaction from a tax and finance perspective, including an assessment of whether or not the transaction represented "*best consideration*" for the Council, as set out in Section 123 of the Local Government Act 1972. Kroll noted that concerns were identified in the Finance Department around the rushed nature of the transaction, which did not

[299] Exhibit 213, RBKC Legal Department Comments on *Wornington Road – Cabinet Paper 040416 Draft*, 5 April 2016

allow sufficient time for proper analysis as well as issues regarding potential tax implications and funding issues.

Timescale for financial analysis

A Corporate Finance Manager, raised concerns about the lack of time provided to Finance to scrutinise the Cabinet paper in an email to the Town Clerk Nicholas Holgate on 5 April 2016, stating "*I am extremely concerned that Corporate Property are yet again springing a complex and expensive decision related to property on us at the last minute*". [300] The wording "*yet again*" implies that from the perspective of the Corporate Finance team member, there was some concern that this was not the first instance that the Finance team had not had sufficient time to adequately opine on a transaction, although Kroll did not identify any further details of other such transactions referred to.

The Corporate Finance Manager also raised concerns about the potential legality of the transaction in an email to a Development Manager on 4 April stating, "*as I understand it local authorities cannot just acquire a site and redevelop for profit, but I could well be wrong"*.[301]

Tax considerations

The Corporate Finance Manager also raised concerns about the tax implications of the transaction in this email, stating that Corporate Property needed to take tax advice urgently.[302] These concerns were qualified in the Manager's response to Mr. Holgate the next day, saying the transaction was "*GBP 25 million of public spending without a clear objective (based on the draft wording attached which is all I have), without sight of any legal advice and without enough information to give tax and VAT advice*."

Given the limited time provided to the Finance department for sign-off, Kevin Bartle, the Interim Director of Finance for RBKC, highlighted in communications to both the Development Manager responsible for the transaction and Mr. Egan on 7 April 2016 the time pressure that the Council was under to complete the transaction, and caveated any approval on the basis that adequate legal and tax advice be obtained – stating "*given the pressing timescale in which to complete this transaction, full legal and taxation advice has not been obtained before publication of this report, and as such, approval of the recommendation should be subject to satisfactory legal and taxation clearances"*.[303]

[300] Exhibit 214, Email from Corporate Finance Manager, *FW: Cabinet Paper – KCC Wornington Road PLEASE BE AWARE,* 5 April 2016
[301] Exhibit 215, Email from Mr. Nicholas Holgate, *RE: Cabinet Paper - KCC Wornington Road*, 5 April 2016
[302] Exhibit 216, Email from Corporate Finance Manager, *RE: Cabinet Paper – KCC Wornington Road,* 4 April 2016
[303] Exhibit 217, Email from Mr. Kevin Bartle, *RE: KCC Wornington Road – Cabinet Paper Draft,* 7 April 2016

Pinsent Masons, legal advisors to RBKC for this transaction (see section 10.3.3), provided clarification on tax issues raised on a phone call with Corporate Property on 7 April 2016.[304] The two main tax issues highlighted are summarised below.

- It was unclear how Stamp Duty Land Tax (SDLT) would be applied in the transaction, and what effect this might have on the purchase price. Pinsent Masons concluded that because the acquisition was a sale and leaseback, SDLT would be payable on the higher of the market value of the freehold required and the consideration paid.
- Questions were raised on whether RBKC would apply VAT on the leaseback of the Kensington Centre and the decant facility to K&CC. RBKC decided not to exercise an option to tax the Kensington Centre or decant facility, as K&CC would be unable to recover the VAT costs.

Funding considerations

In addition to the tax questions noted, there were also concerns raised over funding of the payment for the capital outlay. Section 21.2.8 of the Local Plan states that "*[in the Wornington Green area] Several other buildings, such as the Kensington and Chelsea College, are also located within the site allocation but are not programmed for redevelopment unless this is beneficial to the wider community and sufficient funding is identified*".[305]

It was recorded on the Key Decision on 20 April 2016 that RBKC may not be able to fund the development and may need to rely on external borrowing. The advice was that "*the funding for this GBP 25.6 million acquisition is additional to the Council's latest (March 2016) three-year capital programme. If all the planned capital investment, including this proposal, actually takes place within the three-year period, the Council may need to undertake some external borrowing*".[306]

Within the Finance Department, the funding of the transaction was highlighted as a potential concern by the Corporate Finance Manager in an email of 4 April 2016 to Mr. Bartle - "*this is GBP 25 million over more than one financial year capital investment, which is new to the capital programme and the first I have heard about it*". Mr. Bartle later raised these points with Mr. Holgate, stating the transaction "*does not comply with your existing financial procedure rules*".[307]

[304] Exhibit 218, Email from Ms. Laura Shott, *RE: KCC – Wornington Road [PM-AD.FID2547986],* 11 April 2016
[305] Exhibit 21, RBKC Consolidated Local Plan 2015, Section 21.2.8, weblink here
[306] Exhibit 208, Cabinet Decision Report, 20 April 2016, weblink here
[307] Exhibit 219, Email from Mr. Kevin Bartle, *FW : Cabinet Paper – KCC Wornington Road,* 5 April 2016

10.2.4 Education Department considerations

No email correspondence has been identified which shows consultation between the Corporate Property Department and the Education Department, other than comments raised by Cllr Emma Will, the Cabinet Member for Education and Libraries, at the Leader's Group meeting, which are detailed in the preceding sections.[308]

10.2.5 Equality considerations

Kroll did not identify any reference being made to the equality implications of the decision to acquire the Kensington Centre in the public or exempt reports.

10.2.6 The role of Tony Redpath – Director of Strategy and Local Services

As referenced previously, Tony Redpath, the Director of Strategy and Local Services, was appointed as a Governor of K&CC in February 2014. There were perceptions amongst certain community groups that the appointment could be seen to be at odds with the Constitutional requirements of impartiality of Officers, and the Officers' code of conduct which states that "*Employees of the Council should not place themselves under any financial or other obligation to individuals or organisations such that might influence them or bias their actions in the performance of their official duties*." While Kroll did not identify contemporaneous documentation which set out precisely the role of Mr. Redpath in the Transaction, documents did confirm that he was appointed a governor of K&CC (at the request of the college) and that the Development Manager responsible for the transaction and Mr. Egan requested his opinion on the Transaction in October 2015.

Mr. Redpath stated in interview that both RBKC and K&CC were aware of the potential perceived conflicts that his appointment as Governor would present, but that these conflicts were adequately identified and managed from the outset. According to Mr. Redpath, he was appointed due to his strategic knowledge of the borough gained through his position at RBKC and was mainly involved in discussions around increasing student numbers at K&CC. He stated that he recalled that he had attended one meeting of K&CC Governors well before negotiations started with RBKC where a range of options for the Kensington Centre were discussed, and that these options did not include disposal of the site to RBKC.

[308] See section 10.

Mr. Redpath recalled that Mr. Egan had verbally asked for his view on the possibility of RBKC acquiring the Kensington Centre. Mr. Redpath stated that he was surprised by the question and did not have much to contribute to Mr. Egan, which resulted in a follow up email from the Development Manager asking for Mr. Redpath's view. His response to the Manager's request was neutral in tone, stating that any transaction must bring mutual benefits for RBKC and K&CC. No other involvement in the transaction was identified by Kroll.

10.2.7 The Housing and Property Scrutiny Committee

The transaction was subjected to scrutiny by the Housing and Property Scrutiny Committee. The Review noted that scrutiny was subject to some delay and that as with the other transactions in the Review, the classification of the potential impact through the diamond rating system (as "one diamond") was questionable. Further details are set out below.

Timeliness of scrutiny

The HPSC discussed the Kensington Centre acquisition at its meeting on 11 May 2016, nearly three weeks after Cabinet provided its approval and one day before contracts were exchanged between RBKC and K&CC. As the committee met approximately every two months, this was the closest scheduled meeting to the decision date. Emails reviewed show that information about the Key Decision, was sent to the Chairman of the Committee, Cllr Quentin Marshall on 23 March 2016 by the Principal Governance Manager at RBKC.[309]

Cllr Marshall responded via email to the information provided on the key decision requesting clarification about the commercial elements of the transaction, asking "*what amounts are involved? What's the financial case for the Council?"*. [310] Responses were provided on 30 March 2016 by the Development Manager responsible for the transaction, via email, and the Executive Support and Governance Manager, via telephone.[311]

Cllr Feilding-Mellen emailed Cllr Marshall on the date of the Key Decision (20 April 2016) asking him to confirm that he was aware that the decision to purchase the Kensington Centre was going to Cabinet on the same day and that he "*hoped that you'll [Cllr Marshall] be happy for HPSC to review this [the*

[309] Exhibit 220, Email from the Executive Support and Governance Manager, *URGENT - PLEASE DO NOT IGNORE: Kensington and Chelsea College, Wornington Road*, 24 March 2016
[310] Exhibit 220, Email from the Executive Support and Governance Manager, *URGENT - PLEASE DO NOT IGNORE: Kensington and Chelsea College, Wornington Road*, 24 March 2016
[311] Exhibit 221, Email from the Development Manager, *RE: Kensington and Chelsea College, Wornington Road,* 6 April 2016

decision] after the fact?]". Cllr Marshall responded stating "*I've not seen the papers but am happy this is reviewed after implementation*".[312]

Questionable "diamond" rating

As set out in section 5, all decisions which are entered onto RBKC's Forward Plan were assigned a rating to guide Members of the various scrutiny committees to identify key decisions of greater interest. The classification was then be approved by the relevant scrutiny committee Chairman, who had the authority to modify the rating before and after it is entered onto the Forward Plan.[313]

The recommendation of the purchase and leaseback of the Kensington Centre was entered onto the Forward Plan on 23 March 2016.[314] It is Kroll's understanding that the Officers responsible for the Transaction (Mr. Egan and others) assigned the decision a 'one diamond' rating. The appropriateness of this rating is questionable, given the significant capital expenditure in the project and its potential impact on the Golborne Ward and given that the diamond rating was later altered by Cllr Marshall, the HPSC Chair. In any case, the decision came before the HPSC "*because of the quantum*", according to email correspondence from Cllr Marshall, and was subject to the scrutiny process. Cllr Marshall stated he *"[foresaw] no issues*" on the decision and recalled in interview that it felt like a standard property transaction where no objections were raised by Members of the committee.[315]

The confidential minutes of the HPSC meeting on 11 May 2016 state that "*the Chairman said that he had changed the Diamond rating of the KD to three diamonds and that is why it was before the Committee*".[316]

A number of additional points of scrutiny were raised at the meeting itself:

- Councillor Eve Allison, a Conservative Member, asked what would happen to the staff and students of K&CC. Cllr Feilding-Mellen stated that K&CC had approached RBKC about the transaction and "*the Council was not forcing the College out"*.

[312] Exhibit 222, Email from Cllr Quentin Marshall, *RE: KCC Wornington Rd acquisition,* 20 April 2016
[313] Further information on the 'diamond' rating classifications is included at section 5.2.4.
[314] Exhibit 223, Email from Cllr Rock Cllr Feilding-Mellen, *RE: URGENT ATTENTION: Approval sought to place a new Cabinet Decision onto the Forward Plan: Kensington and Chelsea College, Wornington Road Cabinet 20 April 2016,* 17 March 2016
[315] Exhibit 224, Email from the Development Manager, *RE: Kensington and Chelsea College, Wornington Road,* 11 April 2016
[316] Exhibit 225, RBKC Housing and Property Scrutiny Committee Part B Minutes, 11 May 2016

- Councillor Monica Press, a Labour Member, asked whether RBKC could use the "*CoCo*", a Council owned company set up to help tackle the shortage of housing, to build a new D1 facility and then all affordable housing units. Cllr Feilding-Mellen responded that no options had been ruled out but that there were restrictions on the CoCo for developing social housing.

- Councillor Press stated that the funding for the acquisition had been reviewed by the Financial Viability Working Group and noted the Council could access loans at public sector interest rates which could be match funded by RBKC.[317]

Although no HPSC Members represented the Golborne Ward where the Kensington Centre was situated, no further concerns were raised by Members at the time in relation to the transaction at the meeting.

[317] Exhibit 225, RBKC Housing and Property Scrutiny Committee Part B Minutes, 11 May 2016

10.3 Involvement of external advisors

RBKC engaged a number of advisors during negotiations with K&CC on the transaction. CBRE were instructed as commercial advisors for RBKC and provided an options analysis and valuation on the Kensington Centre as part of their scope. Pinsent Masons were instructed as RBKC's solicitors and assisted in drafting up the various agreements with K&CC. Lambert Smith Hampton, K&CC's advisors, held a close relationship with RBKC and worked with the Council on a number of other commercial matters but were not involved in this matter for RBKC.

A summary of the nature of the engagements has been included below.

10.3.1 CBRE

CBRE, an international commercial real estate advisory firm, was engaged by RBKC to act as a commercial advisor in negotiations surrounding the sale and leaseback of the Kensington Centre.[318]

Summary of work undertaken by CBRE and recommendations

From the review of the documents noted above and other communications between RBKC and CBRE, Kroll has identified the following in relation to the advice provided by CBRE: [319]

Negotiations with K&CC advisors regarding market testing

Communications between CBRE and Mr. Egan and a Development Manager identified that the company had "*steered*" K&CC's commercial real estate advisors, LSH, away from the open market testing approach.[320] An email in February 2016 from CBRE to Mr. Egan and the Development Manager stated that this "*demonstrate[ed] value add to you*", as the testing would "*have inevitably increased pricing*". According to communications between K&CC and LSH, RBKC had threatened to withdraw its interest in the Kensington Centre if the site's sale price was tested on the open market.[321] RBKC stated that they were unable to chase "beyond market value" into the speculative end of pricing and insisted that CBRE and LSH work together in order to confirm a base price.[322]

[318] Exhibit 226, RBKC Corporate Property and Kensington & Chelsea College Meeting Notes, 30 November 2015
[319] Kroll has not reviewed the terms of engagement of CBRE, but has summarised the deliverables of work from email communication
[320] Exhibit 227, Email from Mr. Alastair Perks, *RE: Wornington Road – General Update,* 23 February 2016
[321] Exhibit 207, K&CC Kroll report (p. 103)
[322] Exhibit 207, K&CC Kroll Report (p. 43)

Alastair Perks, a commercial advisor from CBRE, explained in interview that they were legitimate reasons for not pursuing the open market route for the transaction, summarised below:

- K&CC demonstrated a preference towards a sale and leaseback structure as this would provide them with security for their short-term occupancy and would raise capital.
- The medium-term leaseback period for the transaction of between two and three years would have been an unusual condition on the open market.
- K&CC and RBKC had an existing landlord and tenant relationship, which meant that certain rights would be assigned to RBKC as a "*special purchaser*".
- A structure was agreed where a base price would be paid and any subsequent top-ups would be added in the event that the property became more valuable in the coming years, for example if any rights of light payments were required if buildings were demolished at 9-16 Edward Kennedy House and 192-193 Wornington Road.

CBRE recommended that K&CC take independent professional advice in its first email to RBKC on the project dated 20 November 2015, and this led to LSH being appointed by K&CC. On the possibility of open market testing, Mr. Perks confirmed in a communication with Kroll that "*open market testing can generate unreliable bids from untested bidders, who have not completed necessary due diligence at the time of bidding - and hence driving up the price artificially - while not being able to perform on the terms initially offered. Our advice therefore was to protect our client from this potential risk. The intention of this transaction at the outset and throughout was to pay a market price (as backed up by a Red Book Valuation), unlock mutual benefits for both organisations (that would not have been possible with another bidder), and to share upside equitably.*"

Consideration of options

In February 2016, CBRE produced an "*Investment Strategy*" under the instruction of RBKC, which set out a number of scenarios for development of the Kensington Centre.[323] This report was presented to the Leader's Group on 25 February 2016 and was ultimately included in a Cabinet Report where the decision to acquire the Kensington Centre was made. The four scenarios contained in the report were as follows:

[323] Exhibit 228, RBKC Investment Strategy (CBRE), 16 February 2016

- **Scenario 1** – A forced sale by RBKC at the end of the period of leaseback to a third party, assuming that vacant possession would be delivered.
- **Scenario 2** – Sale of the land at the end of the leaseback period, having secured residential planning consent during the period, to allow construction to start immediately.
- **Scenario 3(a)** - RBKC would develop a PRS (Private Rental Sector) development themselves (on the assumption of planning consent by the end of the leaseback) with a development manager overseeing the construction. RBKC would then receive 100% of the rental income.
- **Scenario 3(b)** - RBKC would enter into a structured deal with a PRS developer which would retain the ability to achieve vacant possession of the units. RBKC would effectively 'gift' the land to a private developer on a long leasehold, which would build the scheme and sell several units to cover the total build cost. The remaining units would then be sold as a PRS product where there would be a revenue split in rental return between the developer and RBKC. RBKC would also reserve the right at any time to sell individual units within the scheme.
- **Scenario 4** – RBKC would extend the lease with K&CC or secures another D1 tenant to lease the Kensington Centre in its existing condition.

The Cabinet decided that scenario 3(b) would result in the greatest benefit to RBKC. CBRE acknowledged that RBKC had used this method on similar sites. CBRE concluded the created rental stream and ability to take back the PRS units could generate a capital receipt of GBP 41 million. The capital receipt, according to the Key Decision documentation, would be used for "*front line services which will benefit the social and economic well-being of residents*".[324]

Red Book valuation

CBRE completed a 'Red Book' valuation of the Kensington Centre for acquisition purposes on 19 April 2016, the day before Cabinet made the key decision to acquire the Kensington Centre.[325] The result of the valuation was communicated to RBKC prior to the Cabinet meeting. The valuation report and appendices were formally sent to RBKC on 25 May 2016.[326] The valuation report referred to a development comprising of 113,679 sq. ft of residential accommodation and 31,520 sq. ft for a replacement D1 facility and valued the Kensington Centre at GBP 28,600,000.

[324] Exhibit 208, Cabinet Decision Report, 20 April 2016, weblink here
[325] A Red Book valuation is undertaken with reference to the Royal Institution of Chartered Surveyors Professional Standards which contains mandatory rules, best practice guidance and related commentary for all members.
[326] Exhibit 229, Email from Tom Fuller, *CBRE Valuation Report*, 25 May 2016

The purchase price was then reduced from GBP 28,650,000 to GBP 25,350,000, to account for the lease value of GBP 3,300,000 for three years (GBP 1,100,000 per annum). K&CC would not be required to make any cash payments for the lease for three years under this arrangement. The rental value amounted to a return of 5% per annum for the capital invested. CBRE set out the basis of the discount in their paper on the purchase price mechanics, stating "*on the day of the transaction, the Council could hypothetically pay out GBP 3,300,000 into a non-interest bearing account and draw down against this sum over the period of the leaseback, in lieu of actually receiving a rental stream from K&CC directly*".[327]

Valuation differences between CBRE and K&CC advisors

The K&CC Kroll report into the sale and leaseback for K&CC identified that LSH, the commercial advisors for K&CC, produced a report in August 2015 that valued the Kensington Centre at GBP 35,585,000 in accordance with 'Red Book' standards based on the "*continued viability for its occupation and use for the provision of services it provides*". According to this report, K&CC's management also felt that development of a mixed-use site would likely increase the value further.[328]

Despite this valuation in August 2015, following the agreed sale, LSH concluded in communications with K&CC that the agreed purchase price (GBP 28.6 million) had "*exceeded market value*". The rationale for this was that the purchase price would not be achievable on the open market as "*the high purchase price would result in a very small number of investors/developers being in a position to offer the site thereby reducing competitive tension*" – in addition, the leaseback option would also not be available on the open market.[329]

It appears from the documentation reviewed that, despite the possibility of a higher monetary valuation being potentially achievable, as stated by both CBRE[330] and LSH, the deal which was achieved was considered the best option for both K&CC and RBKC according to their respective commercial advisors.

Stephen Armitage, Director of Planning Development and Regeneration for LSH commented on the valuation differences in interview. Mr. Armitage stated that there was a significant difference in the valuations as the former was completed on a continued use basis. LSH were also unaware during the

[327] Exhibit 230, CBRE Wornington Road Purchase Price Mechanics Draft, 31 March 2016
[328] In an email dated 7 December 2015 to Barclays Bank (K&CC's Bankers), Mr. Blythe set out that "*the site is valued (Current Use) at over GBP 35m – this is clearly a lot less than can be achieved for residential plus residual replacement D1*". See Exhibit 207, K&CC Kroll Report (p. 25)
[329] Exhibit 207, K&CC Kroll Report (p.105)
[330] In communications, CBRE stated that market testing could lead to an increased purchase price for the Kensington Centre.

August 2015 valuation of the necessary repairs required to the Kensington Centre, which decreased the valuation further.

10.3.2 Lambert Smith Hampton

Kroll understands that LSH was engaged in May 2012 by RBKC under a five-year framework agreement, with responsibilities for "*carrying out reviews of their property portfolio and be a partner in the delivery of cost savings, efficiencies and new opportunities*".[331] It was confirmed in interview that the agreement was set up between the Council and other property consultancies. The agreement enabled RBKC, at their discretion, to request services at pre-agreed terms and conditions.

LSHH was also engaged in July 2015 and January 2016 by K&CC, and in the latter on the other side of the Kensington Centre transaction. The main contact for RBKC at LSH, Stephen Armitage, Director of Planning Development and Regeneration, was also the individual who handled the transaction on behalf of K&CC.

Mr. Armitage raised the risk of conflict of interest via letter with K&CC prior to their engagement in December 2015. The letter stated that the risk was mitigated by LSH's internal procedures and that "*the members of staff who are involved in this transaction will not simultaneously deal with any case on behalf of RBKC"*.[332]

LSH has provided Kroll with further information relating to three relevant engagements connected to Chelsea Creek, a luxury riverside development, that occurred between December 2015 and April 2016, during the course of negotiations on the Kensington Centre. Firstly, a Disposal Strategy Proposal was sent to RBKC in January 2016 in connection with the marketing of the Council's interest, which was limited to a freehold interest of the Creek rather than the surrounding development. No acknowledgement or subsequent instruction from RBKC has been obtained as part of the review in relation to this matter.

[331] Exhibit 231, LSH Announcement of appointment as Property Adviser to RBKC, 10 May 2012, weblink here
[332] Exhibit 207, K&CC Kroll Report (p. 101)

Secondly, LSH appointed a third party, New Maritime Ltd, on behalf of RBKC between February and May 2016 to provide advice on drainage rights. LSH confirmed that they did not comment on the advice provided by New Maritime and instead provided an administrative role.

Thirdly, a Marketing Strategy Report was requested by RBKC on 6 April 2016 and subsequently issued on 14 April 2016. LSH have been unable to identify any further instructions in relation to the Marketing Strategy Report following its issue.

Whilst the Marketing Strategy Report was completed prior to the Cabinet recommending the sale and leaseback transaction, LSH have stated that their involvement in negotiations for the Kensington Centre was completed on 15 March 2016, at which point the matter was passed to solicitors. Subsequently, on 3 May 2016, LSH provided K&CC with a "Sale Certification" document which outlined the basis for how the proposed terms of the Kensington Centre sale exceeded market value.

10.3.3 Pinsent Masons

Pinsent Masons, an international law firm, were engaged by RBKC in February 2016 to negotiate the terms of several agreements connected to the acquisition and leaseback of the Kensington Centre to K&CC. As noted in the preceding sections, Pinsent Masons provided advice on the tax implications of the transaction. In addition, the firm were also involved in advising in relation to the possibility of judicial review relating to the transaction. Further details are set out in the following section.

Analysis of legal basis for judicial review.

RBKC was first made aware of K&CC's concerns about the potential for judicial review[333] on 11 April 2016, nine days before the decision to acquire the Kensington Centre would be subject to Cabinet approval.[334] K&CC were concerned that the transaction could be challenged by a third party and therefore be subject to additional legal scrutiny. Judicial review would incur further legal costs and have the potential to overturn the sale of the Kensington Centre, which would affect K&CC's financial future as they were dependent on the funds from the sale to continue operating. RBKC instructed Pinsent Masons to review the limitation period applied to judicial review applications.

RBKC and K&CC agreed that Pinsent Masons would seek advice from Counsel on the issue, and instructions were provided to a QC on 28 April 2016. The briefing paper stated that RBKC wanted to

[333] Judicial review is a type of court proceeding in which a judge reviews the lawfulness of a decision or action made by a public body.
[334] Exhibit 232, Email from Ms. Laura Shott, *Wornington Road [PM-AC.FID2547986],* 11 April 2016

await the lapse of the judicial review period before proceeding with the transaction.[335] The QC provided his opinion on 5 May 2016, which found that the limitation period ought to be 12 weeks from the date of the Key Decision.[336] Pinsent Masons summarized Counsel's opinion as follows and outlined the recommended steps if a judicial review claim was brought.[337]

"*The completion date for the purchase of the Kensington Centre will therefore be three working days after the end of this 12-week period, provided that no application has been made. If a judicial review application is made within this period, RBKC will use reasonable endeavours to defend the application for three months. At the end of this three-month period (being 14 October 2016), if the claim still remains valid, either party will have the right to rescind the Purchase Agreement and RBKC would be responsible for K&CC's legal and surveying costs"*.

Mills & Reeve, K&CC's solicitors, inserted a clause into the sale agreement on 12 May 2016 (the day the contracts were exchanged) that included a reference to the judicial review period. Specifically, they wanted "*an obligation not to anything which may make a JR application more likely, including not to make any public announcements about the contract"*.[338]

[335] Exhibit 233, RBKC Brief to QC to advise on Wornington Centre, 28 April 2016
[336] Exhibit 234, QC Opinion on Wornington Road Acquisition, 5 May 2016
[337] Exhibit 235, Pinsent Masons Report on Wornington Road Acquisition, 10 May 2016
[338] Exhibit 236, Email from Mr. Michael Reid, *RE: Wornington Road: Final Transaction Report [PM-AC.FID2547986],*12 May 2016

10.4 Public relations and community engagement

10.4.1 Delay of press release

Representatives of RBKC and K&CC agreed, during negotiations, that there would be a joint media strategy to announce the eventual sale and leaseback of the Kensington Centre. Kroll's review of email correspondence has identified that K&CC delayed the release of a public statement on the acquisition, particularly given the concerns around possible judicial review. The Review of communications identified repeated efforts from within RBKC to make a public announcement.

Representatives of K&CC set out in email correspondence in January 2016 that they were aware that discussions with RBKC on the acquisition of the Kensington Centre would need to be publicised. K&CC requested that the commercial terms of the deal be agreed prior to the announcement, and that K&CC be advised when the transaction would go 'public' so that they could manage communications.[339]

Communications between K&CC and RBKC showed that there was a plan to formally announce the acquisition after the decision was placed onto the Forward Plan in March 2016.[340] After the Development Manager raised the possibility of a statement, Mr. Blythe, the Vice Principal for Finance and Resources at K&CC, agreed that "*it may be sensible for us to share it [the acquisition] with that community on that day [entry onto the Forward Plan]*". Although the Forward Plan is a publicly available document, no statement to the press was released by either party despite the agreement.

After the Key Decision had been passed by RBKC, the media department at the Council drafted a press statement to be released on 5 May 2016. Mr. Blythe rejected the request to announce the acquisition on 3 May 2016, since K&CC Governors had not provided approval on the transaction and commercial terms had not been agreed. Mr. Blythe stated in email correspondence that: "*It can't go out currently – the most contentious thing is that our Corporation Board have yet to approve the decision to sell – this may happen tomorrow. It is therefore entirely inappropriate to issue until the sale has been approved*".[341]

[339] Exhibit 237, Email from Mr. Alastair Perks, *RE: Wornington Road – Base Pricing Methodology,* 25 January 2016
[340] Exhibit 238, Email from Mr. Bill Blythe, *RE: KCC – Wornington Road,* 16 March 2016.
[341] Exhibit 239, Email from Mr. Bill Blythe, *URGENT RE: Acquisition of the Wornington Road site – draft press release,* 3 May 2016

On 11 May 2016, Mr. Egan stated in an email to a Media and Communications Officer at RBKC, following discussions with K&CC, that they "*would prefer the release to go out upon completion"*[342] given their concerns of a potential judicial review enquiry.

The Media and Communications Officer raised concerns about the further delay, setting out that his "*own concern about prolonged delay is that those who might want to be critical, or accuse the Council of being secretive, could point to the lack of the public statement following a decision to buy an expensive plot of land"*.[343]

Edward Daffarn from Grenfell Action Group first raised concerns about the sale of the Kensington Centre on 25 May 2016. This was a month after the Cabinet report setting out the reasons for the decision had been made publicly available, but before any public statement had been released by RBKC or K&CC. Mr. Daffarn emailed Cllr Feilding-Mellen setting out that there was "*a very nasty rumour circulating in North Kensington that the RBKC have sold the Adult Education College in Wornington Road"*.[344]

Communications reviewed by Kroll showed that Mr. Daffarn's enquiry resulted in RBKC asserting more pressure on K&CC to approve a press release. RBKC's Head of Communications and Media stated in an email to Mr. Blythe that since Mr. Daffarn had knowledge of the acquisition it was time for both parties to "*[in our joint interest] try and proactively explain ourselves"*.[345] Consequently, an announcement was published in the local publication *Get West London* on 2 June 2016 which included comments from Cllr Feilding-Mellen and Mr. Brickley, the K&CC Principal.[346] The acquisition was also publicised in the June 2016 edition of the Westway Newsletter.[347]

On 3 June 2016, Cllr Feilding-Mellen provided a response to Mr. Daffarn by sending him the *Get West London* article announcing the acquisition.[348]

[342] Exhibit 240, Email from Media and Communications Officer, *RE: Press Release – KCC,* 11 May 2016
[343] Exhibit 240, Email from Media and Communications Officer, *RE: Press Release – KCC,* 11 May 2016
[344] Exhibit 241, Email from Cllr Rock Cllr Feilding-Mellen, RE: K and C Adult Education College in Wornington Road, 3 June 2016
[345] Exhibit 242, Email from Mr. Bill Blythe, RE: K and C Adult Education College in Wornington Road, 25 May 2016
[346] Exhibit 243, "New homes and Kensington and Chelsea college's future secured after GBP 25m deal struck," *MyLondon*, 2 June 2016, weblink here
[347] Exhibit 244 Westway Newsletter (Seventh Edition), June 2016 Weblink here
[348] Exhibit 245, Email from Cllr Rock Cllr Feilding-Mellen, RE: K and C Adult Education College in Wornington Road, 3 June 2016

10.4.2 Lack of consultation with stakeholders

Consultation with local community stakeholders or ward Councillors on the proposed transaction did not occur prior to the Key Decision on 20 April 2016. It was noted in the key decision that "*discussions with the Local Planning Authority and/or local community stakeholders have not yet commenced*" as at April 2016.

Golborne Ward Councillors

The Kensington Centre is situated in the Golborne Ward although allocated Ward on the Key Decision was incorrectly stated as being St Charles. The GLA published a study in March 2012 that stated Golborne was the joint poorest Ward in London on an extent measure, meaning the "*depth of deprivation in the Ward was more widespread than anywhere else in the Capital*".[349] At the time, the Ward Councillors were Cllr Emma Dent Coad, Cllr Pat Mason and Cllr Bevan Powell, all of whom represented Labour. According to communications from opposition Cllr Judith Blakeman, none of the relevant ward Councillors received details of the KD before it went to Cabinet. Cllr Blakeman raised these concerns in an email to Mr Holgate in May 2016, stating that "*the report was not and has not been sent to the ward Councillors, although ward Councillors are supposed to be included in reports on matters concerning their ward. [Two ward Councillors received it solely because of their membership of the Cabinet and Corporate Scrutiny Committee]*".[350]

In response to Cllr Blakeman's comments, Mr. Egan admitted that the failure to involve ward Councillors was an oversight by Corporate Property, saying "*It is fair that Ward Cllr's could expect to be consulted as part of the wider process and be asked for their comments on any paper, which it appears did not happen, CP is at fault in this regard*". In this communication, Corporate Property did not provide an explanation of why ward Councillors were not notified prior to the Key Decision, other than the incorrect ward allocation of St Charles.

Local Community Groups

Kroll has not identified any correspondence that suggests any consideration was given to consultation with local community stakeholders during negotiations with K&CC by Corporate Property.

[349] Exhibit 246, Email from Media and Communications Officer, *Press Coverage in Local Paper,* 13 March 2012
[350] Exhibit 247, Email from Mr. Richard Egan, *RE: Disregard of Scrutiny Concerns and Duties*, 23 May 2016

10.5 Conclusions

The review of documentation relating to the Kensington Centre identified general compliance with requirements of the Constitution and general principles and procedures of the Council, including the discussion of the transaction at the Policy Property Board, the Leader's Group, and the inclusion of the decision on the Forward Plan with the appropriate notice period. Internal consultation was also obtained, particularly to verify alignment with the Local Plan from Planning and from Finance regarding the funding and tax implications of the transaction. External advisors were also brought in to provide clarity over the various options open to the Council. The sale and leaseback option planned for the continuation of adult educational services.

With respect to decision making and consultation, the main shortcoming which has emerged from the review relates to the provision of materials by Officers in a timely way to relevant Councillors and scrutiny committees. The review of this transaction identified a number of areas where, although the requirements of the constitution were technically met, the timing and the extent of consultation and scrutiny raised some questions. Particularly, the Housing and Property Scrutiny Committee did not meet prior to the Key Decision being taken, and the Key Decision was approved prior to the detailed review of the relevant papers around the transaction. Members of the Finance Department also raised concerns about the length of time available to adequately scrutinise the details of the transaction.

With regards to the potential conflict of interest of Mr. Redpath being involved in the decision-making process while simultaneously representing the Council's interests, Kroll did not identify any evidence of personal or professional bias towards the Council's interests.

10.5.1 Alignment with strategy

The acquisition of the Kensington Centre was not specifically planned or part of a defined strategy for RBKC, although the rationale for the decision to pursue the transaction was aligned with the strategic objective of using space more efficiently, through reducing the educational space and developing the remainder to generate revenue. the Executive Decision Report stated that the acquisition of the Kensington Centre would help the Council in achieving its policy goals of regenerating the North Kensington area, as well as the generation of future revenues. The residential units on the newly developed Kensington Centre would be used for "*decanting*" for strategic regeneration opportunities in the North Kensington area.[351] The acquisition did not form part of the Corporate Property Strategy 2020, but did reason that the future revenues generated from the housing units would help fund front-line services.

10.5.2 Decision making and scrutiny

The rationale provided in the Key Decision set out the following benefits for the Council:

- The ability to pursue development of the site where the Council would retain the ability to achieve/call for vacant possession of the residential units, which would create significant income for the Council.

- The Kensington Centre would provide strategic decant opportunities for regeneration opportunities in the North Kensington area.

- The sale and leaseback structure meant the Council had financial certainty for the period of the leaseback and the opportunity to consider what development scheme would be undertaken.

An options appraisal undertaken by CBRE recommended that a structured transaction with a private developer would generate the largest capital receipt for the Council, which could be used to fund front line services. A summary of the options appraisal was included in the Key Decision, which was subsequently approved by Members. The sale and leaseback structure was first proposed in email correspondence to K&CC in November 2015.

The Independent Review noted that there was consultation internally, in the PPB, the Leader's Group and that the proposed decision was placed on the Forward Plan appropriately. Advice was sought from internal teams including Planning and Finance, as well as from external advisors.

10.5.3 Response to specific allegations

Allegation 1 – alleged conflict of interest – Tony Redpath:

Mr. Redpath served as a Governor for K&CC between March 2014 and July 2018. He was also RBKC's Director of Strategy and Local Services during this period. Grenfell Action raised a concern in an email

[351] Decanting is a process where residents are required to move from their homes where properties are in need on major repair works or redevelopment.

to Nicholas Holgate, Town Clerk of RBKC, on 13 January 2017, that Mr. Redpath had helped RBKC secure the purchase of the Kensington Centre. [352]

Kroll analysis

Although Mr. Redpath stepped down from his position as Governor in February 2016 and therefore did not vote on whether K&CC should sell the Kensington Centre to RBKC, he was a governor in late 2015 when discussions commenced and when RBKC submitted their original proposal on 10 November 2015, which therefore led to a perceived conflict of interest.[353]

It should be noted that Mr. Redpath was appointed as a Governor at the request of K&CC, who requested an RBKC Officer as part of the Governor body in February 2014 because they wanted *"to develop a greater strategic partnership with the Royal Borough and to work closely with the Royal Borough to achieve both College and Royal Borough objectives".*[354]

Officers at RBKC are required to follow a Code of Conduct set out in the Constitution. Mr. Redpath was obligated to provide impartial advice to Councillors and fellow employees and not take any outside position that would conflict with RBKC's interests.

Mr. Redpath provided his thoughts on RBKC working with K&CC on the Kensington Centre development on 13 October 2015, where he stated that "*any collaboration would need to have demonstrable benefits in terms of the Council's financial or policy objectives*".[355] His response to the Development Manager and Mr. Egan's request was consistent with the requirement of Officers as set out in the Constitution.

Kroll did not identify any other factors which indicated any personal or professional incentive to influence the transaction, nor any indications that Mr. Redpath had had any conflict of interest with regards to the transaction. Mr. Redpath stated that he would not have voted on any potential resolution to sell the Kensington Centre to RBKC due to the perceived conflict of interest.

Allegation 2 - Retention of Adult Educational service provision

[352] Exhibit 248, Email from Mr. Edward Daffarn, *RE: Complaint regarding RBKC and K and C College,* 13 January 2017

[353] Mr. Redpath left his role due to his involvement in the London Area Review, which determined funding for certain educational institutions in London. K&CC's funding was being reviewed as part of the exercise.

[354] Exhibit 249, Email from Mr. Mark Brickley, *Greetings,* 27 January 2014

[355] Exhibit 250, Email from Mr. Tony Redpath, *RE: KCC Building,* 16 October 2015

Grenfell Action published a blog post on 12 June 2016 which raised concerns that RBKC were intending on relocating the adult education provision from Wornington Road to K&CC's campus on Hortensia Road, Chelsea whilst retaining "*token*" provisions for younger students at the Kensington Centre.[356]

Kroll Response:
As part of the transaction, K&CC would retain the right to use the Kensington Centre site for a period of three years and would have first right to occupy the D1 space following the redevelopment of the site. As part of the agreement, a temporary facility would also be identified and leased to K&CC during the development period near to the Kensington Centre in order to minimise the impact on adult education provision in the area. Kroll's analysis did not identify any evidence that RBKC attempted to influence the type and extent of service that would be offered by K&CC at the Kensington Centre, replacement facilities or newly developed D1 space.

Additionally, the College was in financial difficulty and the acquisition and lease back provided a lifeline of funding to allow the College to continue with its educational provisions.

Kroll's analysis additionally identified that consideration was given to the provision of educational services by the Leader's Group prior to the finalisation of the transaction. The Leader's Group recommended the transaction on the condition that Corporate Property consider the adult education provision in the north of the borough, following their meeting in February 2016.

While the size of the newly re-developed Kensington Centre would likely have had a smaller educational space, the CBRE report notes that the building was underutilised with "*less than 50% in regular use*".[357]

Allegation 3 - Breach of Local Plan

Grenfell Action's blog post on 12 June 2016 stated that RBKC breached the Local Plan in order to justify the purchase of the site, by not safeguarding the best interest of the community. Whilst the blog did not reference any particular objectives that were broken, the author suggests that the Local Plan is written in such a way to provide loopholes and extenuating factors that would provide RBKC with ample reasoning if they sought to take a decision that would contravene the Local Plan.

[356] Exhibit 251, "Wornington College Threat Confirmed," *Grenfell Action Group*, 12 June 2016, weblink here
[357] Exhibit 229, Email from Mr. Tom Fuller, *CBRE Valuation Report*, 25 May 2016

The blog states the following: "*When faced with advice from their own legal team that goes against their ambitions and informs them [RBKC] that what they are planning is in breach of their stated policy, the typical reaction from this Council of Mafiosi is not to back down and respect the limits they themselves have set to safeguard the best interests of their constituents, but to do the exact opposite. Instead they invariably contrive, with the collusion of the same advisors, to exploit the most tenuous of loopholes and perform whatever tricks and contortions they can to bypass the problems posed to them by the policies in question, thus denying the public the protections supposedly guaranteed by those policies"*.[358]

Kroll Response:

The Consolidated Local Plan was established in July 2015 and set RBKC's policies towards the Borough's physical environment and regeneration in certain areas like North Kensington. Officers at RBKC acknowledged internally that there was a breach of policy CK1 in its acquisition of the Kensington Centre, and this was set out in the Key Decision. The policy stated that "*the Council will ensure that social and community uses are protected or enhanced through the Borough and will support the provision of new facilities*". Graham Stallwood, the Executive Director of Planning and Borough Development, argued that the wider community benefits of the development, such as the "*crucial*" role the new accommodation would play in RBKC achieving its regeneration objectives, would offset against such a breach.

The Local Plan explicitly states that certain buildings "*such as Kensington and Chelsea College"* in North Kensington could not be redeveloped without benefits to the wider community and only if sufficient funding was available. Communication involving members of the Finance team at RBKC identified potential gaps in the planning of funding options relating to the acquisition of K&CC - that if all planned capital investment took place RBKC would need to undertake external borrowing to fund the transaction, and therefore sufficient funding was not guaranteed. The funding plan for the acquisition of the Kensington Centre was also considered irregular by Kevin Bartle, Director of Finance, who said the plan "*does not comply with the existing financial procedure rules"*. Both planning and financial caveats were referred to in the Cabinet report.

[358] Exhibit 251, "Wornington College Threat Confirmed," *Grenfell Action Group*, 12 June 2016, weblink here

Allegation 4 - Lack of community engagement

Allegations were made that the level of community engagement by RBKC was not satisfactory and that some Councillors were excluded from important conversations involving the potential acquisition.

The lack of consultation concerned local stakeholders, including Labour Councillors, who were not told about discussions until after the report containing the Officer recommendations had been approved by the Cabinet.

Kroll analysis

It was noted in the Cabinet Decision Report in April 2016 that "*discussions with the Local Planning Authority and/or local community stakeholders have not yet commenced*" at the time RBKC agreed to purchase the freehold.

Kroll did not identify any substantial consideration about whether consultation with local community stakeholders ought to have taken place prior to the Key Decision. This was likely due to the commercial sensitivities surrounding the transactions and the possibility that, if the negotiations became public knowledge, RBKC could either be subject to a judicial review application or outbid by third parties interested in the site. The acquisition was later publicized through the Westway Newsletter in June 2016 and an article in *Get West London*.

The incorrect ward was listed on the KD, which meant the three ward Councillors – all Labour – were not afforded the opportunity to scrutinise the decision prior to approval. It was later established that two ward Councillors received the decision only by virtue of being Members of the Cabinet and Corporate Services Committee, who received copies of the draft Key Decision. The explanation provided within email correspondence by Mr. Egan was that the failure to provide documentation was human error on the part of Corporate Property Department.

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Annual Audit Letter Royal Borough of Kensington and Chelsea

Year ended 31 March 2020

January 2021

Contents

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Executive Summary

Purpose

Our Annual Audit Letter (Letter) summarises the key findings arising from the work that we have carried out at Royal Borough of Kensington and Chelsea Council (the Council) for the year ended 31 March 2020.

This Letter is intended to provide a commentary on the results of our work to the Council and external stakeholders, and to highlight issues that we wish to draw to the attention of the public. In preparing this Letter, we have followed the National Audit Office (NAO)'s Code of Audit Practice and Auditor Guidance Note (AGN) 07 – 'Auditor Reporting'. We reported the detailed findings from our audit work to the Council's Audit and Transparency Committee as those charged with governance in our Audit Findings Report on 17 September 2020.

Respective responsibilities

We have carried out our audit in accordance with the NAO's Code of Audit Practice, which reflects the requirements of the Local Audit and Accountability Act 2014 (the Act). Our key responsibilities are to:

- give an opinion on the Council's financial statements (section two)
- assess the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (the value for money conclusion) (section three).

In our audit of the Council's financial statements, we comply with International Standards on Auditing (UK) (ISAs) and other guidance issued by the NAO.

Our work

Materiality	We determined materiality for the Council's financial statements to be £10,000,000, which is approximately 1.3% of the Council's gross cost of services.
Financial Statements opinion	We gave an unqualified opinion on the council's financial statements on 19 November 2020. We included an emphasis of matter paragraph in our report in respect of the uncertainty over valuations of the Council's land and buildings and Investment properties and the Council's share of the pension fund's pooled property investments as at 31 March 2020, arising from the Coronavirus pandemic. This does not affect our opinion that the statements give a true and fair view of the Council's financial position and its income and expenditure for the year.
Whole of Government Accounts (WGA)	We have completed our work on the Council's consolidation return following guidance issued by the NAO.
Use of statutory powers	We did not identify any matters which required us to exercise our additional statutory powers.

Executive Summary

Value for Money arrangements	We have completed our risk based review of the Council's value for money arrangements. We are unable to issue our conclusion in respect of this work for 2019/20 as the Council's predecessor auditors have not yet issued their value for money conclusion in respect of the 2016/17 and 2017/18 audits (as they are pending the outcome of the Grenfell enquiries), and as a result we have been unable to issue our value for money conclusion for 2018/19. We reflected this in our audit report to the Council on 19 November 2020.
Certificate	We have completed the majority of work under the Code but are unable to issue our completion certificate until: • We are able to issue our value for money conclusion, which cannot be issued until the Council's predecessor auditors issue their value for money conclusions in respect of the 2016/17 and 2017/18 audits, and we have subsequently issued our value for money conclusion for 2018/19. • The Council's predecessor auditors have issued their completion certificates for the 2016/17 and 2017/18 audit years, and we have subsequently issued our completion certificate for 2018/19.

Working with the Council

The outbreak of the Covid-19 coronavirus pandemic has had a significant impact on the normal operations of the Council.

The Council has faced extensive front-line challenges as a result of the pandemic, such as administration of grants to businesses and closure of schools, with additional complexities of reopening services under new government guidelines. The Council has responded well to the challenges caused by the pandemic.

Throughout the closedown period we held regular meetings with the Council's key finance staff to discuss the impact of Covid-19. We also discussed the financial implications in terms of asset valuations, going concern and provision for credit losses in advance of the submission of the financial statements.

There have not been any changes in key financial processes that impacted on our audit approach. Restrictions for non-essential travel have meant both teams have had to be flexible in approaches to sharing information. We agreed to use video calling to watch the finance team run the required reports to gain assurance over the completeness and accuracy of information produced by the Council.

We made more use of conference calls and emails to resolve audit queries. Both teams utilised a query log to track and resolve outstanding items. Weekly meetings were held with senior finance staff to highlight key outstanding issues and findings to date, ensuring that the audit process was as smooth as possible. The audit was completed ahead of the 30 November 2020 revised deadline.

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

Grant Thornton UK LLP
January 2021

Audit of the Financial Statements

Our audit approach

Materiality

In our audit of the Council's financial statements, we use the concept of materiality to determine the nature, timing and extent of our work, and in evaluating the results of our work. We define materiality as the size of the misstatement in the financial statements that would lead a reasonably knowledgeable person to change or influence their economic decisions.

We determined materiality for the audit of the Council's financial statements to be £10,000,000, which is approximately 1.3% of the Council's gross cost of services. We used this benchmark as, in our view, users of the Council's financial statements are most interested in where the Council has spent its revenue in the year.

We set a lower threshold of £500,000, above which we reported errors to the Audit and Transparency Committee in our Audit Findings Report.

The scope of our audit

Our audit involves obtaining sufficient evidence about the amounts and disclosures in the financial statements to give reasonable assurance that they are free from material misstatement, whether caused by fraud or error. This includes assessing whether:

- the accounting policies are appropriate, have been consistently applied and adequately disclosed;
- the significant accounting estimates made by management are reasonable; and
- the overall presentation of the financial statements gives a true and fair view.

We also read the remainder of the Statement of Accounts to check it is consistent with our understanding of the Council and with the financial statements included in the Statement of Accounts on which we gave our opinion.

We carry out our audit in accordance with ISAs (UK) and the NAO Code of Audit Practice. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Our audit approach was based on a thorough understanding of the Council's business and is risk based.

We identified key risks and set out overleaf the work we performed in response to these risks and the results of this work.

Audit of the Financial Statements

Significant Audit Risks

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Covid-19 The global outbreak of the Covid-19 virus pandemic has led to unprecedented uncertainty for all organisations, requiring urgent business continuity arrangements to be implemented. We expect current circumstances will have an impact on the production and audit of the financial statements for the year ended 31 March 2020, including and not limited to; • Remote working arrangements and redeployment of staff to critical front line duties may impact on the quality and timing of the production of the financial statements, and the evidence we can obtain through physical observation • Volatility of financial and property markets will increase the uncertainty of assumptions applied by management to asset valuation and receivable recovery estimates, and the reliability of evidence we can obtain to corroborate management estimates • Financial uncertainty will require management to reconsider financial forecasts supporting their going concern assessment and whether material uncertainties for a period of at least 12 months from the anticipated date of approval of the audited financial statements have arisen; and • Disclosures within the financial statements will require significant revision to reflect the unprecedented situation and its impact on the preparation of the financial statements as at 31 March 2020 in accordance with IAS1, particularly in relation to material uncertainties.	As part of our audit work we: • Worked with management to understand the implications the response to the Covid-19 pandemic had on the organisation's ability to prepare the financial statements. We reviewed updated financial forecasts and assessed the implications for our materiality calculations. No changes were made to materiality levels previously reported as a result of Covid-19 specifically. The draft financial statements were provided on 19 June 2020. • Liaised with other audit suppliers, regulators and government departments to co-ordinate practical cross-sector responses to issues as and when they arose. Examples include the material uncertainty disclosed by the Council's property valuation expert. • Evaluated the adequacy of the disclosures in the financial statements that arose in light of the Covid-19 pandemic. • Evaluated whether sufficient audit evidence could be obtained through remote technology. • Evaluated whether sufficient audit evidence could be obtained to corroborate significant management estimates such as assets and the pension fund liability valuations. • Evaluated management's assumptions that underpin the revised financial forecasts and the impact on management's going concern assessment. • Discussed with management the implications for our audit report where we have been unable to obtain sufficient audit evidence.	The Council's property valuation specialists reported that valuations of land and buildings were subject to 'material valuation uncertainty' as at 31 March 2020, as a result of the impact of the Covid-19 pandemic on market activity in the real estate sector, meaning that less certainty, and a higher degree of caution, should be placed on the recorded valuation of these assets than would otherwise be the case. In addition, the fund managers for the Pension Fund's pooled property investments declared material valuation uncertainties around the valuation of these investments on the same basis. This impacts upon both the valuation of investments in the Pension Fund net assets statement and the valuation of the net defined benefit liability in the Council's balance sheet. Management have disclosed these uncertainties in Note 3 to the Council's financial statements and Note 4 to the Pension Fund financial statements. These disclosures were referred to in our auditor's reports for the Council and Pension Fund respectively in emphasis of matter paragraphs. These references do not constitute qualifications of the audit opinions.

Audit of the Financial Statements

Significant Audit Risks - continued

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Valuation of land and buildings The Council revalued all Property, Plant and Equipment land and buildings, Heritage and Investment assets as at 31 March 2020. This full valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£1.65 billion covering land and buildings categorised as PPE as well as Investment Properties) and the sensitivity of this estimate to changes in key assumptions. This risk includes the valuation of all heritage assets, council dwellings and investment properties, in addition to land and buildings within 'property, plant and equipment'.	As part of our audit work we: • Evaluated management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work. • Evaluated the competence, capabilities and objectivity of the valuation expert. • Wrote to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code are met. • Engaged our own valuer to assess the instructions to the Council's valuer, the Council's valuer's report and the assumptions that underpin the valuation. • Tested revaluations made during the year to see if they had been input correctly into the Council's asset register. • Assessed the value of a sample of assets in relation to market rates for comparable properties. • Tested a sample of beacon properties in respect of council dwellings to consider whether their valuation assumptions are appropriate and whether they are truly representative of the other properties within that beacon group.	As discussed under 'Covid-19' above, the Council's property valuation specialists reported that valuations of land and buildings, including investment properties and council dwellings, were subject to 'material valuation uncertainty' as at 31 March 2020, as a result of the impact of the Covid-19 pandemic on market activity in the real estate sector, meaning that less certainty, and a higher degree of caution, should be placed on the recorded valuation of these assets than would otherwise be the case. Management have disclosed this uncertainty in Note 3 to the financial statements. This disclosure will be referred to in our auditor's report in an emphasis of matter paragraph. This does not constitute a qualification of the audit opinion. During the audit, significant challenges were encountered in obtaining documentation and explanations from the Council's property valuation specialists. We recommended that the Council should implement an effective process for data sharing with their external valuation specialists to ensure that they are able to adequately challenge the basis of valuations included in the report and gain assurance over the material accuracy of reported figures.

Audit of the Financial Statements

Significant Audit Risks - continued

These are the significant risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Valuation of net pension liability The Council's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements. The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£83.6 million in the Council's balance sheet) and the sensitivity of the estimate to changes in key assumptions.	As part of our audit work we: • Updated our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluate the design of the associated controls. • Evaluated the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work. • Assessed the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation. • Assessed the reasonableness of the actuary's assumptions and calculations in-line with the relevant standards, including their consideration of the ongoing impact of the McCloud and Guaranteed Minimum Pension cases. • Assessed the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability. • Tested the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary. • Undertook procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report. • Obtained assurances from our audit of the Pension Fund as to the controls surrounding the validity and accuracy of membership data, contributions data and benefits data sent to the actuary by the pension fund and the fund assets valuation in the pension fund financial statements.	As discussed under 'Covid-19' above, the fund managers for the Pension Fund's pooled property investments reported that valuations of these investments were subject to 'material valuation uncertainty' as at 31 March 2020, as a result of the impact of the Covid-19 pandemic on market activity in the real estate sector, meaning that less certainty, and a higher degree of caution, should be placed on the recorded valuation of these assets than would otherwise be the case. As 95% of the Pension Fund's assets are attributable to the Council as the administering authority for the Fund, this material uncertainty impacts in turn upon the valuation of the net defined benefit liability in the Council's balance sheet. Management have disclosed this uncertainty in Note 3 to the financial statements. This disclosure will be referred to in our auditor's report in an emphasis of matter paragraph. This does not constitute a qualification of the audit opinion.

Audit of the Financial Statements

Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Incomplete or inaccurate financial information transferred to the new business rates system In September 2019, the Council implemented a new business rates system. When implementing a new significant accounting system, it is important to ensure that sufficient controls have been designed and operate to ensure the integrity of the data. There is also a risk over the completeness and accuracy of any data transfer from the previous system.	As part of our audit work we: • Mapped the closing balances from the 2018/19 general ledger to the opening balance position in the new ledger for 2019/20 to ensure accuracy and completeness of the financial information. • Sample tested information from the old system to agree to the new system, and from the new system to the old system. • Documented the controls in place around the data transfer, including liaising with Internal Audit to understand their work on this.	We did not identify any material issues from our work.
Management override of internal controls Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. In particular journals, management estimates and transactions outside the course of business are areas susceptible to management override.	As part of our audit work we: • Evaluated the design effectiveness of management controls over journals. • Analysed the journals listing and determine the criteria for selecting high risk unusual journals. • Tested unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration. • Gained an understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence. • Evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions.	We did not identify any material issues from our work.

Audit of the Financial Statements for Pension Fund

Pension Fund Significant Audit Risks

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work on the pension fund.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Covid-19 The global outbreak of the Covid-19 virus pandemic has led to unprecedented uncertainty for all organisations, requiring urgent business continuity arrangements to be implemented. We expect current circumstances will have an impact on the production and audit of the financial statements for the year ended 31 March 2020, including and not limited to; • Remote working arrangements and redeployment of staff to critical front line duties may impact on the quality and timing of the production of the financial statements, and the evidence we can obtain through physical observation. • Volatility of financial and property markets will increase the uncertainty of assumptions applied by management to asset valuation, and the reliability of evidence we can obtain to corroborate management estimates. • For instruments classified as fair value through profit and loss there may be a need to review the Level 1-3 classification of the instruments if trading may have reduced to such an extent that quoted prices are not readily and regularly available and therefore do not represent actual and regularly occurring market transactions. • Whilst the nature of the Fund and its funding position (i.e. not in a winding up position or no cessation event) means the going concern basis of preparation remains appropriate management may need to consider whether material uncertainties for a period of at least 12 months from the anticipated date of approval of the audited financial statements have arisen; and • Disclosures within the financial statements will require significant revision to reflect the unprecedented situation and its impact on the preparation of the financial statements as at 31 March 2020 in accordance with IAS1, particularly in relation to material uncertainties.	As part of our audit work we: • Worked with management to understand the implications the response to the Covid-19 pandemic had on the pension fund's ability to prepare the financial statements and update financial forecasts and assessed the implications for our materiality calculations. The draft financial statements were provided on 30 June 2020. • Evaluated the adequacy of the disclosures in the financial statements that arose in light of the Covid-19 pandemic. • Evaluated whether sufficient audit evidence could be obtained through remote technology. • Evaluated whether sufficient audit evidence could be obtained to corroborate significant management estimates such as the investment valuations. • Evaluated management's assumptions that underpin the revised financial forecasts and the impact on management's going concern assessment. • Discussed with management the implications for our audit report where we have been unable to obtain sufficient audit evidence.	In respect of pooled property investments, the relevant fund managers reported that the valuation of these investments was subject to 'material valuation uncertainty' as at 31 March 2020, as a result of the impact of the Covid-19 pandemic on market activity in the real estate sector, meaning that less certainty and a higher degree of caution, should be placed on the recorded valuation of these assets that would otherwise be the case. Management have disclosed this uncertainty in Note 4 to the Pension Fund financial statements. This disclosure was referred to in our auditor's report as an emphasis of matter paragraph. This does not constitute a qualification of the audit opinion.

Audit of the Financial Statements Pension Fund

Pension Fund Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work on the pension fund.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Valuation of level 3 investments The Fund values its investments on an annual basis to ensure that the carrying value is not materially different from the fair value at the financial statements date. By their nature Level 3 investment valuations lack observable inputs. These valuations therefore represent a significant estimate by management in the financial statements due to the size of the numbers involved (£61 million) and the sensitivity of this estimate to changes in key assumptions Under ISA 315 significant risks often relate to significant non-routine transactions and judgemental matters. Level 3 investments by their very nature require a significant degree of judgement to reach an appropriate valuation at year end. Management utilise the services of investment managers and/or custodians as valuation experts to estimate the fair value as at 31 March 2020.	As part of our audit work we: • Gained an understanding of the Fund's process for valuing level 3 investments and evaluated the design of the associated controls. • Reviewed the nature and basis of estimated values and consider what assurance management has over the year end valuations provided for these types of investment. • Independently requested year-end confirmations from investment managers and/or custodian(s). • For a sample of investments, tested the valuation by obtaining and reviewing the audited accounts, (where available) at the latest date for individual investments and agreeing these to the fund manager reports at that date. Reconcile those values to the values at 31 March 2020 with reference to known movements in the intervening period. • In the absence of available audited accounts, evaluating the competence, capabilities and objectivity of the valuation expert. • Tested revaluations made during the year to see if they had been input correctly into the Pension Fund's asset register. • Where available, reviewed investment manager service auditor report on design effectiveness of internal controls.	In respect of pooled property investments, the relevant fund managers reported that the valuation of these investments was subject to 'material valuation uncertainty' as at 31 March 2020, as a result of the impact of the Covid-19 pandemic on market activity in the real estate sector, meaning that less certainty and a higher degree of caution, should be placed on the recorded valuation of these assets that would otherwise be the case. Management have disclosed this uncertainty in Note 4 to the Pension Fund financial statements. This disclosure was referred to in our auditor's report as an emphasis of matter paragraph. This does not constitute a qualification of the audit opinion.

Audit of the Financial Statements Pension Fund

Pension Fund Significant Audit Risks - continued

These are the risks which had the greatest impact on our overall strategy and where we focused more of our work on the pension fund.

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Management override of internal controls Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. In particular journals, management estimates and transactions outside the course of business are areas susceptible to management override.	As part of our audit work we: • Evaluated the design effectiveness of management controls over journals. • Analysed the journals listing and determine the criteria for selecting high risk unusual journals. • Tested unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration. • Gained an understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence. • Evaluated the rationale for any changes in accounting policies, estimates or significant unusual transactions.	We did not identify any material issues from our work.

Audit of the Financial Statements

Audit opinion
We gave an unqualified opinion on the Council's financial statements on 19 November 2020.

Preparation of the financial statements
The council presented us with draft financial statements on 19 June 2020 in advance of the amended timeframe. A number of adjustments to the financial statements were identified that has resulted in a £5.4m adjustment to the Council's Comprehensive Income and Expenditure Statement.

Issues arising from the audit of the financial statements
We reported the key issues from our audit to the Council's Audit and Transparency Committee on 17 September 2020. The key issues were as follows:

- As part of our initial working paper request list for creditors and debtors held by the Council as at 31 March 2020, we requested listings of outstanding balances by counterparty at this date from the various subsystems, reconciled to the general ledger, to enable us to select a sample of outstanding items for testing. Management were unable to produce these listings. This led to delays in completion of the associated audit procedures.
- During our audit of property valuations, significant delays and challenges were encountered with obtaining required data and explanations from the Council's external property valuation specialists.
- During the audit process, management refined their estimation processes for calculating expected credit losses in respect of local taxation debtors and for the provision of National Non Domestic Rates appeals provisions.

Annual Governance Statement and Narrative Report
We are also required to review the Council's Annual Governance Statement and Narrative Report. The Council published them on its website in the draft Statement of Accounts in June 2020.

Both documents were prepared in line with the CIPFA Code and relevant supporting guidance. We confirmed that both documents were consistent with the financial statements prepared by the Council and with our knowledge of the Council.

Pension fund accounts
We gave an unqualified opinion on the pension fund accounts of Royal Borough of Kensington and Chelsea on 19 November 2020. We also reported the key issues from our audit of the pension fund accounts to the Council's Audit and Transparency Committee on 17 September 2020. The key issues were as follows:

- We identified at the risk assessment stage that management did not prepare annual budgets for the Fund and management accounts to monitor performance during the year.
- The Fund outsources pensions administration functions to Surrey County Council. We identified through reviewing the latest internal audit report for the service at the planning stage that a number of findings had been noted around improvements which were required to data quality held on the Altair pensions administration system.

Whole of Government Accounts (WGA)
We have completed our work on the Council's Whole of Government Accounts.

Certificate of closure of the audit
We have completed the majority of work under the Code but are unable to issue our completion certificate until:

- We are able to issue our value for money conclusion, which cannot be issued until the Council's predecessor auditors issue their value for money conclusions in respect of the 2016/17 and 2017/18 audits, and we have subsequently issued our value for money conclusion for 2018/19.
- The Council's predecessor auditors have issued their completion certificates for the 2016/17 and 2017/18 audit years, and we have subsequently issued our completion certificate for 2018/19.

Value for Money conclusion

Background

We carried out our review in accordance with the NAO Code of Audit Practice, following the guidance issued by the NAO in April 2020 which specified the criterion for auditors to evaluate:

In all significant respects, the audited body takes properly informed decisions and deploys resources to achieve planned and sustainable outcomes for taxpayers and local people.

Key findings

Our first step in carrying out our work was to perform a risk assessment and identify the risks where we concentrated our work.

The risks we identified and the work we performed are set out overleaf.

As part of our Audit Findings report agreed with the Council in September 2020, we agreed recommendations to address our findings.

Overall Value for Money conclusion

We are unable to issue our conclusion on the Council's arrangements to secure economy, efficiency and effectiveness in its use of resources until the Council's predecessor auditors have concluded their audits for 2016/17 and 2017/18, and we have in turn concluded our audit for 2018/19. These audits are pending the outcome of the Grenfell Tower enquiries.

Therefore, as a consequence of ongoing external investigations and inquiries, we have not yet been able to complete the work that we have determined necessary to form a view on whether, in all significant respects, the Royal Borough of Kensington and Chelsea has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2020.

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Value for Money conclusion

Value for Money Risks

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Medium Term Financial Planning In the context of future funding uncertainty arising from the fairer funding review and longer-term settlement decisions, combined with the reduction of your useable reserves over recent years following response to the Grenfell fire, in Spring 2019 you identified that you would be required to find £40m of savings in the three years to 2022/23 to maintain financial balance. In respect of your budget-setting for 2020/21 and future years, you have implemented a new outcomes-based approach to align budget commitments more closely to your corporate priorities, and this is reflected in your medium term financial plan.	As part of our work we have: • Reviewed the Council's in year budget monitoring and outturn reports. • Reviewed the Council's 2020-21 budget. • Reviewed the Council's updated Medium Term Financial Plans. • Reviewed the Council's Covid-19 returns to central government. • Reviewed the Council's Covid-19 recovery plan. • Compared the Council's levels of reserves with other London Boroughs.	The financial outlook for the Council remains challenging. During 2019/20 and in the period since the year-end, officers have put in place robust arrangements to ensure that risks and uncertainties are given due consideration in short and medium-term financial planning and the impact is effectively modelled to the best of their ability, drawing on external support where knowledge gaps or wider unknowns are identified. The outturn position for 2019/20 is broadly indicative that management's understanding of the key drivers for income and expenditure relating to core services and ability to understand impact of decisions taken is strong, and plans have been put in place for improvement to processes where significant variances were identified. As a result of Government Funding and initiatives, prior year underspends and prudent financial planning including setting aside contingencies in the budget-setting process, the Council has sufficient resources in place to meet the expected shortfalls in income and increases in expenditure for 2020/21 arising from the Covid-19 pandemic and is not facing the kinds of challenging decisions in the immediate term around service cuts or Section 114 notices which comparable local authorities could be subject to. In the medium term, the picture remains far more uncertain as the longer-lasting impact of the pandemic on the economy, in the context of wider financial risks beyond the control of officers or members, remain significant unknowns. Management are conscious of the need to remain responsive to emerging circumstances, whilst keeping sight of longer term strategic goals which underpin future investment decisions from use of reserves.

Value for Money conclusion

Value for Money Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Grenfell fire recovery The first phase of the public inquiry into the Grenfell fire, which centred on events on the day of the tragedy, is now complete, with the findings report having been published in October 2019. The inquiry is now moving into its second phase, which focuses on events leading up to the fire, and will involve more detailed input from the Council and former officers along with a wider range of stakeholders. Th Council is also entering into the second year of the Grenfell Recovery Strategy, which focuses on the social, economic and environmental issues associated with the recovery and how the Council plans to work with partners to support the communities affected. We will evaluate arrangements in place for continued leadership of the recovery process and working with stakeholders to maintain transparency and trust	As part of our work we have: • Reviewed findings from Phase I of the Grenfell Tower Public Inquiry. • Discussed with senior officers the impact of the current status of the Public Inquiry in light of the Covid-19 pandemic. • Reviewed findings from final report of the Grenfell Independent Task Force. • Reviewed progress against the Grenfell Recovery Strategy. • Reviewed Charter for Public Participation agreed to by the Council with effect from March 2020.	Due to the continuing uncertainties around the public inquiry and criminal investigation into the Grenfell fire, and as the Council's predecessor auditors have not yet issued their VFM conclusions for 2016/17 and 2017/18, we are not yet able to draw definitive conclusions around the arrangements in place in respect of informed decision making around the Grenfell Fire Recovery and their sufficiency to secure economy, efficiency and effectiveness in the medium term.

Value for Money conclusion

Value for Money Risks - continued

Risks identified in our audit plan	How we responded to the risk	Findings and conclusions
Cultural change and transformation The Council continues to work to change its organisational culture by embedding the principles of good governance as recommended by the Centre for Public Scrutiny. Alongside this, Council priorities have been redeveloped under the Council Plan and investment decisions have been aligned to these as part of the outcomes-based budgeting programme. Finally, the Council has realigned its directorate structure to better reflect the future service delivery model. We will review the Council's arrangements for implementing cultural change and designing, implementing and monitoring specific programmes for embedding your strategic objectives through transformation and change.	As part of our work we have: • Reviewed prior year audit documentation around outcomes-based budgeting and plans for implementing a comprehensive service redesign. • Reviewed the report presented to members on requirement for external support for the Medium Term Financial Strategy. • Reviewed 'Forward 2020' paper on the Council's plans for organisational change. • Reviewed Council's revised Housing Strategy and Social Value Strategy. • Reviewed Covid-19 report presented to members in July 2020.	The Council remains in a period of significant change with many plans in place for the future. Decision-making processes, governance structures and outcomes have been designed but in the current environment it remains to be seen how successfully these will be implemented. Designing resilient, future-fit service delivery models will be more crucial than ever given the uncertainties which the Council now faces over the medium term and the pressures being faced by local businesses and residents. It will also be essential that the anticipated benefits and desired outcomes from transformation and cultural change are clearly articulated and measurable, to enable the Council to demonstrate success against the plans and identify, and take corrective action, at an early stage should the risks to success become prohibitive. The Council's executive leadership are conscious of this and have to date maintained resources set aside to invest in change and transformation, in spite of the current crisis. We will continue to report on the Council's early stage arrangements as these develop and emerge.

A. Reports issued and fees

We confirm below our final reports issued and fees charged for the audit and provision of non-audit services

Reports issued

Report	Date issued
Audit Plan	February 2020
Audit Findings Report	September 2020
Annual Audit Letter	January 2021

Fees

	Scale Fee	Planned Fee £	Actual Fee £
Statutory audit	93,497	122,497	140,872
Audit of Pension Fund	16,170	25,000	28,750
Total fees	**109,667**	**147,497**	**169,622**

Audit fee variation

As outlined in our audit plan, the 2019-20 scale fee published by PSAA of assumes that the scope of the audit does not significantly change. There are a number of areas where the scope of the audit has changed, which has led to additional work.

We have been discussing the issue of the 'cost of Covid' with PSAA over the last few months and note these issues are similar to those experienced in the commercial sector and NHS. In both sectors there has been a recognition that audits will take longer with commercial audit deadlines being extended by 4 months and NHS deadline by a month. The FRC has also issued guidance to companies and auditors setting out its expectation that audit standards remain high and of additional work needed across all audits. The link attached https://www.frc.org.uk/covid-19- guidance-and-advice (see guidance for auditors) sets out the expectations of the FRC.

Fee variations have been agreed with management, but are subject to PSAA approval.

A. Reports issued and fees

Fee variation for the Council		
Area	**Reason**	**Fee Agreed**
Raising the bar increased challenge and reduction in materiality.	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. This will require additional supervision and leadership, as well as additional challenge and scepticism in areas such as journals, estimates, financial resilience and information provided by the entity. For major audits, we have also reduced the materiality level, reflecting the higher profile of local audit. This will entail increased scoping and sampling.	£7,000
Pensions – IAS 19	We have increased the granularity, depth and scope of coverage, with increased levels of sampling, additional levels of challenge and explanation sought, and heightened levels of documentation and reporting.	£3,500
PPE Valuation – work of experts	We have engaged our own audit expert – (Wilks Head and Eve) and increased the volume and scope of our audit work to ensure an adequate level of audit scrutiny and challenge over the assumptions that underpin PPE valuations. We estimate that the cost of the auditors expert will be in the region of £5,000. The 2019/20 year also included detailed work on beacons.	£9,500
Change in Business Rates system	We undertook additional procedures to gain assurance over the completeness and accuracy of the data transfer between systems.	£2,000
New standards /developments and requirements	Additional work will be required for disclosures required in 2019/20 under IAS8	£2,500
Accounting and value for money implications of the Grenfell fire	The financial statements include a number of balances, classes of transactions and disclosures relating to Grenfell fire recovery which require additional audit work. Further, we identified arrangements in place to support the Grenfell Fire Recovery as a significant risk in respect of our Value for Money Conclusion.	£1,500
Data Extraction using Grant Thornton IT specialists	Management are unable to independently provide a transaction level listing from the general ledger for either the interim or final audit visits. As such additional input was required for Grant Thornton's IT specialists.	£3,000
Additional Covid costs 15%	The impact of Covid-19 on the audit of the financial statements for 2019/20 has been multifaceted. This includes: • Revisiting planning - we have needed to revisit our planning and refresh risk assessments, materiality and testing levels. This has resulted in the identification of a significant risk at the financial statements level in respect of Covid-19 necessitating the issuing of an addendum to our original audit plan. • Management's assumptions and estimates - there is increased uncertainty over many estimates including pension and other investment valuations. Many of these valuations are impacted by the reduction in economic activity and we are required to understand and challenge the assumptions applied by management. • Financial resilience assessment – we have been required to consider the financial resilience of audited bodies. Our experience to date indicates that Covid-19 has impacted on the financial resilience of all local government bodies. This has increased the amount of work that we need to undertake on the sustainable resource deployment element of the VFM criteria necessitating enhanced and more detailed reporting in our ISA260. • Remote working – the most significant impact in terms of delivery is the move to remote working. We, as other auditors, have experienced delays and inefficiencies as a result of remote working, including the delays in receiving accounts, quality of working papers, and delays in responses. These are understandable and arise from the availability of the relevant information and/or the availability of key staff (due to shielding or other additional Covid-19 related demands). In many instances the delays are caused by our inability to sit with an officer to discuss a query or working paper. Gaining an understanding via Teams or phone is more time-consuming.	£18,375
Total		£47,375

A. Reports issued and fees continued

Fee variation for the Pension Fund		
Area	**Reason**	**Fee Agreed**
Raising the bar increased challenge	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms needs to improve across local audit. This will require additional supervision and leadership, as well as additional challenge and scepticism in areas such as journals, estimates, financial resilience and information provided by the entity.	£5,000
Valuation of Level 3 Investments	The Financial Reporting Council (FRC) has highlighted that the quality of work by all audit firms in respect of valuations of hard to value investments needs to improve across the sector. Accordingly, we plan to enhance the scope and coverage of our work to ensure an adequate level of audit scrutiny and challenge over the assumptions and evidence that underpin the valuations of level 3 investments this year to reflect the expectations of the FRC and ensure we issue a safe audit opinion.	£3,830
Additional Covid costs 15%	The impact of Covid-19 on the audit of the financial statements for 2019/20 has been multifaceted. This includes: • Revisiting planning - we have needed to revisit our planning and refresh risk assessments, materiality and testing levels. This has resulted in the identification of a significant risk at the financial statements level in respect of Covid-19 necessitating the issuing of an addendum to our original audit plan as well as additional work on areas such as going concern and disclosures in accordance with IAS1 particularly in respect to material uncertainties. • Management's assumptions and estimates - there is increased uncertainty over many estimates including investment valuations. We have include an Emphasis of Matter in the Audit Report in respect of the material uncertainty on property values. • Remote working – the most significant impact in terms of delivery is the move to remote working. We, as other auditors, have experienced delays and inefficiencies as a result of remote working.	£3,750
Total		£12,580

A. Reports issued and fees continued

Fees for non-audit services

Service	Fees £
Audit related services	
- Teachers Pension Return	£7,700
- Pooling of Housing Capital Receipts	TBC
- Housing benefits subsidy claim	TBC
- Adult Learning subcontracting controls assurance	TBC
Non-Audit related services	12,500
- CFO Insights subscription	

Non- audit services

- For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the group. The table above summarises all non-audit services which were identified.
- We have considered whether non-audit services might be perceived as a threat to our independence as the group's auditor and have ensured that appropriate safeguards are put in place.

The above non-audit services are consistent with the group's policy on the allotment of non-audit work to your auditor.

Royal Borough of Kensington and Chelsea Council and Kensington and Chelsea Pension Fund audit plan

Year ending 31 March 2021

March 2021

Contents

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The contents of this report relate only to the matters which have come to our attention, which we believe need to be reported to you as part of our audit planning process. It is not a comprehensive record of all the relevant matters, which may be subject to change, and in particular we cannot be held responsible to you for reporting all of the risks which may affect the Council or all weaknesses in your internal controls. This report has been prepared solely for your benefit and should not be quoted in whole or in part without our prior written consent. We do not accept any responsibility for any loss occasioned to any third party acting, or refraining from acting on the basis of the content of this report, as this report was not prepared for, nor intended for, any other purpose.

Key matters

Factors	Our response
Impact of Covid 19 pandemic The outbreak of the Covid-19 coronavirus pandemic has had a significant impact on the Council's normal operations. Throughout the pandemic the Council has managed to keep critical services going at the same time as creating new ones such as the Covid-19 Hub. The Council has delivered food parcels, accommodated rough sleepers, boosted hardship funds, made welfare calls to vulnerable people, assisted tenants struggling to pay rents and service charges, provided further support to residents in receipt of Council Tax Support, replenished food banks and provided more parking permits for key workers throughout the pandemic. The Council has also assisted with testing programmes and vaccine administration by helping with site preparation and logistics and in communications and engagement with local communities to encourage uptake of the vaccine. Since the start of the pandemic, over £65.5 million has been distributed to businesses in Kensington and Chelsea to help them offset the impacts of Covid-19. Grants have been made available through a number of Government schemes, such as the business rates grants launched in spring 2020, and the Local Restrictions Support Scheme which was introduced with the tier system in late autumn 2020. The Council has also delivered the 2020/21 business rates holidays promised by the government. The Council is now considering how to take forward the benefits from remote working necessitated by the pandemic. This includes further use of flexible working, effective use of office space and reviewing service delivery models to ensure that residents and local communities continue to receive cost effective, efficient quality services.	• We will consider your arrangements for managing the impact of the Covid-19 pandemic as part of our Value for Money work.
Grenfell Fire Recovery The Grenfell Fire inquiry is currently in the second phase. This focusses on the events leading up to the fire and will involve more detailed input from the Council and a wide range of stakeholders. In light of the new delays caused by the most recent wave of the Covid-19 virus, the Panel has decided that it is in the public interest to restructure the proposed order of modules within this phase so that Module 4 (Aftermath) will now come after Module 7 (Experts). This will enable Module 5 (adequacy of fire fighting response) and Module 6 (central and local governments response), which are increasingly matters of urgency and importance in light of the evidence heard so far during Phase 2, to be completed during 2021 as scheduled, and not delayed into 2022. The Grenfell Recovery Strategy was agreed in January 2019 and sets out the Council's plans to support a community-led recovery for the bereaved, survivors and the local community. It commits £50m over five years to deliver a number of services and initiatives to ensure that residents have the support, skills and new opportunities they need to help their recovery. The Council is now almost two years into its five-year Grenfell Recovery Strategy. The Council needs to ensure that the remaining funding has maximum impact for residents and reaches as many people as possible.	• We will review your progress against the Grenfell Recovery Strategy and evaluate the Council's arrangements for continued delivery of the recovery process and working with stakeholders • We will review the appropriateness of disclosures and accounting treatments in the accounts in respect of the Grenfell Fire Recovery.

Key matters (Continued)

Factors

Finances

The Council's financial position over the coming years is challenging. This was already the case before the Covid-19 pandemic with growth pressures in demand led services, such as housing and social care, changing economic conditions and a much greater reliance on income generated locally. The pandemic has resulted in additional spending pressures and a hit to the Council's income streams. In the short term the government is providing financial support to meet some of these pressures, but the Council is utilising reserves and contingencies to reduce the overall financial impact in the current year. The current known allocation from central government to the Council remains at £16.3m and the Council also expects to receive around £9.0m as part of the government's scheme to reimburse a proportion of local authorities' loss in non-commercial fees and charges due to the pandemic.

The 2019-20 forecast position as at Quarter 3 on service budgets (excluding corporate budgets and Grenfell Recovery) is an overspend of £32.6m which has improved by £1.3m from the position reported at quarter 2. After taking account of contingency, corporate budget and expected Government funding, the net position is a £1.6m overspend. The impact of the pandemic continues to be the key driver for the overspend, including unanticipated costs for new service provision in dealing with the health crisis and the impact on income generation as a result of the national lockdown measures and the economic impact.

The future of local authority funding remains uncertain as new Local Government funding arrangements that were meant to be in place by April 2020 have been delayed until at least 2022. The Council has an anticipated budget shortfall of £45.9m over the next three years to fund planned spending levels. The Council has closed the budget gap for 2021-22 and is proposing a balanced budget which includes providing for growth and investment of £6m in key services and the implementation of budget savings of £10.6m across directorates together with a Council Tax increase of 1.99 per cent plus an additional 3 per cent increase in respect of the adult social care precept.

From 2020/21 and over the following three years, the Council will also invest £731m in the borough's roads, infrastructure, the environment and buildings. This includes £269m for the Housing Revenue Account to invest in the Council's existing housing stock.

Pension Fund developments

The Council decided in February 2020 to bring pension administration back in-house from Surrey County Council on 1 April 2021, on the grounds of Surrey's continuing poor performance and its inability to produce a plan to rectify ongoing service delivery deficiencies. Fortnightly meetings are being held between the Council and Surrey County Council to manage the transfer of the service and the transition project is currently on track.

The Pension Fund investments continue to recover from the pandemic shock. In the last quarter alone the Fund value increased in value by 7.2% to £1,424 million as at 31 December 2020. During the year, the Fund has terminated its equities fund with Longview and global total return sterling fund with Pyrford and transferred the associated assets into existing portfolios held with Legal and General. In addition, the Fund has purchased more direct property with an estimated value as at 31 December of £42m. The Fund is requesting the Council's external valuers to value these Pension Fund properties as at 31 March 2021.

Our response

Finances:

- We will consider your arrangements for managing and reporting your financial resources and assessing your financial resilience as part of our audit in completing our Value for Money work.

Pension Fund developments:

- We will perform additional procedures to gain assurance over the completeness and accuracy of the data transfer from Surrey County Council's pensions administration system to the Council's pensions system.
- We will undertake audit procedures to ensure the valuation of the Pension Fund's direct property is fairly stated within the financial statements. This will include the use of our own valuer.

Key matters (Continued)

Factors

Accounting and auditing developments

On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The Code introduced a revised approach to the audit of Value for Money. (VFM) There are three main changes arising from the NAO's new approach:

- A new set of key criteria, covering financial sustainability, governance and improvements in economy, efficiency and effectiveness
- More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach
- The replacement of the binary (qualified / unqualified) approach to VFM conclusions, with more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

In the period December 2018 to January 2020 the Financial Reporting Council issued a number of updated International Auditing Standards (ISAs (UK)) which are effective for audits of financial statements for periods beginning on or after 15 December 2019. ISA (UK) 540 (revised): Auditing Accounting Estimates and Related Disclosures includes significant enhancements in respect of the audit risk assessment process for accounting estimates. As part of this process auditors also need to obtain an understanding of the effectiveness of the role of those charged with governance relating to accounting estimates adopted by management, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Although the implementation of IFRS 16 has been delayed, audited bodies still need to include disclosures in their 2020/21 statements to comply with the requirements of IAS 8 . As a minimum, we would expect the Council to disclose the title of the standard, the date of initial application and the nature of the changes in accounting policy for leases. If the impact of IFRS 16 is not known or reasonably estimable, the accounts should state this.

In the prior year the Council's valuer reported a material uncertainty regarding the valuations of properties due to the Covid 19 pandemic. In addition, there was a material uncertainty in relation to the valuation of the pooled property funds which impacted both the Council's and Pension Funds position. We will monitor the position for the 31 March 2021 valuations.

Our response

- Where any actions have been agreed in respect of matters identified through previous audit work, either on the financial statements or in respect of work on arrangements to secure VFM, we will assess the progress against previously agreed recommendations.
- Members of the finance team attended our annual final accounts workshop during February, hosted by our highly experienced public sector assurance team as they help you prepare for your 2021 financial statements audit by highlighting potential risk areas and providing you with practical advice
- We will continue to provide you with sector updates via our Audit Committee updates.
- We will liaise with the Council's valuer and Pension Fund managers to clarify any potential material uncertainties in 2020-21.

Introduction and headlines

Purpose

This document provides an overview of the planned scope and timing of the statutory audit of ('the Council') and the Royal Borough of Kensington and Chelsea Pension Fund (the Pension Fund) for those charged with governance.

Respective responsibilities

The National Audit Office ('the NAO') has issued a document entitled Code of Audit Practice ('the Code'). This summarises where the responsibilities of auditors begin and end and what is expected from the audited body. Our respective responsibilities are also set out in the agreed Terms of Appointment and Statement of Responsibilities issued by Public Sector Audit Appointments (PSAA), the body responsible for appointing us as auditor of the Council and Pension Fund. We draw your attention to both of these documents.

Scope of our audit

The scope of our audit is set in accordance with the Code and International Standards on Auditing (ISAs) (UK). We are responsible for forming and expressing an opinion on the:

- Council's financial statements that have been prepared by management with the oversight of those charged with governance (the Audit and Transparency Committee); and
- Value for Money arrangements in place at the Council for securing economy, efficiency and effectiveness in your use of resources.

The audit of the financial statements does not relieve management or the Audit and Transparency Committee of your responsibilities. It is the responsibility of the Council to ensure that proper arrangements are in place for the conduct of its business, and that public money is safeguarded and properly accounted for. We have considered how the Council is fulfilling these responsibilities.

Our audit approach is based on a thorough understanding of the Council's business and is risk based.

Significant risks

Those risks requiring special audit consideration and procedures to address the likelihood of a material financial statement error have been identified as:

Council
- The risk that the valuation of land and buildings in the accounts is materially misstated.
- The risk that the valuation of the net pension fund liability in the accounts is materially misstated.
- The risk of management override of controls.
- Incomplete or inaccurate financial information is transferred to the new pensions administration system

Pension Fund
- The risk of management override of controls.
- The risk that the valuation of level 3 investments and direct property investments in the accounts is materially misstated
- Incomplete or inaccurate financial information transferred to the new pensions administration system

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings (ISA 260) Report.

Materiality

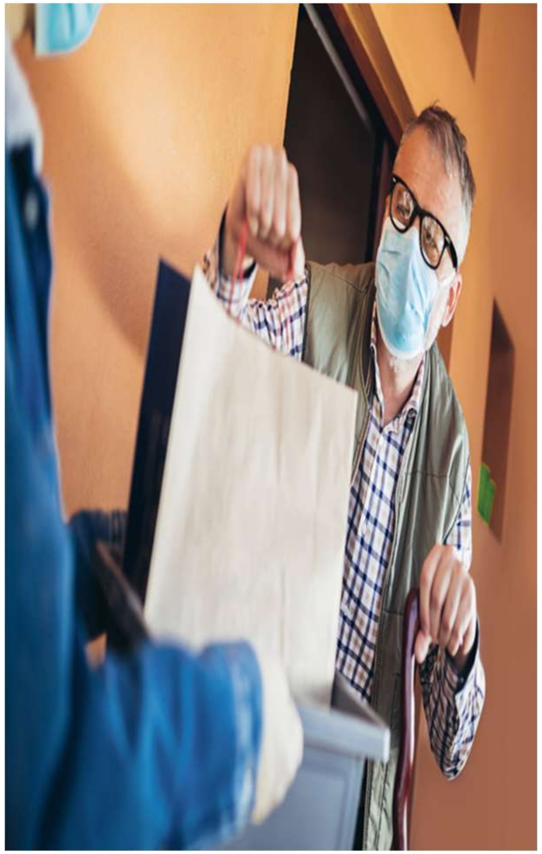
Council

We have determined planning materiality to be £11m for the Council (PYm£10m), which equates to approximately 1.5% of your prior year gross expenditure for the year. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £0.55m (PY £0.5m).

Pension Fund

We have determined materiality at the planning stage of our audit to be £11m (PY £11m) for the Pension Fund, which equates to approximately 1% of the 2019/20 net assets. We are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. Clearly trivial has been set at £0.55m (PY £0.5m).

Introduction and headlines cont.



Value for Money arrangements

Our risk assessment regarding your arrangements to secure value for money have identified the following risks of significant weakness:

- The Council's arrangements in response to the Covid-19 pandemic and capitalising on the benefits from the different models of service delivery and ways of working bought about by the pandemic.
- The Council's arrangements for continued leadership of the Grenfell Fire recovery process and working with stakeholders to maintain transparency and trust.
- The Council's arrangements for setting the Medium Term Financial Plan and achieving financial sustainability.
- The Council's arrangements for service transformation and cultural change.
- The Council's arrangements for working with its key partners to deliver services efficiently and improve the lives of local residents.

Audit logistics

Our interim visit will take place in March 2021 and our final visit will take place July – September 2021. Our key deliverables are this Audit Plan, our Audit Findings Report and Auditor's Annual Report. Our audit approach is detailed in Appendix A.

Our fee for the audit will be £xxxxx (PY: £140,872) for the Council and £xxxxx (PY:£28,750) for the Pension Fund, subject to the Council and Pension Fund delivering a good set of financial statements and working papers.

We have complied with the Financial Reporting Council's Ethical Standard (revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements.

Significant risks identified

Significant risks are defined by ISAs (UK) as risks that, in the judgement of the auditor, require special audit consideration. In identifying risks, audit teams consider the nature of the risk, the potential magnitude of misstatement, and its likelihood. Significant risks are those risks that have a higher risk of material misstatement.

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
The revenue cycle includes fraudulent transactions (rebutted)	Council and Pension Fund	Under ISA (UK) 240 there is a rebuttable presumed risk that revenue may be misstated due to the improper recognition of revenue. This presumption can be rebutted if the auditor concludes that there is no risk of material misstatement due to fraud relating to revenue recognition. Having considered the risk factors set out in ISA240 and the nature of the Council and Pension Fund revenue streams, we have determined that the risk of fraud arising from revenue recognition can be rebutted, because: • There is little incentive to manipulate revenue recognition. • Opportunities to manipulate revenue recognition are very limited. • The culture and ethical frameworks of local authorities, including Royal Borough of Kensington and Chelsea, mean that all forms of fraud are seen as unacceptable. Therefore, we do not consider this to be a significant risk at for the Royal Borough of Kensington and Chelsea or Kensington and Chelsea Pension Fund.	
Management over-ride of controls	Council and Pension Fund	Under ISA (UK) 240 there is a non-rebuttable presumed risk that the risk of management over-ride of controls is present in all entities. The council faces external scrutiny of its spending and this could potentially place management under undue pressure in terms of how they report performance. We therefore identified management override of control, in particular journals, management estimates and transactions outside the course of business as a significant risk, which was one of the most significant assessed risks of material misstatement.	We will: • Evaluate the design effectiveness of management controls over journals. • Analyse the journals listing and determine the criteria for selecting high risk unusual journals. • Test unusual journals recorded during the year and after the draft accounts stage for appropriateness and corroboration. • Gain an understanding of the accounting estimates and critical judgements applied made by management and consider their reasonableness with regard to corroborative evidence. • Evaluate the rationale for any changes in accounting policies, estimates or significant unusual transactions.

Significant risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of land and buildings	Council	The Council revalues its land and buildings, Heritage Assets and Investment Property on an annual basis to ensure that the carrying value is not materially different from the current value or fair value (for surplus assets/Investment properties) at the financial statements date. This valuation represents a significant estimate by management in the financial statements due to the size of the numbers involved (£1.8 billion) and the sensitivity of this estimate to changes in key assumptions. Management has engaged the services of a valuer to estimate the current value as at 31 March 2021. We therefore identified valuation of land and buildings, heritage assets and investment properties, particularly revaluations and impairments, as a significant risk, which was one of the most significant assessed risks of material misstatement.	We will: • Evaluate management's processes and assumptions for the calculation of the estimate, the instructions issued to valuation experts and the scope of their work. • Evaluate the competence, capabilities and objectivity of the valuation expert. • Write to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code are met. • Engage our own valuer to assess the instructions to the Council's valuer, the Council's valuer's report and the assumptions that underpin the valuation. • Test revaluations made during the year to see if they had been input correctly into the Council's asset register and financial statements. • Assess the value of a sample of assets in relation to market rates for comparable properties. • Test a sample of beacon properties in respect of council dwellings to consider whether their valuation assumptions are appropriate and whether they are truly representative of the other properties within that beacon group.
Valuation of the pension fund net liability	Council	The Council's pension fund net liability, as reflected in its balance sheet as the net defined benefit liability, represents a significant estimate in the financial statements. The pension fund net liability is considered a significant estimate due to the size of the numbers involved (£84 million in the Council's balance sheet) and the sensitivity of the estimate to changes in key assumptions.	We will: • Update our understanding of the processes and controls put in place by management to ensure that the Council's pension fund net liability is not materially misstated and evaluate the design of the associated controls. • Evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work. • Assess the competence, capabilities and objectivity of the actuary who carried out the Council's pension fund valuation. • Assess the reasonableness of the actuary's assumptions and calculations in-line with the relevant standards, including their consideration of the ongoing impact of the McCloud, Goodwin and Guaranteed Minimum Pension cases. • Assess the accuracy and completeness of the information provided by the Council to the actuary to estimate the liability. • Test the consistency of the pension fund asset and liability and disclosures in the notes to the core financial statements with the actuarial report from the actuary. • Undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report.

Significant risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Valuation of Level 3 Investments (Annual revaluation) and direct property investments	Pension Fund	The Fund values its investments on an annual basis to ensure that the carrying value is not materially different from the fair value at the financial statements date. By their nature Level 3 investment valuations lack observable inputs. These valuations therefore represent a significant estimate by management in the financial statements due to the size of the numbers involved (£71 million) and the sensitivity of this estimate to changes in key assumptions Under ISA 315 significant risks often relate to significant non-routine transactions and judgemental matters. Level 3 investments by their very nature require a significant degree of judgement to reach an appropriate valuation at year end. Management utilise the services of investment managers and/or custodians as valuation experts to estimate the fair value as at 31 March 2021. The Pension Fund has also invested in directly held property. This valuation also represents a significant estimate by management. Management will need to ensure that these assets are subject to a 31 March 2021 valuation.	We will: • Evaluate management's processes for valuing Level 3 investments. • Review the nature and basis of estimated values and consider what assurance management has over the year end valuations provided for these types of investments; to ensure that the requirements of the Code are met. • Independently request year-end confirmations from investment managers and the custodian. • For a sample of investments, test the valuation by obtaining and reviewing the audited accounts, (where available) at the latest date for individual investments and agreeing these to the fund manager reports at that date. Reconcile those values to the values at 31 March 2020 with reference to known movements in the intervening period. • In the absence of available audited accounts, we will evaluate the competence, capabilities and objectivity of the valuation expert. • Where available review investment manager service auditor report on design and operating effectiveness of internal controls. • We will evaluate management's processes and assumptions for the calculation of the estimated direct property valuation, the instructions issued to valuation experts and the scope of their work. • Evaluate the competence, capabilities and objectivity of the valuation expert. • Write to the valuer to confirm the basis on which the valuation was carried out to ensure that the requirements of the Code are met. • Engage our own valuer to assess the instructions to the Pension Fund direct property valuer, the valuer's report and the assumptions that underpin the valuation.
Incomplete or inaccurate financial information transferred to the new pensions administration system	Council and Pension Fund	The Council decided in February 2020 to bring pension administration back in-house from Surrey County Council on 1 April 2021. This move will result in transitioning data from Surrey County's pension fund administration system to the Council's system. When implementing a new significant accounting system, it is important to ensure that sufficient controls have been designed and operate to ensure the integrity of the data. There is also a risk over the completeness and accuracy of any data transfer from the previous system.	We will: • Complete an information technology (IT) environment review to document, evaluate and test the IT controls operating within the new pensions administration system. • Map the closing balances from Surrey County's pension administration system to the opening balance position in the new pensions administration system to ensure accuracy and completeness of the financial information. • Sample test information from the old system to agree to the new system, and from the new system to the old system. • Documentation of controls in place around the data transfer, including liaising with Internal Audit to understand their work on this.

Other risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Completeness of non-pay operating expenditure and associated short-term creditors	Council	Non-pay expenditure on goods and services represents a significant percentage (62%) of the Council's gross operating expenditure. Management uses judgement to estimate accruals of un-invoiced costs. We identified completeness of non- pay expenditure and associated short-term creditors as a risk requiring particular audit attention.	We will: • Evaluate the Council's accounting policy for recognition of non-pay expenditure for appropriateness, including the use of de minimis level set. • Gain an understanding of the Council's system for accounting for non-pay expenditure and evaluate the design of the associated controls. • Obtain and test a listing of non-pay payments made in April and May 2020 to ensure that they have been charged to the appropriate year.
Provisions and contingent liabilities	Council	In 2019/120, the Council disclosed a contingent liability in respect of potential future payments which you may need to make as a result of the public inquiry into the Grenfell fire and any civil claims which may be lodged against the Council. The Council made the judgement that at this time, it was not possible to estimate the value or likelihood of any potential liability, and as such a provision could not be recognised. We identified the completeness of short- and long-term provisions recognised and disclosure of contingent liabilities as a risk requiring particular audit attention.	We will: • Review disclosure and classification of short- and long-term provisions and ensure that they meet the requirements of the CIPFA Code and IAS 37. • Discuss with the Council's legal advisors, review committee minutes and other sources of information to gain assurance over the completeness of provisions recognised.

Other risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Actuarial Present Value of Promised Retirement Benefits	Pension Fund	The Fund discloses the Actuarial Present Value of Promised Retirement Benefits within its Notes to the Accounts. This represents a significant estimate in the financial statements. The Actuarial Present Value of Promised Retirement Benefits is considered a significant estimate due to the size of the numbers involved (£1.2 billion) and the sensitivity of the estimate to changes in key assumptions. We therefore identified valuation of the Fund's Actuarial Present Value of Promised Retirement Benefits as a risk of material misstatement.	We will: • Update our understanding of the processes and controls put in place by management to ensure that the Fund's Actuarial Present Value of Promised Retirement Benefits is not materially misstated and evaluate the design of the associated controls. • Evaluate the instructions issued by management to their management expert (an actuary) for this estimate and the scope of the actuary's work. • Assess the competence, capabilities and objectivity of the actuary who carried out the Fund's valuation. • Assess the accuracy and completeness of the information provided by the Fund to the actuary to estimate the liability. • Test the consistency of disclosures with the actuarial report from the actuary. • Undertake procedures to confirm the reasonableness of the actuarial assumptions made by reviewing the report of the consulting actuary (as auditor's expert) and performing any additional procedures suggested within the report.
Valuation of Level 2 Investments	Pension Fund	While level 2 investments do not carry the same level of inherent risks associated with level 3 investments, there is still an element of judgement involved in their valuation as their very nature is such that they cannot be valued directly. We therefore identified the valuation of the Fund's Level 2 investments as a risk of material misstatement.	We will: • Gain an understanding of the Fund's process for valuing Level 2 investments and evaluate the design of the associated controls. • Review the nature and basis of estimated values and consider what assurance management has over the year end valuations provided for these types of investments. • Review the reconciliation of information provided by the individual fund manager's custodian and the Pension Scheme's own records and seek explanations for variances. • Independently request year-end confirmations from investment managers and custodian. • Review investment manager service auditor report on design effectiveness of internal controls.

Other risks identified

Risk	Risk relates to	Reason for risk identification	Key aspects of our proposed response to the risk
Contributions	Pension Fund	Contributions from employers and employees' represents a significant percentage of the Fund's revenue. We therefore identified the completeness and accuracy of the transfer of contributions as a risk of material misstatement.	We will: • Evaluate the Fund's accounting policy for recognition of contributions for appropriateness. • Gain an understanding of the Fund's system for accounting for contribution income and evaluate the design effectiveness of the associated controls. • Agree changes in Admitted/Scheduled bodies to supporting documentation and agree total contributions for each employer to employer contributions reports. • Test a sample of contributions to source data to gain assurance over their accuracy and occurrence. • Test relevant member data to gain assurance over management information to support a predictive analytical review with reference to changes in member body payrolls and the number of contributing employees to ensure that any unusual trends are satisfactorily explained.
Pension Benefits Payable	Pension Fund	Pension benefits payable represents a significant percentage of the Fund's expenditure. We therefore identified the completeness, accuracy and occurrence of the transfer of pension benefits payable as a risk of material misstatement.	We will: • Evaluate the Fund's accounting policy for recognition of pension benefits expenditure for appropriateness. • Gain an understanding of the Fund's system for accounting for pension benefits expenditure and evaluate the design of the associated controls. • Test a sample of lump sums and associated individual pensions in payment by reference to member files. • Test relevant member data to gain assurance over management information to support a predictive analytical review with reference to changes in pensioner numbers and increases applied in year to ensure that any unusual trends are satisfactorily explained.

We will communicate significant findings on these areas as well as any other significant matters arising from the audit to you in our Audit Findings Report.

Accounting estimates and related disclosures

The Financial Reporting Council issued an updated ISA (UK) 540 (revised): *Auditing Accounting Estimates and Related Disclosures* which includes significant enhancements in respect of the audit risk assessment process for accounting estimates. We made 2 recommendations in our 2019/20 audit in relation to the Council's estimation processes.

Introduction

Under ISA (UK) 540 (Revised December 2018) auditors are required to understand and assess an entity's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the entity's risk management process identifies and addresses risks relating to accounting estimates;
- The entity's information system as it relates to accounting estimates;
- The entity's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Audit and Transparency Committee members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?

Accounting estimates and related disclosures

Additional information that will be required

To ensure our compliance with this revised auditing standard, we will be requesting further information from management and those charged with governance during our audit for the year ended 31 March 2021.

Based on our knowledge of the Council we have identified the following material accounting estimates for which this is likely to apply:

- Valuations of land and buildings, council dwellings, investment properties and heritage assets
- Depreciation
- Year end provisions and accruals, specifically for demand led services such as Adult's and Children's services, and any provisions / contingent liabilities in respect of the Grenfell Fire
- Provision for business Rates Appeals
- Credit loss and impairment allowances
- Valuation of defined benefit net pension fund liabilities
- Fair value estimates
- Valuation of level 2 and level 3 investments

The Council's Information systems

In respect of the Council's information systems we are required to consider how management identifies the methods, assumptions and source data used for each material accounting estimate and the need for any changes to these. This includes how management selects, or designs, the methods, assumptions and data to be used and applies the methods used in the valuations.

When the models used include increased complexity or subjectivity, as is the case for many valuation models, auditors need to understand and assess the controls in place over the models and the data included therein. Where adequate controls are not in place we may need to report this as a significant control deficiency and this could affect the amount of detailed substantive testing required during the audit.

If management has changed the method for making an accounting estimate we will need to fully understand management's rationale for this change. Any unexpected changes are likely to raise the audit risk profile of this accounting estimate and may result in the need for additional audit procedures.

We are aware that the Council uses management experts in deriving some of its more complex estimates, e.g. asset valuations and pensions liabilities. However, it is important to note that the use of management experts does not diminish the responsibilities of management and those charged with governance to ensure that:

- All accounting estimates and related disclosures included in the financial statements have been prepared in accordance with the requirements of the financial reporting framework, and are materially accurate;
- There are adequate controls in place at the Council (and where applicable its service provider or management expert) over the models, assumptions and source data used in the preparation of accounting estimates.

Estimation uncertainty

Under ISA (UK) 540 we are required to consider the following:

- How management understands the degree of estimation uncertainty related to each accounting estimate; and
- How management address this estimation uncertainty when selecting their point estimate.

For example, how management identified and considered alternative, methods, assumptions or source data that would be equally valid under the financial reporting framework, and why these alternatives were rejected in favour of the point estimate used.

The revised standard includes increased emphasis on the importance of the financial statement disclosures. Under ISA (UK) 540 (Revised December 2018), auditors are required to assess whether both the accounting estimates themselves and the related disclosures are reasonable.

Where there is a material uncertainty, that is where there is a significant risk of a material change to the estimated carrying value of an asset or liability within the next year, there needs to be additional disclosures. Note that not all material estimates will have a material uncertainty and it is also possible that an estimate that is not material could have a risk of material uncertainty.

Where there is material estimation uncertainty, we would expect the financial statement disclosures to detail:

- What the assumptions and uncertainties are;
- How sensitive the assets and liabilities are to those assumptions, and why;
- The expected resolution of the uncertainty and the range of reasonably possible outcomes for the next financial year; and
- An explanation of any changes made to past assumptions if the uncertainly is unresolved.

Planning enquiries

As part of our planning risk assessment procedures we have sent inquiries to the management that will be presented at the Audit and Transparency Committee as part of our Informing the audit risk assessment report. We would appreciate a prompt response to these enquires in due course.

Further information

Further details on the requirements of ISA (UK) 540 (Revised December 2018) can be found in the auditing standard on the Financial Reporting Council's website:

https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-(UK)-540_Revised-December-2018_final.pdf

Other matters

Other work

In addition to our responsibilities under the Code of Practice, we have a number of other audit responsibilities, as follows:

- We read your Narrative Report and Annual Governance Statement and any other information published alongside your financial statements to check that they are consistent with the financial statements on which we give an opinion and our knowledge of the Council.
- We carry out work to satisfy ourselves that disclosures made in your Annual Governance Statement are in line with requirements set by CIPFA.
- We carry out work on your consolidation schedules for the Whole of Government Accounts process in accordance with NAO group audit instructions.
- We consider our other duties under legislation and the Code, as and when required, including:
  - giving electors the opportunity to raise questions about your 2020/21 financial statements, consider and decide upon any objections received in relation to the 2020/21 financial statements;
  - issuing a report in the public interest or written recommendations to the Council under section 24 of the Local Audit and Accountability Act 2014 (the Act).
  - application to the court for a declaration that an item of account is contrary to law under section 28 or a judicial review under section 31 of the Act
  - issuing an advisory notice under section 29 of the Act
- We certify completion of our audit.

Other material balances and transactions

Under International Standards on Auditing, "irrespective of the assessed risks of material misstatement, the auditor shall design and perform substantive procedures for each material class of transactions, account balance and disclosure". All other material balances and transaction streams will therefore be audited. However, the procedures will not be as extensive as the procedures adopted for the risks identified in this report.

Going concern

As auditors, we are required to obtain sufficient appropriate audit evidence regarding, and conclude on:

- whether a material uncertainty related to going concern exists; and
- the appropriateness of management's use of the going concern basis of accounting in the preparation of the financial statements.

The Public Audit Forum has been designated by the Financial Reporting Council as a "SORP-making body" for the purposes of maintaining and updating Practice Note 10: Audit of financial statements and regularity of public sector bodies in the United Kingdom (PN 10). It is intended that auditors of public sector bodies read PN 10 in conjunction with (ISAs) (UK).

PN 10 has recently been updated to take account of revisions to ISAs (UK), including ISA (UK) 570 on going concern. The revisions to PN 10 in respect of going concern are important and mark a significant departure from how this concept has been audited in the public sector in the past. In particular, PN 10 allows auditors to apply a 'continued provision of service approach' to auditing going concern, where appropriate. Applying such an approach should enable us to increase our focus on wider financial resilience (as part of our VfM work) and ensure that our work on going concern is proportionate for public sector bodies. We will review the Council's arrangements for securing financial sustainability as part of our Value for Money work and provide a commentary on this in our Auditor's Annual Report.

Materiality

The concept of materiality

Materiality is fundamental to the preparation of the financial statements and the audit process and applies not only to the monetary misstatements but also to disclosure requirements and adherence to acceptable accounting practice and applicable law. Misstatements, including omissions, are considered to be material if they, individually or in the aggregate, could reasonably be expected to influence the economic decisions of users taken on the basis of the financial statements.

Materiality for planning purposes

Council

We have determined financial statement materiality based on a proportion of the gross expenditure of the Council for the financial year. In the prior year we used the same benchmark. Materiality at the planning stage of our audit is £11m (PY £10m) for the Council, which equates to approximately 1.5% of the Council's prior year gross expenditure for the year.

Pension Fund

We have determined financial statement materiality based on a proportion of the net assets of the Pension Fund for the financial year. In the prior year we used the same benchmark. Materiality at the planning stage of our audit is £11m (PY £11) for the Pension Fund, which equates to approximately 1% of the Pension Fund's prior year net assets.

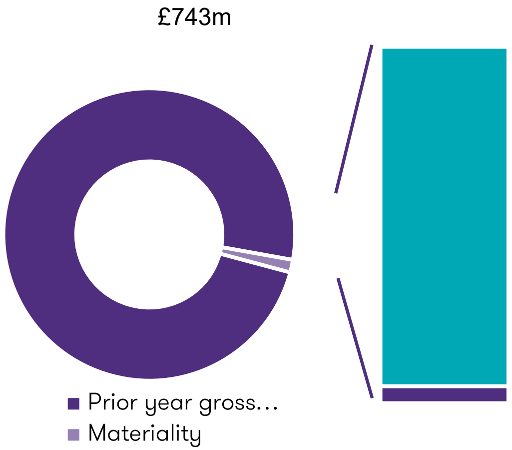
We reconsider planning materiality if, during the course of our audit engagement, we become aware of facts and circumstances that would have caused us to make a different determination of planning materiality.

Matters we will report to the Audit and Transparency Committee

Whilst our audit procedures are designed to identify misstatements which are material to our opinion on the financial statements as a whole, we nevertheless report to the Audit and Transparency Committee any unadjusted misstatements of lesser amounts to the extent that these are identified by our audit work. Under ISA 260 (UK) 'Communication with those charged with governance', we are obliged to report uncorrected omissions or misstatements other than those which are 'clearly trivial' to those charged with governance. ISA 260 (UK) defines 'clearly trivial' as matters that are clearly inconsequential, whether taken individually or in aggregate and whether judged by any quantitative or qualitative criteria. In the context of the Council, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £0.55m (PY £0.5m). For the Pension Fund, we propose that an individual difference could normally be considered to be clearly trivial if it is less than £0.55m (PY £0.5m).

If management have corrected material misstatements identified during the course of the audit, we will consider whether those corrections should be communicated to the Audit and Transparency Committee to assist it in fulfilling its governance responsibilities.

Council prior year gross expenditure

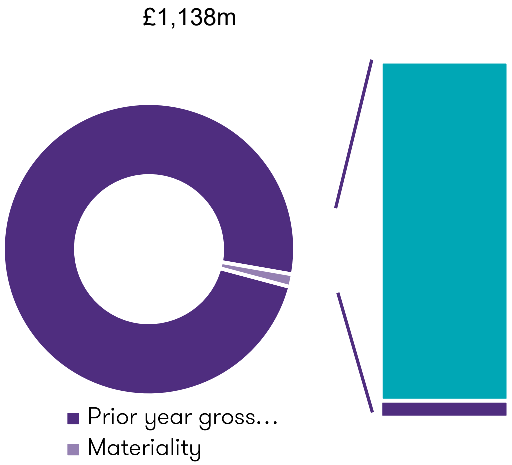


Materiality

£11m
Council financial statements materiality
(PY: £10m)

£0.55m
Council misstatements reported to the Audit and Transparency Committee
(PY: £0.5m)

Pension Fund prior year net assets



Materiality

£11m
Pension Fund financial statements materiality
(PY: £11m)

£0.55m
Pension Fund misstatements reported to the Audit and Transparency Committee
(PY: £0.5m)

Value for Money arrangements

Revised approach to Value for Money work for 2020/21

On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The Code introduced a revised approach to the audit of Value for Money. (VFM)

There are three main changes arising from the NAO's new approach:

- A new set of key criteria, covering financial sustainability, governance and improvements in economy, efficiency and effectiveness
- More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach
- The replacement of the binary (qualified / unqualified) approach to VFM conclusions, with far more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

The Code require auditors to consider whether the body has put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources. When reporting on these arrangements, the Code requires auditors to structure their commentary on arrangements under three specified reporting criteria. These are as set out below:

Improving economy, efficiency and effectiveness

Arrangements for improving the way the body delivers its services. This includes arrangements for understanding costs and delivering efficiencies and improving outcomes for service users.

Financial Sustainability

Arrangements for ensuring the body can continue to deliver services. This includes planning resources to ensure adequate finances and maintain sustainable levels of spending over the medium term (3-5 years)

Governance

Arrangements for ensuring that the body makes appropriate decisions in the right way. This includes arrangements for budget setting and management, risk management, and ensuring the body makes decisions based on appropriate information

Risks of significant VFM weaknesses

As part of our planning work, we considered whether there were any risks of significant weakness in the body's arrangements for securing economy, efficiency and effectiveness in its use of resources that we needed to perform further procedures on. Whilst our planning assessment did not identify any significant weaknesses in arrangements at this stage, we have highlighted further key areas of focus which are listed below. We may need to make recommendations following the completion of our work. The potential different types of recommendations we could make are set out in the second table below.

Key areas of focus

The Local Government operating environment has been significantly impacted by the pandemic and the future funding regime remains uncertain and this lack of certainty will impact on the Council's ability for long term planning. Our Value for Money work will primarily focus on the aspects listed below, but may increase in scope as further work is performed

- The Council's arrangements in response to the Covid-19 pandemic and capitalising on the benefits from the different models of service delivery and ways of working bought about by the pandemic.
- The Council's arrangements for continued leadership of the recovery process and working with stakeholders to maintain transparency and trust.
- The Council's arrangements for setting the Medium Term Financial Plan and achieving financial sustainability.
- The Council's arrangements for service transformation and cultural change.
- The Council's arrangements for working with its key partners to deliver services efficiently and improve the lives of local residents.

Potential types of recommendations

A range of different recommendations could be made following the completion of work on risks of significant weakness, as follows:

Statutory recommendation

Written recommendations to the body under Section 24 (Schedule 7) of the Local Audit and Accountability Act 2014. A recommendation under schedule 7 requires the body to discuss and respond publicly to the report.

Key recommendation

The Code of Audit Practice requires that where auditors identify significant weaknesses in arrangements to secure value for money they should make recommendations setting out the actions that should be taken by the body. We have defined these recommendations as 'key recommendations'.

Improvement recommendation

These recommendations, if implemented should improve the arrangements in place at the body, but are not made as a result of identifying significant weaknesses in the body's arrangements

Audit logistics and team

Planning and risk assessment

Interim audit March 2021

Audit & Transparency committee March 2021

Audit Plan

Year end audit July to September

Audit & Transparency committee September 2021

Audit Findings Report/Draft Auditor's Annual Report

Audit opinion

Audit committee November 2021

Auditor's Annual Report

Paul Grady, Key Audit Partner

Paul is responsible for overall quality control; accounts opinions; final authorisation of reports; liaison with the Audit and Transparency Committee, the Chief Executive and the Chief Financial Officer. He will share his wealth of knowledge and experience across the sector providing challenge and sharing good practice. Paul will ensure our audit is tailored specifically to you, and he is responsible for the overall quality of our audit work. Paul will sign your audit opinion.

Ellen Millington, Audit Manager

Ellen is responsible for overall audit management, quality assurance of audit work and output, and liaison with the audit committee, CFO and finance team. She will undertake reviews of the team's work and draft reports, ensuring they remain clear, concise and understandable. Ellen will be responsible for the delivery of our work on your arrangements in place to secure value for money.

Francesca Drew, Audit Incharge

Francesca is responsible is for management and delivery of the Council audit fieldwork, including both interim and final accounts work. She will monitor the deliverables, manage the query log with your finance team and highlight any significant issues and adjustments to senior management.

Louis Cabral Pension Fund Audit Incharge

Louis is responsible is for management and delivery of the pension fund audit fieldwork, including both interim and final accounts work. He will monitor the deliverables, manage the query log with your finance team and highlight any significant issues and adjustments to senior management.

Audited body responsibilities

Where audited bodies do not deliver to the timetable agreed, we need to ensure that this does not impact on audit quality or absorb a disproportionate amount of time, thereby disadvantaging other audits. Where the elapsed time to complete an audit exceeds that agreed due to a client not meeting its obligations we will not be able to maintain a team on site. Similarly, where additional resources are needed to complete the audit due to a client not meeting their obligations we are not able to guarantee the delivery of the audit to the agreed timescales. In addition, delayed audits will incur additional audit fees.

Our requirements

To minimise the risk of a delayed audit, you need to ensure that you:

- Produce draft financial statements of good quality by the agreed timetable you have agreed with us, including all notes, the Narrative Report and the Annual Governance Statement.
- Ensure that good quality working papers are available at the start of the audit, in accordance with the working paper requirements schedule that we have shared with you
- Ensure that the agreed data reports are available to us at the start of the audit and are reconciled to the values in the accounts, in order to facilitate our selection of samples for testing. These reports should be cleansed so that reversing transactions are removed.
- Provide debtor and creditor listings that are the balances outstanding at the year end
- Ensure that all appropriate staff are available on site throughout (or as otherwise agreed) the planned period of the audit
- The Council's experts provide clarity and detail over their work to enable auditors to challenge the accounting and valuation judgements used.
- Respond promptly and adequately to audit queries.

Audit fees

PSAA awarded a contract of audit for Royal Borough of Kensington and Chelsea and the Kensington and Chelsea Pension Fund to begin with effect from 2018/19. The scale fee in the contract was £93,497 for the Council audit and £16,170 for the Pension Fund. Since that time, there have been a number of developments, particularly in relation to the revised Code and ISA's which are relevant for the 2020/21 audit.

The 2020/21 Code introduces a revised approach to our VFM work. This requires auditors to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach. Auditors now have to make far more sophisticated judgements on performance, as well as issue key recommendations if any significant weaknesses in arrangements are identified during the audit. We will be working with the NAO and other audit firms to discuss and share learning in respect of common issues arising across the sector.

The new approach will be more challenging for audited bodies, involving discussions at a wider and more strategic level. Both the reporting, and the planning and risk assessment which underpins it, will require more audit time, delivered through a richer skill mix than in previous years. Our estimate is that for your audit, this will result in an increased fee of £xxxxx (xx%). This is in line with increases we are proposing at all our local audits.

Additionally, across all sectors and firms, the FRC has set out its expectation of improved financial reporting from organisations and the need for auditors to demonstrate increased scepticism and challenge and to undertake additional and more robust testing, as noted in the number of revised ISAs issued by the FRC that are applicable to audits of financial statements commencing on or after 15 December 2019, as detailed in Appendix 1.

As a firm, we are absolutely committed to meeting the expectations of the FRC with regard to audit quality and public sector financial reporting. We have engaged an audit expert to improve the level of assurance we require for property valuations estimates, which has been included in our proposed audit fee. Our proposed work and fee for 2020/21, as set out below, is detailed overleaf and has been agreed with the Executive Director of Resources

	Actual Fee 2018/19	Actual Fee 2019/20	Proposed fee 2020/21
Council Audit	£113,297	£140,872	£xxxxx
Pension Fund audit	£16,170	£28,750	£xxxxx
Total audit fees (excluding VAT)	£129,467	£169,622	£xxxxx

Assumptions

In setting the above fees, we have assumed that the Council will:

- prepare a good quality set of accounts, supported by comprehensive and well presented working papers which are ready at the start of the audit
- provide appropriate analysis, support and evidence to support all critical judgements and significant judgements made during the course of preparing the financial statements
- provide early notice of proposed complex or unusual transactions which could have a material impact on the financial statements.

Relevant professional standards

In preparing our fee estimate, we have had regard to all relevant professional standards, including paragraphs 4.1 and 4.2 of the FRC's Ethical Standard (revised 2019) which stipulate that the Engagement Lead (Key Audit Partner) must set a fee sufficient to enable the resourcing of the audit with partners and staff with appropriate time and skill to deliver an audit to the required professional and Ethical standards.

Audit fees – detailed analysis Council

Scale fee published by PSAA	£93,497
Ongoing increases to scale fee first identified in 2019/20	
Raising the bar/regulatory factors	£16,000
Enhanced audit procedures for Property, Plant and Equipment	£9,500
Enhanced audit procedures for Pensions	£3,500
Covid-19 impact	£18,375
Audit fee 2019/20	£140,872
New issues for 2020/21	
Additional work on Value for Money (VfM) under new NAO Code	£xxxxx
Increased audit requirements of revised ISAs	£xxxxx
Work on the migration of data from Surrey County Council	£xxxxx
Proposed increase to agreed 2019/20 fee	£xxxxx
Total audit fees (excluding VAT)	£xxxxx

Audit fees – detailed analysis Pension Fund

Scale fee published by PSAA	£16,170
Ongoing increases to scale fee first identified in 2019/20	
Raising the bar/regulatory factors	£5,000
Enhanced audit procedures for Level 3 investments	£3,830
Covid-19 impact	£3,750
Audit fee 2019/20	£28,750
New issues for 2020/21	
Additional work on Direct Property investments	£xxxxx
Work on the migration of data from Surrey County Council	£xxxxx
Increased audit requirements of revised ISAs	£xxxxx
Proposed increase to agreed 2019/20 fee	£xxxxx
Total audit fees (excluding VAT)	£xxxxx

Independence and non-audit services

Auditor independence

Ethical Standards and ISA (UK) 260 require us to give you timely disclosure of all significant facts and matters that may bear upon the integrity, objectivity and independence of the firm or covered persons. relating to our independence. We encourage you to contact us to discuss these or any other independence issues with us. We will also discuss with you if we make additional significant judgements surrounding independence matters.

We confirm that there are no significant facts or matters that impact on our independence as auditors that we are required or wish to draw to your attention. We have complied with the Financial Reporting Council's Ethical Standard (Revised 2019) and we as a firm, and each covered person, confirm that we are independent and are able to express an objective opinion on the financial statements. Further, we have complied with the requirements of the National Audit Office's Auditor Guidance Note 01 issued in May 2020 which sets out supplementary guidance on ethical requirements for auditors of local public bodies.

We confirm that we have implemented policies and procedures to meet the requirements of the Ethical Standard. For the purposes of our audit we have made enquiries of all Grant Thornton UK LLP teams providing services to the Council.

Other services

The other services provided by Grant Thornton are set out in the table opposite

The amounts detailed are fees agreed to-date for audit related and non-audit services to be undertaken by Grant Thornton UK LLP in the current financial year. These services are consistent with the Council's policy on the allotment of non-audit work to your auditors. Any changes and full details of all fees charged for audit related and non-audit related services by Grant Thornton UK LLP and by Grant Thornton International Limited network member Firms will be included in our Audit Findings report at the conclusion of the audit.

None of the services provided are subject to contingent fees.

Service	Fees £	Threats	Safeguards
Audit related			
Certification of Housing Capital receipts grant	20,000	Self-Interest (because this is a recurring fee)	The level of this recurring fee taken on its own is not considered a significant threat to independence as the fee for this work is low in comparison to the total fee for the audit of £166,657 and in particular relative to Grant Thornton UK LLP's turnover overall. Further, it is a fixed fee and there is no contingent element to it. These factors all mitigate the perceived self-interest threat to an acceptable level.
Agreed upon Procedures relating to the Pooling of Housing Capital Receipts	5,000	As above	As above
Agreed upon Procedures relating to the Teachers' Pensions end of year certificate	7,700	As above	As above
Agreed upon Procedures relating to the GLA grant compliance checklist	5,000	As above	As above
Agreed upon procedures in respect of ESFA subcontracting controls	£6,000	As above	As above
Non-audit related			
CFO insights subscription	12,500	As above	As above

Appendix 1: Revised Auditor Standards and application guidance

FRC revisions to Auditor Standards and associated application guidance

The following Auditing Standards and associated application guidance that were applicable to 19/20 audits, have been revised or updated by the FRC, with additional requirements for auditors for implementation in 2020/21 audits and beyond.

	Date of revision	Application to 2020/21 Audits
ISQC (UK) 1 – Quality Control for Firms that Perform Audits and Reviews of Financial Statements, and other Assurance and Related Service Engagements	November 2019	✓
ISA (UK) 200 – Overall Objectives of the Independent Auditor and the Conduct of an Audit in Accordance with International Standards on Auditing (UK)	January 2020	✓
ISA (UK) 220 – Quality Control for an Audit of Financial Statements	November 2019	✓
ISA (UK) 230 – Audit Documentation	January 2020	✓
ISA (UK) 240 – The Auditor's Responsibilities Relating to Fraud in an Audit of Financial Statements	January 2020	✓
ISA (UK) 250 Section A – Consideration of Laws and Regulations in an Audit of Financial Statements	November 2019	✓
ISA (UK) 250 Section B – The Auditor's Statutory Right and Duty to Report to Regulators od Public Interest Entities and Regulators of Other Entities in the Financial Sector	November 2019	✓

Appendix 1: Revised Auditor Standards and application guidance continued

	Date of revision	Application to 2020/21 Audits
ISA (UK) 260 – Communication With Those Charged With Governance	January 2020	✓
ISA (UK) 315 – Identifying and Assessing the Risks of Material Misstatement Through Understanding of the Entity and Its Environment	July 2020	✓
ISA (UK) 500 – Audit Evidence	January 2020	✓
ISA (UK) 540 – Auditing Accounting Estimates and Related Disclosures	December 2018	✓
ISA (UK) 570 – Going Concern	September 2019	✓
ISA (UK) 580 – Written Representations	January 2020	✓
ISA (UK) 600 - Special considerations – Audits of Group Financial Statements (Including the Work of Component Auditors)	November 2019	✓
ISA (UK) 620 – Using the Work of an Auditor's Expert	November 2019	✓
ISA (UK) 700 – Forming an Opinion and Reporting on Financial Statements	January 2020	✓

Appendix 1: Revised Auditor Standards and application guidance continued

	Date of revision	Application to 2020/21 Audits
ISA (UK) 701 – Communicating Key Audit Matters in the Independent Auditor's Report	January 2020	✓
ISA (UK) 720 – The Auditor's Responsibilities Relating to Other Information	November 2019	✓
Practice Note 10: Audit of Financial Statements of Public Sector Bodies in the United Kingdom	December 2020	✓

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Audit Progress Report and Sector Update

Royal Borough of Kensington and Chelsea
Year ending 31 March 2021

February 2021

Contents

Introduction

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This paper provides the Audit and Transparency Committee with a report on progress in delivering our responsibilities as your external auditors.

The paper also includes:

- a summary of emerging national issues and developments that may be relevant to you as a local authority; and
- includes a number of challenge questions in respect of these emerging issues which the Panel may wish to consider (these are a tool to use, if helpful, rather than formal questions requiring responses for audit purposes)

Members of the Audit and Transparency Committee can find further useful material on our website, where we have a section dedicated to our work in the public sector. Here you can download copies of our publications www.grantthornton.co.uk ..

If you would like further information on any items in this briefing, or would like to register with Grant Thornton to receive regular email updates on issues that are of interest to you, please contact either your Key Audit Partner or Engagement Manager.

Progress at 25 February 2021

2019/20 Financial Statements Audit

We have completed our audit of the Council's 2019/20 financial statements. Our unqualified audit opinion was issued on the 19 November 2020 ahead of the 30 November 2020 deadline. We are unable to issue our Value for Money conclusion in respect of this work for 2019/20 as the Council's predecessor auditors have not yet issued their value for money conclusion in respect of the 2016/17 and 2017/18 audits (as they are pending the outcome of the Grenfell enquiries), and as a result we have been unable to issue our value for money conclusion for 2018/19

We have completed our work on the Council's consolidation return following guidance issued by the NAO.

Finance officers are implementing plans to ensure that the accounts closedown and audit process meets the 2021 audit deadline which is potentially moving to 30 September 2021.

2020/21 Financial Statements Audit

We will commence our interim for the 2020/21 audit in March 2020. Our interim fieldwork includes:

- Updated review of the Council's control environment
- Updated understanding of financial systems
- Review of Internal Audit reports on core financial systems
- Early work on emerging accounting issues
- Early substantive testing

The results of our work will be included within the progress report to the next Audit and Transparency Committee. Our audit Plan is a separate item on the agenda.

We will report our work in the Audit Findings Report and aim to give our opinion on the Statement of Accounts by 30 September 2021

Other areas

Certification of claims and returns

We certified the Council's Housing Benefit claim by the revised deadline of 31 January 2021. There were no significant issues with the claim. There were no amendments made to the claim that impacted on the subsidy the Council receives.

We certified the Council's annual Teachers' Pensions return in accordance with procedures agreed with Teachers' Pensions. We identified the following issues from our work:

- Comparing the contributions to the percentage rate of the pensionable salary, identified variances of £1.5k in teacher's contributions and £2.4k in employer's contributions.
- Differences of approximately £60k for contributory salaries were identified from the return when compared to the underlying payroll reports.
- Testing of 60 teachers identified four teachers that were classified as having opted out of the scheme on the members portal, but were still making contributions, two teachers payslips could not be located, and one teacher's additional contributions were under recorded.
- We were unable to prove whether three refunds issued correctly related to a previous year.

Although there was an improvement in timeliness of responses to audit queries this year, there were still some delays which impacted on our work and meant that the claim was not certified until two weeks after the 30 November deadline.

We also certified the Council's annual Pooling of Housing Capital Receipts return in accordance with procedures agreed with the Ministry of Housing, Communities & Local Government. This was certified prior to the 31 January 2021 deadline.
There were no issues arising from our audit of this claim.

Meetings

We met with your Chief Executive and Executive Director of Resources on 19 January as part of our quarterly liaison meetings and continue to be in discussions with finance staff regarding emerging developments and to ensure the audit process is smooth and effective.

Events

We provide a range of workshops, along with network events for members and publications to support the Council. Your officers have attended our Financial Reporting Workshop in February, which will help to ensure that members of your Finance Team were up to date with the latest financial reporting requirements for local authority accounts.

Audit Deliverables

2019/20 Deliverables	Planned Date	Status
Annual Audit Letter This letter communicates the key issues arising from our work.	December 2020	Complete
Housing Benefit, Teachers' Pensions and other claims and returns Our certification of your claims and returns	January 2021	Complete

2020/21 Deliverables	Planned Date	Status
Audit Plan We are required to issue a detailed audit plan to the Audit and Transparency Committee setting out our proposed approach in order to give an opinion on the Council's 2020-21 financial statements and a Conclusion on the Council's Value for Money arrangements.	March 2021	The Audit Plan is on the Agenda
Interim Audit Findings We will report to you the findings from our interim audit and our initial value for money risk assessment within our Progress Report.	June 2021	Not yet due
Audit Findings Report The Audit Findings Report will be reported to the September Audit Panel	September 2021	Not yet due
Auditors Report This is the opinion on your financial statement, annual governance statement and value for money conclusion.	September 2021	Not yet due
Whole of Government Accounts This is the Assurance Statement on the Council's Whole of Government Accounts consolidation pack	October 2021	Not Yet Due
Auditor's Annual report This letter communicates the key issues arising from our work.	November 2021	Not yet due
Housing Benefit, Teachers' Pensions and other claims and returns Our certification of your claims and returns	January 2022	Not yet due

Sector Update

Councils continue to try to achieve greater efficiency in the delivery of public services, whilst facing the challenges to address rising demand, ongoing budget pressures and social inequality.

Our sector update provides you with an up to date summary of emerging national issues and developments to support you. We cover areas which may have an impact on your organisation, the wider local government sector and the public sector as a whole. Links are provided to the detailed report/briefing to allow you to delve further and find out more.

Our public sector team at Grant Thornton also undertake research on service and technical issues. We will bring you the latest research publications in this update. We also include areas of potential interest to start conversations within the organisation and with audit committee members, as well as any accounting and regulatory updates.

- **Grant Thornton Publications**
- **Insights from local government sector specialists**
- **Reports of interest**
- **Accounting and regulatory updates**

More information can be found on our dedicated public sector and local government sections on the Grant Thornton website by clicking on the logos below:

Public Sector

Local government

The Redmond Review

The Independent Review into the Oversight of Local Audit and the Transparency of Local Authority Financial Reporting – "The Redmond Review" was published on 8 September.

The review has examined the effectiveness of local audit and its ability to demonstrate accountability for audit performance to the public. It also considered whether the current means of reporting the Authority's annual accounts enables the public to understand this financial information and receive the appropriate assurance that the finances of the authority are sound.

The Review received 156 responses to the Calls for Views and carried out more than 100 interviews. The Review notes "A regular occurrence in the responses to the calls for views suggests that the current fee structure does not enable auditors to fulfil the role in an entirely satisfactory way. To address this concern an increase in fees must be a consideration. With 40% of audits failing to meet the required deadline for report in 2018/19, this signals a serious weakness in the ability of auditors to comply with their contractual obligations. The current deadline should be reviewed. A revised date of 30 September gathered considerable support amongst respondents who expressed concern about this current problem. This only in part addresses the quality problem. The underlying feature of the existing framework is the absence of a body to coordinate all stages of the audit process."

Note that the 2020-21 deadlines for the Council to submit accounts to their auditor and for the auditor to provide their opinion is still under consultation with the Ministry of Housing, Communities and Local Government.

Key recommendations in the report include:

- A new regulator - the Office of Local Audit and Regulation (OLAR) to replace the Financial Reporting Council's (FRC) role and that of Public Sector Auditor Appointments (PSAA)
- Scope to revise fees - the current fee structure for local audit be revised to ensure that adequate resources are deployed to meet the full extent of local audit requirements
- Move back to a September deadline for Local Authorities - the deadline for publishing audited local authority accounts be revisited with a view to extending it to 30 September from 31 July each year
- Accounts simplification - CIPFA/LASAAC be required to review the statutory accounts to determine whether there is scope to simplify the presentation of local authority accounts.

The OLAR would manage, oversee and regulate local audit with the following key responsibilities:

- procurement of local audit contracts;
- producing annual reports summarising the state of local audit;
- management of local audit contracts;
- monitoring and review of local audit performance;
- determining the code of local audit practice; and
- regulating the local audit sector.

The current roles and responsibilities relating to local audit discharged by the Public Sector Audit Appointments (PSAA); Institute of Chartered Accountants in England and Wales (ICAEW); FRC; and The Comptroller and Auditor General (C&AG) to be transferred to the OLAR.

How you can respond to the Review

One of the recommendations was for local authorities to implement:

The governance arrangements within local authorities be reviewed by local councils with the purpose of:

- an annual report being submitted to Full Council by the external auditor;
- consideration being given to the appointment of at least one independent member, suitably qualified, to the Audit Committee; and
- formalising the facility for the CEO, Monitoring Officer and Chief Financial Officer (CFO) to meet with the Key Audit Partner at least annually.

Whilst Redmond requires legislation, in practice the second and third bullets are things which authorities could start doing now.

The full report can be obtained from the gov.uk website:

https://www.gov.uk/government/publications/local-authority-financial-reporting-and-external-audit-independent-review

Code of Audit Practice and revised approach to Value for Money audit work - National Audit Office

On 1 April 2020, the National Audit Office introduced a new Code of Audit Practice which comes into effect from audit year 2020/21. The most significant change in the Code is the introduction of a new 'Auditor's Annual Report', which brings together the results of all the auditor's work across the year. The Code also introduced a revised approach to the audit of Value for Money.

Value for Money - Key changes

There are three main changes arising from the NAO's new approach:

- A new set of key criteria, covering governance, financial sustainability and improvements in economy, efficiency and effectiveness
- More extensive reporting, with a requirement on the auditor to produce a commentary on arrangements across all of the key criteria, rather than the current 'reporting by exception' approach
- The replacement of the binary (qualified / unqualified) approach to VfM conclusions, with far more sophisticated judgements on performance, as well as key recommendations on any significant weaknesses in arrangements identified during the audit.

The new approach to VfM re-focuses the work of local auditors to:

- Promote more timely reporting of significant issues to local bodies
- Provide more meaningful and more accessible annual reporting on VfM arrangements issues in key areas
- Provide a sharper focus on reporting in the key areas of financial sustainability, governance, and improving economy, efficiency and effectiveness
- Provide clearer recommendations to help local bodies improve their arrangements.

Implications of the changes

Grant Thornton very much welcomes the changes, which will support auditors in undertaking and reporting on work which is more meaningful, and makes impact with audited bodies and the public. We agree with the move away from a binary conclusion, and with the replacement of the Annual Audit Letter with the new Annual Auditor's Report. The changes will help pave the way for a new relationship between auditors and audited bodies which is based around constructive challenge and a drive for improvement.

The following are the main implications in terms of audit delivery:

- The Auditor's Annual Report will need to be published at the same time as the Auditor's Report on the Financial Statements.
- Where auditors identify weaknesses in Value for Money arrangements, there will be increased reporting requirements on the audit team. We envisage that across the country, auditors will be identifying more significant weaknesses and consequently making an increased number of recommendations (in place of what was a qualified Value for Money conclusion). We will be working closely with the NAO and the other audit firms to ensure consistency of application of the new guidance.
- The new approach will also potentially be more challenging, as well as rewarding, for audited bodies involving discussions at a wider and more strategic level. Both the reporting, and the planning and risk assessment which underpins it, will require more audit time, delivered through a richer skill mix than in previous years.

The Code can be accessed here:
https://www.nao.org.uk/code-audit-practice/wp-content/uploads/sites/29/2020/01/Code_of_audit_practice_2020.pdf

Local government reorganisation in two-tier shire counties – County Councils' Network

The County Councils' Network (CCN) has published new independent evidence on the implications of local government reorganisation in two-tier shire counties ahead of the publication of the government's 'devolution and local recovery' white paper.

The report identifies considerations relating to:

- the costs associated with disaggregation;
- what this might mean in terms of risk and resilience of service provision;
- how service performance might be impacted;
- what it could mean for the place agenda; and
- issues arising from the response to Covid-19.

The report also sets out the financial implications of four unitary scenarios:

- Establishing one unitary authority in every two-tier area in England.
- Establishing two new unitary authorities in every two-tier area in England.
- Establishing three new unitary authorities in every two-tier area in England.
- Establishing two new unitary authorities and a children's trust in every two-tier area in England.

CNN note "With councils in shire counties facing billions in rising costs for care services, alongside financial deficits caused by the Coronavirus pandemic, the study from PricewaterhouseCoopers (PwC) shows merging district and county councils in each area into a single unitary council could save £2.94bn over five years nationally."

CNN go on to comment "The report concludes a single unitary in each area would reduce complexity and give communities a single unified voice to government. It would provide a clear point of contact for residents, businesses and a platform to 'maximise' the benefits of strategic economic growth and housing policy; integral to the 'levelling-up' agenda and securing devolution.

However, the report shows replacing county and districts with two unitary authorities in each area would reduce the financial benefit by two-thirds to £1bn over five years, with three unitary authorities delivering a net loss of £340m over the same period. A fourth scenario of a two-unitary and children's trust model in each county would deliver a net five year saving of £269m.

Alongside a minimum £1.9bn in additional costs from splitting county council services, the report outlines the establishment of multiple unitary authorities in each area creates the risk of disruption to the safeguarding of vulnerable children, while 'instability' in care markets could impact on the quality and availability of support packages and care home placements."

The full report can be obtained from the County Councils' Network website:

https://www.countycouncilsnetwork.org.uk/new-analysis-reveals-that-single-unitary-councils-could-deliver-3bn-saving-over-five-years-and-maximise-the-benefits-of-economic-growth-and-housing-policy/

Revised auditing standard: Auditing Accounting Estimates and Related Disclosures

In the period December 2018 to January 2020 the Financial Reporting Council issued a number of updated International Auditing Standards (ISAs (UK)) which are effective for audits of financial statements for periods beginning on or after 15 December 2019. ISA (UK) 540 (revised): *Auditing Accounting Estimates and Related Disclosures* includes significant enhancements in respect of the audit risk assessment process for accounting estimates.

Introduction

Under ISA (UK) 540 (Revised December 2018) auditors are required to understand and assess an entity's internal controls over accounting estimates, including:

- The nature and extent of oversight and governance over management's financial reporting process relevant to accounting estimates;
- How management identifies the need for and applies specialised skills or knowledge related to accounting estimates;
- How the entity's risk management process identifies and addresses risks relating to accounting estimates;
- The entity's information system as it relates to accounting estimates;
- The entity's control activities in relation to accounting estimates; and
- How management reviews the outcomes of previous accounting estimates.

As part of this process auditors also need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty, or require significant judgement.

Specifically do Audit Panel members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them;
- Oversee management's process for making accounting estimates, including the use of models, and the monitoring activities undertaken by management; and
- Evaluate how management made the accounting estimates?

Additional information that will be required for our March 2021 audits

To ensure our compliance with this revised auditing standard, we will be requesting further information from management and those charged with governance during our audit for the year ended 31 March 2021 in all areas summarised above for all material accounting estimates that are included in the financial statements.

Based on our knowledge of the Council we have identified the following material accounting estimates for which this is likely to apply:

- Valuations of land and buildings, council dwellings and investment properties
- Depreciation
- Year end provisions and accruals, including the prescribing accrual
- Credit loss and impairment allowances including loans to your subsidiaries
- Valuation of defined benefit net pension fund liabilities
- Fair value estimates
- Valuation of level 2 and level 3 investments

The Councils Information systems

In respect of the Council's information systems we are required to consider how management identifies the methods, assumptions and source data used for each material accounting estimate and the need for any changes to these. This includes how management selects, or designs, the methods, assumptions and data to be used and applies the methods used in the valuations.

When the models used include increased complexity or subjectivity, as is the case for many valuation models, auditors need to understand and assess the controls in place over the models and the data included therein. Where adequate controls are not in place we may need to report this as a significant control deficiency and this could affect the amount of detailed substantive testing required during the audit.

If management has changed the method for making an accounting estimate we will need to fully understand management's rationale for this change. Any unexpected changes are likely to raise the audit risk profile of this accounting estimate and may result in the need for additional audit procedures.

The Council's processes around accounting estimation is included under item 6 on the agenda and acknowledges that the Council providing Members with the information they need to understand how we deal with accounting estimation in the accounts.

We are aware that the Council uses management experts in deriving some of its more complex estimates, e.g. asset valuations and pensions liabilities. However, it is important to note that the use of management experts does not diminish the responsibilities of management and those charged with governance to ensure that::

- All accounting estimates and related disclosures included in the financial statements have been prepared in accordance with the requirements of the financial reporting framework, and are materially accurate;
- There are adequate controls in place at the Council (and where applicable its service provider or management expert) over the models, assumptions and source data used in the preparation of accounting estimates.

Estimation uncertainty

Under ISA (UK) 540 (Revised December 2018) we are required to consider the following:

- How management understands the degree of estimation uncertainty related to each accounting estimate;, and
- How management address this estimation uncertainty when selecting their point estimate.

For example, how management identified and considered alternative, methods, assumptions or source data that would be equally valid under the financial reporting framework, and why these alternatives were rejected in favour of the point estimate used.

The revised standard includes increased emphasis on the importance of the financial statement disclosures. Under ISA (UK) 540 (Revised December 2018), auditors are required to assess whether both the accounting estimates themselves and the related disclosures are reasonable.

Where there is a material uncertainty, that is where there is a significant risk of a material change to the estimated carrying value of an asset or liability within the next year, there needs to be additional disclosures. Note that not all material estimates will have a material uncertainty and it is also possible that an estimate that is not material could have a risk of material uncertainty.

Where there is material estimation uncertainty, we would expect the financial statement disclosures to include:

- What the assumptions and uncertainties are;
- How sensitive the assets and liabilities are to those assumptions, and why;
- The expected resolution of the uncertainty and the range of reasonably possible outcomes for the next financial year; and
- An explanation of any changes made to past assumptions if the uncertainly is unresolved.

How can you help

As part of our planning risk assessment procedures we routinely make a number of enquiries of management and those charged with governance, which include general enquiries, fraud risk assessment questions, going concern considerations etc. Responses to these enquires are completed by management and confirmed by those charged with governance at an Audit Panel meeting. For our 2020/21 audit we will be making additional enquires on your accounting estimates in a similar way (which will cover the areas highlighted above). We would appreciate a prompt response to these enquires in due course.

Further information

Further details on the requirements of ISA (UK) 540 (Revised December 2018) can be found in the auditing standard on the Financial Reporting Council's website:

https://www.frc.org.uk/getattachment/0fa69c03-49ec-49ae-a8c9-cc7a2b65382a/ISA-(UK)-540_Revised-December-2018_final.pdf

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE MEETING

8 MARCH 2021

REPORT BY THE DIRECTOR FOR HR AND OD AND DIRECTOR OF FINANCIAL MANAGEMENT

UPDATE REPORT ON THE INTEGRATED BUISNESS CENTRE (IBC)

The purpose of this report is to provide the Audit and Transparency Committee with an update on the IBC since the last report in July 2020.

1. EXECUTIVE SUMMARY

1.1 On 1 December 2018 Kensington and Chelsea launched the IBC Solution, becoming a partner in Hampshire County Council's (HCC) public sector shared services operation for Finance and HR. This saw the Council adopting the services and underlying processes provided by the HCC Integrated Business Centre (IBC) and included the replacement of Agresso with SAP.

1.2 The core finance services to be delivered through the IBC and SAP included financial management, budgeting, purchasing, and for HR, personnel transactions around staff records, leave, expenses, recruitment, payroll and workforce data.

1.3 Audit and Transparency Committee received an update on progress with the implementation in July 2020 from both an HR and finance perspective. There has been progress against all areas since this date and this report provides the update.

2. RECOMMENDATION

2.1 That the Committee consider and comment on the update of the IBC since the last report in July 2020.

3. BACKGROUND

3.1 This report provides an update to Audit and Transparency Committee on progress with implementing the new IBC operating model following the launch of the new system and partnership arrangements on 1 December 2018 and the last update in July 2020.

3.2 Operational Performance Group Meetings, which are joint Council meetings with Hampshire Council senior officer are held quarterly. At these meetings, performance is reviewed to ensure compliance with partnership targets.

4. HUMAN RESOURCES ORGANISATIONAL DEVELOPMENT AND PAYROLL

4.1 The majority of processes within the Human Resources elements of the solution have been fully embedded and in operation over the last 12 months. This area was improved by the internal HR programme to support staff and managers in their understanding and use of IBC. The 'Best use of IBC Project' also includes a New starter e-mail for all staff which explains what the IBC system is, contains useful links and points of contact. Rollout of this latest initiative commenced in November 2020 and feedback received from staff and managers is very positive and supportive.

4.2 This year HR and Payroll have continued to meet and exceed expected targets, including the key indicator of greater than 90% of HR and Payroll transactions via IBC self- service system.

4.3 As identified in the last update report, recruitment was and has remained an on-going challenge. An agreed action plan between HCC and the Council was put in place and some progress was made but performance standards are still not being achieved.

4.4 In order to stabilise and improve the performance, a further corrective plan was put in place which transfers the responsibility and control of recruitment back to the council for the next year. The new inhouse resourcing team is addressing some of the key issues, including

- providing an enhanced service delivery to our hiring managers which will free up their time to complete their normal work duties;
- remove the need for hiring managers to complete complex self-service administrative tasks within IBC and which will minimise the amount of recruitment errors;
- transfer the liaison with IBC on behalf of hiring managers to increase capacity within IBC and therefore reducing calls to IBC service

During the year it is anticipated that the team will also upskill managers, improve processes and develop further integration with the agency interface.

4.5 Reporting has proved to be an area also requiring improvement but HR will soon be launching new HR dashboard reports, including sickness and staff turnover using the Council's own Business Intelligence tools. Once these are fully established, they will be expanded to include elements of the Learning Management System (LMS).

4.6 LMS (known as success factors which is part of the IBC suite of systems provided by HCC) has experienced some issues. Some staff are experiencing connection issues in completing courses and also updating employee records. This is under on-going investigation led by IT\Retained HR staff. There has been a global fault with the success factor system identified and work continues to make adjustments to IT settings in order to resolve these issues.

5. FINANCIAL MANAGEMENT

5.1 Embedding all the necessary processes within the finance elements of the solution has been challenging but good progress has been made over the last 9 months since the last update.

5.2 There has been a need to change some ways of working and drive through cultural change, particularly in purchasing and budget monitoring. The remainder of this section provides an update on the four key areas of finance.

5.3 COVID-19 has resulted in some changes for the finance elements of the system but the impact has been minimal. The audit of the 2019/20 accounts was all completed virtually and the testing required was completed using teams meetings to run live reports. Payment of invoices has remained on 'immediate terms' to ensure no delays in payments during the pandemic and the IBC has supported in the payments of the business grants and which has enabled a high volume of extra payments to be processed. Officers within finance have had direct access to officers within the IBC and therefore any urgent issues that have emerged have been able to be dealt with quickly.

Accounting

5.3 The Council and IBC financial accounting teams have a strong collaborative working arrangement which in 2020 enabled the successful closure of accounts, external audit and the publication of final accounts on time.

Budget and Forecasting

5.5 As part of the IBC self-service model, budget managers across the organisation are expected to manage their own budget and use the system to determine their end of year forecast.

5.6 There is an average of 260 budget managers identified across services and progress with implementation of this new self-serve model has made some progress but there are still some areas where targeted support will continue in 2021.

5.7 The self-serve element of the system poses some challenges for bi-borough budget managers but discussions are continuing with the IBC to identify a solution.

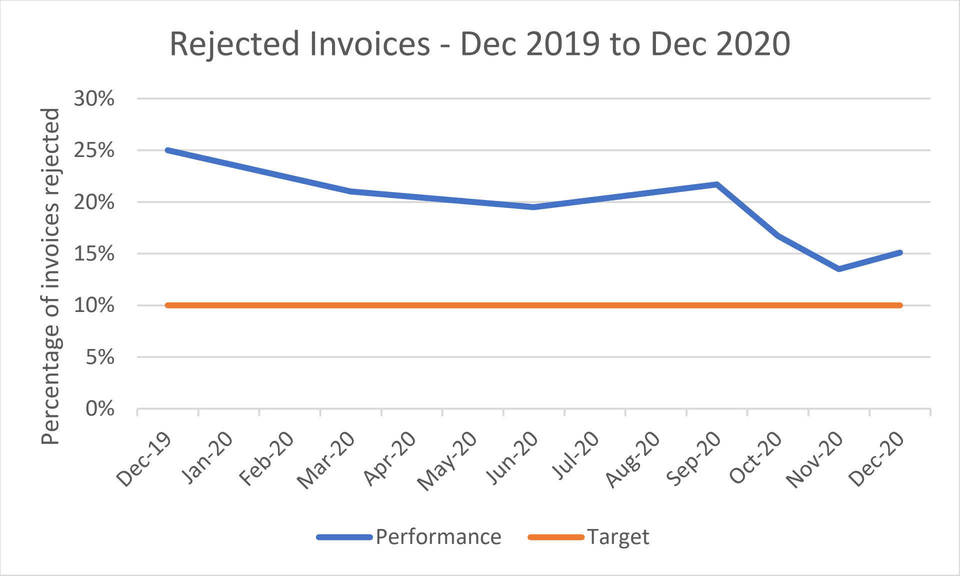
5.8 It is important to note that budget manager accountability is much greater than simply use of the system so training with budget managers that covers all aspects of financial management responsibilities and the management of budgets is being developed and rolled out.

Procurement to Pay

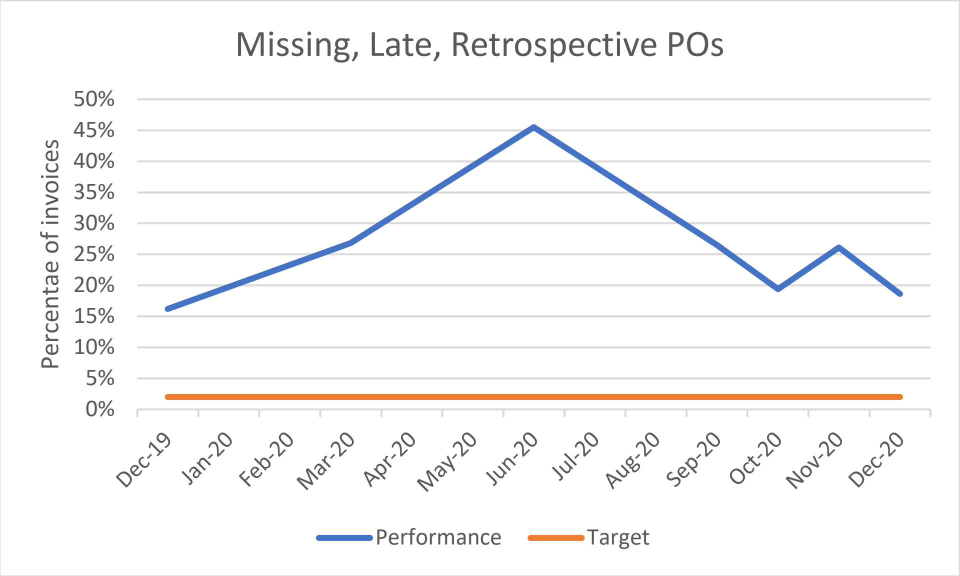
5.9 This is the area that has posed the biggest challenge since implementation with the introduction of new self-serve processes and No PO No Pay policies. However, there has been steady and good progress over the last nine months and although performance is not yet in line with the target, the trend is in the right direction.

5.10 A finance Task and Finish Group is in place who are working with individual services through budget management support to ensure the new processes are known and implemented. This work is supplemented with detailed data sets provided by the IBC each month which allows the Task and Finish Group to work with individual services, officers and suppliers. The work of the group will continue until the following performance target has been achieved in all areas:

- Rejected Invoices - to be less than 10%. Current performance is 15.1%



- Missing Late or Retrospective Purchase Orders – to be less than 2%. Current performance is 18.6%.



5.11 The main reasons for invoices being rejected are because of missing information or no / invalid purchase order number. The No PO No Pay policy was previously in existence within the council but not mandated. By following a proper process where purchase orders are raised prior to the submission of an invoice for payment, this ensures that committed spend can be more accurately accounted for and appropriately approved and monitored by budget holders. Some exceptions to this principle will always exist whereby payments need to be made on a more urgent basis.

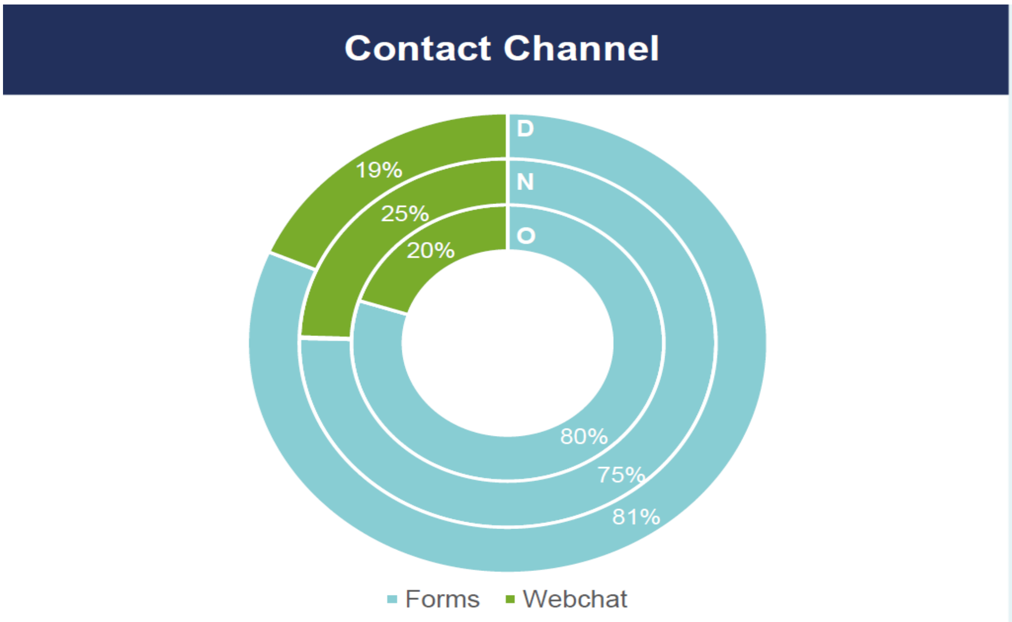
Accounts Receivable – Income Collection

5.12 Good processes are in place and working effectively for the collection of income, including, direct debits, issuing invoices, credit notes (invoice Adjustments) and refunds.

5.13 In July 2020, we reported that further work was underway to ensure the Council is using the reporting functionality of the system to greatest effect and more recently there has been a focussed effort on the reporting on the level and age of debt to ensure the Council's team can complement the work of the IBC to improve debt collection levels.

6. CONTACT AND COMMUNICATIONS

6.1 Contact with the IBC is through telephone, 'my enquiry' and web chat. However, over the last 12 months during the COVID-19 pandemic, contact via phone has been restricted. The use of web chat has been extensively promoted because of its timely nature for responses and the latest data shows this is being more widely used.



Contact channel	Q3 19/20 (YtY)	Q2 20/21 (QtQ)	Q3 20/21 (Current)	QtQ % contact change
Form/E-mail	36%	80%	**79%**	**-1%**
Webchat	5%	20%	**21%**	**+1%**
Call	59%	0%	**0%**	**0%**
Total	**3,735**	**1,985**	**1,995**	**+1%**

6.2 Satisfaction levels are generally good, with an average of 70% of people saying they are highly satisfied and 80% saying satisfied[1].

6.3 The Council has strong links with the IBC Comms Team and the two teams work together on regular updates as required. Internally the Council has good communication channels, including:

- The recently launched HR and finance hubs which are used extensively by finance and HR to distribute key messages, updates and information for the organisation;
- Finance and HR working groups covering a range of different issues but also to ensure feedback from the rest of the organisation can be collated and feed into discussions with IBC and shape future system developments;
- All staff updates through KC briefly;
- Targeted communications to managers, budget managers, shoppers.
- All new staff will now receive an introduction email which includes full detail of the IBC and their roles and responsibilities.

6.4 In terms of external communications, this is mainly focussed around the Council's suppliers who themselves have had to adopt a new self service process. The more recent targeted communications with suppliers finding the new process difficult is now starting to have a positive impact.

7. FUTURE DEVELOPMENTS

7.1 When the Council on-boarded with IBC on 1st December 2018, intense implementation arrangements were in place between the Council and IBC. These were to ensure that the move to Business as Usual was at a time when both the Council and the IBC were confident that the new operating model was embedded sufficiently. In March 2020, the Council moved out of this 'stabilisation' period and became part of the partnership governance arrangements. These have now been in place for 12 months and are working well.

7.2 Being part of this governance process means the Council now has the opportunity to shape future system developments and those for 2021 have just been agreed by the IBC Shared Services Board. The Council can also discuss system developments in year if a need arises.

7.3 The finance developments to the IBC system underway or scheduled for the next year includes:

- Improvements to remittances;
- Supplier self-serve improvements; and
- Process for creating new suppliers.

7.4 The HR improvements to the IBC system underway or scheduled for the next year are aimed at improving functionality and assisting managers in their day to day operational roles. These include:

[1] From a survey of 150 people

- Manager ability to enter\amend sickness absence on behalf of staff;
- Leaver process – to automatically trigger exit interview process notifications;
- Enhancements to the time recording and approval process for items such as overtime, additional hours;
- Improvements in the family leave process; and
- Amendments to the recruitment application forms and diversity drop down menus.

7.5 Currently the Council are reviewing and agreeing across the partnership specifications of these developments.

8 NEXT UPDATE

8.1 The next update will be presented to Audit and Transparency Committee in Spring 2022 or as required.

Debbie Morris Director of HR and Organisational Development

Taryn Eves Director of Financial Management

If you have any queries about this report please contact Debbie Morris Email:debbie.morris@rbkc.gov.uk or Taryn Eves Email: taryn.eves@rbkc.gov.uk

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ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE – 8 March 2021

REPORT BY THE SHARED SERVICE DIRECTOR AUDIT, FRAUD, RISK AND INSURANCE

ANTI-FRAUD POLICY REVIEW

The Audit and Transparency Committee's Terms of Reference require that the Committee is responsible for the effective scrutiny of anti-fraud arrangements and activities including the review and approval of anti-fraud policies.

FOR APPROVAL

1. BACKGROUND

1.1 The Audit and Transparency Committee is responsible for the effective scrutiny of anti-fraud arrangements and activities. The Audit and Transparency Committee:

- review and approve anti-fraud policies and strategies
- is responsible for gaining assurance that policies are kept up to date and are fit for purpose.

1.2 This paper contains two revised anti-fraud policies, reported in the appendices to this report, for review and approval. They are:

- Whistleblowing policy
- Anti-money laundering policy

1.3 There are no material changes resulting from the review of the Whistleblowing Policy, while the Anti-money laundering policy now includes a section detailing the offence of "tipping off".

2. RECOMMENDATIONS

2.1 Note the revised policies and approve.

3. REASONS FOR DECISIONS

3.1 To inform the Committee of policy revisions and to provide assurance that policies and strategies are kept up to date and are fit for purpose.

4. ANTI-FRAUD POLICIES

4.1 Minimising any losses to fraud and corruption is an essential part of ensuring that all of the Council's resources are used for the purposes for which they are intended.

4.2 Staff are often the first to spot possible cases of wrongdoing at an early stage and are therefore encouraged and, indeed, expected to raise any concern that they may have, without fear of recrimination. Any concerns raised will be treated in the strictest confidence and will be properly investigated.

4.3 It is therefore vitally important that anti-fraud policies and strategies are kept up to date to support and guide Council staff, ensuring compliance with laws and regulations, giving guidance for decision-making, and streamlining internal processes.

4.4 The table below details the key anti-fraud policies, their dates of revision and date of their next review.

Policy	Last review	Next review
Anti-bribery policy	December 2020	November 2021
Anti-money laundering policy	March 2021	November 2021
Fraud response plan	December 2019	November 2021
Whistleblowing policy	January 2021	November 2021
Anti-fraud & corruption strategy 2020-2023	September 2020	September 2023

David Hughes
Shared Service Director Audit, Fraud, Risk And Insurance

Local Government Access to Information Act – background papers used:
Case Management Information

Officer Contact:
Andy Hyatt, Shared Head of Fraud
Telephone: 020 7361 3795
E-mail: andrew.hyatt@rbkc.gov.uk

WHISTLEBLOWING POLICY

Royal Borough of Kensington and Chelsea

Date document issued	Next review date
January 2021	November 2021

INDEX

1. POLICY STATEMENT

1.1 The Royal Borough of Kensington is committed to achieving the highest standards of service, including honesty, openness and accountability. It recognises the hugely important role employees have in achieving that goal. The Councils will not tolerate any malpractice or wrongdoing in the administration and delivery of its services. The expectation is that employees will want to raise concerns they have about the way services are being provided, or about possible fraud, theft or corruption issues.

1.2 This Policy applies to all employees and officers of the Council. Other individuals performing functions in relation to Council work, such as agency staff and contractors, are encouraged to use it.

1.3 It is essential to the business that any fraud, misconduct or wrongdoing by staff or officers is reported and adequately dealt with. We, therefore, encourage all individuals to raise any concerns that they may have about the conduct of others in the business or how the business is run. This Policy sets out how individuals may raise any concerns that they have and how those concerns will be dealt with.

1.4 This Policy is intended to encourage and enable staff to raise any concerns or suspicions without fear of recrimination. The Councils have introduced this Policy to enable any employee to report their concerns with confidence.

1.5 If something is troubling you, which you think we should know about please use this procedure. If, however, you are aggrieved about your personal position, please use the available grievance procedures already in use in the Council. These offer specific support and the means to take these issues forward. The concern reporting procedure is primarily for the expression of concerns where the interests of the Councils, their assets, their users or their staff are at risk.

2. BACKGROUND

2.1 The law protects staff that raise legitimate concerns about specified matters. These are called "qualifying disclosures". A qualifying disclosure is one made in the public interest by a worker who has a reasonable belief that:

- a criminal offence;
- a miscarriage of justice;
- an act creating risk to health and safety;
- an act causing damage to the environment;
- a breach of any other legal obligation; or
- concealment of any of the above;

is being, has been, or is likely to be, committed.

2.2 It is not necessary for the worker to have proof that such an act is being, has been, or is likely to be, committed - a reasonable belief is sufficient. The worker has no responsibility for investigating the matter - it is the organisation's responsibility to ensure that an investigation takes place.

2.3 A worker who makes such a protected disclosure has the right not to be dismissed, subjected to any other detriment, or victimised because he/she has made a disclosure.

2.4 The organisations encourage staff to raise their concerns under this procedure in the first instance. If a worker is not sure whether or not to raise a concern, he/she should discuss the issue with his/her line manager or the HR department.

3. PRINCIPLES

3.1 Everyone should be aware of the importance of preventing and eliminating wrongdoing at work. Staff should be watchful for illegal or unethical conduct and report anything of that nature that they become aware of.

3.2 Any matter raised under this procedure will be investigated thoroughly, promptly and confidentially, and the outcome of the investigation reported back to the worker who raised the issue as appropriate.

3.3 No member of staff will be victimised for raising a matter under this procedure. This means that the continued employment and opportunities for future promotion or training will not be prejudiced because he/she has raised a legitimate concern.

3.4 Victimisation of a member of staff for raising a qualified disclosure will be a disciplinary offence.

3.5 If misconduct is discovered as a result of any investigation under this procedure, the organisation's disciplinary procedure will be used, in addition to any appropriate external measures.

3.6 Maliciously making a false allegation is a disciplinary offence.

3.7 An instruction to cover up wrongdoing is itself a disciplinary offence. If told not to raise or pursue any concern, even by a person in authority such as a manager, staff should not agree to remain silent. They should report the matter to a director.

4. YOUR PROTECTION

4.1 The Council is committed to this Policy. If you raise a qualified disclosure, you will be protected. We will not extend this assurance to someone who maliciously raises a matter they know to be untrue. Employees who knowingly make false accusations can expect to face appropriate disciplinary action.

4.2 The Councils will not tolerate the harassment or victimisation of anyone raising a genuine, qualified disclosure. However, we recognise that you may nonetheless want to raise a concern in confidence under this Policy. If you ask us to protect your identity by keeping your confidence, we will not disclose it without your consent. If the situation arises where we are not able to resolve the concern without revealing your identity (for instance, because your evidence is needed in court), we will discuss with you how we will proceed.

4.3 It should be noted that if you want to raise a concern in confidence, it may be more difficult for us to look into the matter or to protect your position. Investigations into anonymously raised concerns are likely to be limited by the sufficiency of the information provided. Anonymous referrals will be followed up at the discretion of the respective Council. In exercising that discretion, the factors that will be taken into account will include:

- The seriousness of the matters raised;
- The sufficiency and detail of information provided;
- The credibility of the concern; and
- The likelihood of confirming the allegation and obtaining further evidence from attributable sources.

5. REPORTING YOUR CONCERNS

5.1 As a first step, you should usually raise concerns with your immediate manager or their superior. This depends, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved in the malpractice. If you feel management are in some way involved or are condoning the activity, you should approach Human Resources or the Director of Internal Audit, Fraud, Risk Management and Insurance.

- Director of HR and OD, Debbie Morris, 020 7361 2136
- Director of Audit, Fraud, Risk and Insurance, David Hughes, 07817 507695
- Alternatively, staff can report concerns via an independent, confidential hotline – Safecall 0800 915 15714

5.2 All matters relating to items covered under the grievance procedures should be referred to Human Resources.

5.3 If the matter is related to fraud or corruption against the Council, you should always immediately contact the Director of Audit, Risk, Fraud and Insurance. Any approach will be treated with the strictest confidence.

5.4 The earlier you express the concern, the easier it is to take action. Although you are not expected to prove the truth of an allegation, you will need to demonstrate to the person contacted that there are sufficient grounds for your concern.

5.5 Once you have told us of your concern, we will look into it to assess initially what action should be taken. This may involve an internal inquiry or a more formal investigation. We will tell you who is handling the matter, how you can contact him/her, and whether your further assistance may be needed. All issues relating to fraud will be investigated by the Director of Audit, Risk, Fraud and Insurance or the Head of Fraud.

5.6 The person undertaking the review is required to acknowledge your referral, and once the investigation is underway, they are expected to keep you aware of developments. However, they will not be able to tell you the precise action and the outcome taken where this would infringe a duty of confidence owed by the Council to someone else.

5.7 If your concern is that your line manager is involved in the wrongdoing, has failed to make a proper investigation or has been unable to report the outcome of the inquiry, then action can be taken. The Director of Audit, Risk, Fraud and Insurance can review the investigation. They can make any necessary enquiries and make their report to Senior Management.

6. INDEPENDENT ADVICE

6.1 Although we would hope this Policy reassures you to report any concerns you may have through the internal channels, we recognise that there may be circumstances where you feel unable to follow this process and want external advice and support. This support is available from;

- Protect: Speak up, stop harm (www.protect-advice.org.uk). This is an independent charity which exists specifically to offer legal advice and assistance to employees with concerns.

- Trade Unions: employees may wish to be represented by or seek the advice of their staff representative when using the provisions of this Policy. The majority of Trade Unions have issued their guidance on reporting concerns, and both Councils endorse the trade union officers' role in this area. The principal staff side contacts are:

    - Unison: 0845 355 0845
    - GMB: 020 7736 5683

7. MORE INFORMATION

7.1 An eLearning course entitled **RBKC Whistleblowing: Safe to speak** is available through the Learning Zone to helps employees to understand when and why they should report concerns. The course also offers guidance in relation to the whistleblowing policy and the protection it provides.

7.2 For further information regarding whistleblowing, please contact:

- Director of Audit, Fraud, Risk and Insurance: David Hughes, 07817 507695
- Head of Fraud, Andy Hyatt, 07739 313817

ANTI-MONEY LAUNDERING

POLICY AND PROCEDURE

THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

Date of Issue	Date of last issue	Review Date
March 2021	November 2020	November 2021

1. Introduction

1.1 The Council will take measures to prevent the organisation, its Members and officers being exposed to money laundering, to identify areas where money laundering may occur and to comply with legal and regulatory requirements.

1.2 The Proceeds of Crime Act 2002, the Terrorism Act 2000 and Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 place obligations on the Council and its employees to establish internal procedures to prevent the use of their services for money laundering and the prevention of terrorist financing. The Council must also appoint a Money Laundering Reporting Officer (MLRO) to receive disclosures from employees of money laundering activity.

1.3 It is the responsibility of staff and Members to be vigilant and act promptly where money laundering is suspected. Failure to comply with this Policy, and accompanying procedures, may lead to disciplinary action being taken against them. Failure by a Member to comply with the procedures may be referred to the Monitoring Officer.

2. What is Money Laundering?

2.1 Money laundering is a process of converting cash or property derived from criminal activities to give it a legitimate appearance. It is a process of channelling 'bad' money into 'good' money in order to hide the fact that the money originated form criminal activity, and often involves three steps:

- **Placement** - cash is introduced into the financial system by some means. For example, depositing the cash into bank accounts, exchanging currency or simply changing small notes for large notes (or vice versa).

- **Layering** - a financial transaction to camouflage the illegal source; transfers between accounts including offshore, offering loans, investments and complex financial transactions.

- **Integration** - acquisition of financial wealth from the transaction of the illicit funds. For example, buying residential and commercial property, businesses and luxury goods.

3. What is Terrorism Financing?

3.1 Terrorism financing is the act of providing financial support, funded from either legitimate or illegitimate source, to terrorists or terrorist organisations to enable them to carry out terrorist acts or will benefit any terrorist or terrorist organisation.

3.2 While most of the funds originate from criminal activities, they may also be derived from legitimate sources, for example, through salaries, revenues generated from legitimate business or the use of non-profit organisations to raise funds through donations.

4. What are the main offences?

4.1 There are three main offences:

- **Concealing:** knowing or suspecting a case of money laundering, but concealing or disguising its existence.

- **Arranging:** becoming involved in an arrangement to launder money, or assisting in money laundering.

- **Acquisition, use or possession:** benefiting from money laundering by acquiring, using or possessing the property concerned.

4.2 None of these offences are committed if:

- the persons involved did not know or suspect that they were dealing with the proceeds of crime; or

- a report of the suspicious activity is made promptly to the Money Laundering Reporting Officer (MLRO).

5. What are the obligations on the Council?

5.1 The main requirements of the legislation are:

- To appoint a money laundering reporting officer (Nominated Officer)
- Implement a procedure to receive and manage the concerns of staff about money laundering and their suspicion of it, and to submit reports where necessary, to the National Crime Agency (NCA)

- To make those staff most likely to be exposed to or suspicious of money laundering situations aware of the requirements and obligations placed on the organisation, and on them as individuals
- To give targeted training to those considered to be the most likely to encounter money laundering;

5.2 Providing the Council does not undertake activities regulated under the Financial Services and Markets Act 2000, the offences of failure to disclose and tipping off do not apply. However, the Council and its employees and Members remain subject to the remainder of the offences and the full provisions of the Terrorism Act 2000.

5.3 The Terrorism Act 2000 made it an offence of money laundering to become concerned in an arrangement relating to the retention or control of property likely to be used for the purposes of terrorism, or resulting from acts of terrorism.

6. Nominated Officers

6.1 The regulations require the Council to appoint a Nominated Officer, sometimes known as Money Laundering Reporting Officer ("MLRO").

6.2 The MLRO and their appointed Deputy MLRO are responsible for receiving internal suspicious transaction reports (also known as disclosures), deciding whether these should be reported to the National Crime Agency (NCA), and making the report when required.

6.3 The Nominated Officers within the Council are;

- **MLRO: Mike Curtis,** Executive Director of Resources, (Mike.Curtis@rbkc.gov.uk)

- **Deputy MLRO: Andy Hyatt**, Shared Services Head of Fraud (Andrew.Hyatt@rbkc.gov.uk) 07739 313817

7. High value cash transactions

7.1 Those receiving or arranging to receive cash on behalf of the Council must ensure they are familiar with the Council's Anti-Money Laundering Policy.

7.2 The first stage of money laundering, placement, is where vigilance can often detect and prevent it happening, because large amounts of cash are pretty conspicuous.

7.3 No Payment to the Council should be accepted in cash if it exceeds **£10,000**.

8. What should I do if I suspect money laundering?

8.1 Staff who know or suspect that they may have encountered criminal activity and that they may be at risk of contravening the money laundering legislation, they must report this as soon as practicable to the Money Laundering Responsible Officer (MLRO) or Deputy MLRO to advise of their concerns.

8.2 The disclosure should be at the earliest opportunity of the information coming to your attention, not weeks or months later.

- Refer to the Council's Anti-Money Laundering Procedures
- Do not tell the customer about your suspicions.
- Report your suspicions immediately to the Council's MLRO or Deputy MLRO (details above).
- Keep all records relating to the transaction(s). If you are unsure about what records or information to keep, please ask the MLRO.

8.3 More information about making a report to the MLRO is detailed at **appendix 1** and a flow chart illustrating the procedure for reporting money laundering is at **appendix 2**.

9. Tipping off

9.1 It is a criminal offence for a person in the regulated sector to "tip off" (i.e. inform) a person suspected of money laundering that a referral has been made to the National Crime Agency, or that there is a money laundering investigation taking place, where the tipping off is likely either to prejudice the investigation.

9.2 A similar offence applies to those who are not in the regulated sector, including Council staff, where a person makes an unlawful disclosure "tipping off" which is likely to prejudice a money laundering investigation.

9.3 This offence carries a maximum penalty of five years' imprisonment and/or an unlimited fine.

10. Suspicious Activity Report (SAR)

10.1 Once a suspicious transaction or activity is referred to the Nominated Officer it is their responsibility to decide whether they need to send a report or 'disclosure' about the incident to the NCA. They do this by making a Suspicious Activity Report (SAR).

10.2 The nominated officer must normally suspend the transaction if they suspect money laundering or terrorist financing. If it's not practical - or not safe - to suspend the transaction, they should make the report as soon as possible after the transaction is completed.

10.3 The NCA receives and analyses SARs and uses them to identify the proceeds of crime. It counters money laundering and terrorism by passing on important information to law enforcement agencies so they can take action.

11. More Information

11.1 An eLearning course entitled **RBKC Anti-money laundering** is available through the Learning Zone and offers a comprehensive overview of money laundering in respect of the Council. It familiarises delegates with money laundering and is designed to raise awareness and empower employees to make the right decisions.

11.2 For further information regarding money laundering, please contact:

- Director of Audit, Fraud, Risk and Insurance: David Hughes, 07817 507695
- Head of Fraud, Andy Hyatt, 07739 313817

APPENDIX 1: Making a report to the MLRO

If you suspect that money laundering activity is taking place (or has taken place), or think that your involvement in a matter may amount to a prohibited act under the legislation, you must disclose this as soon as possible to the MLRO or the Deputy MLRO. Considerations of confidentiality do not apply if money laundering is at issue.

In the first instance, the report may be made informally to allow the MLRO to assess the information and decide whether a Suspicious Activity Report (SAR) should be made to the National Crime Agency (NCA).

You should provide as much detail as possible, for example:

- Details of the people involved – name, date of birth, address, company names, directorships, phone numbers etc;
- Full details of the nature of the involvement;
- A description of the activities that took place;
- Likely amounts of money or assets involved;
- Why you are suspicious.

This will assist the MLRO to make a judgement as to whether there are reasonable grounds for assuming knowledge or suspicion of money laundering. The MLRO may initiate an investigation to enable him to decide whether a report should be made to the NCA.

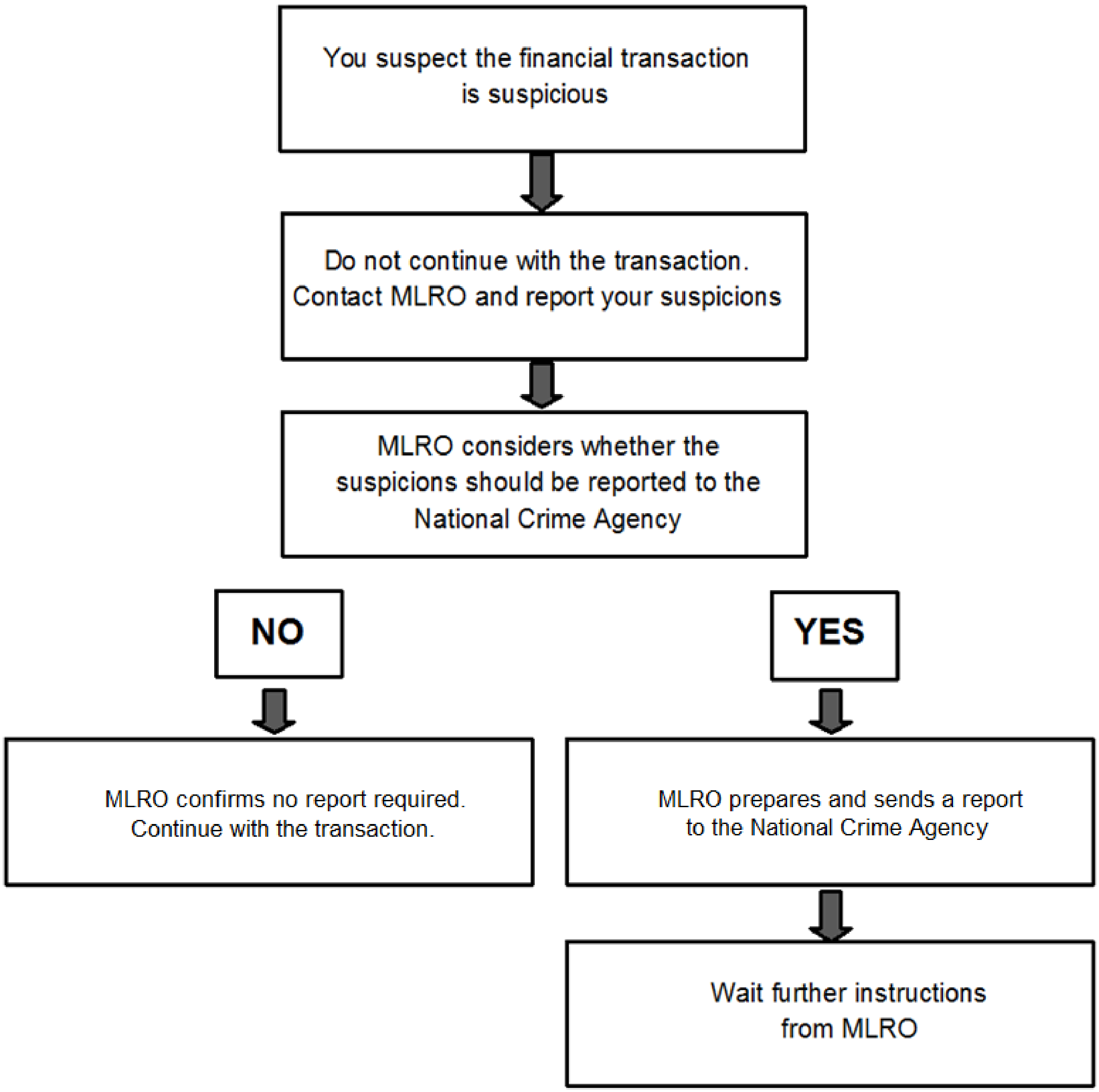
In cases where legal professional privilege may apply, the MLRO must decide (taking legal advice if required) whether there is a reasonable excuse for not reporting the matter.

Once the matter has been reported to the MLRO, you must follow any directions they may give you. ***You must not make any further enquiries into the matter yourself***. Any investigations will be undertaken by the NCA.

If the NCA has any queries on the report, responses to those queries should be routed via the MLRO to ensure that any reply is covered by appropriate protection against claims for breaches of confidentiality.

You should not make any reference on a client file to a report having been made to the MLRO – the client might exercise their right to see the file, and such a note would tip them off to a report having been made, and might make you liable to prosecution.

APPENDIX 2: The procedure for reporting (flow chart)



A10

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE MEETING
8 MARCH 2021

REPORT BY THE SHARED SERVICES DIRECTOR FOR AUDIT, FRAUD, RISK AND INSURANCE

DIRECT PAYMENTS (ADULT SOCIAL CARE)

The purpose of this report is to inform the Audit and Transparency Committee of the progress made in implementing the recommendations arising from the internal audit of Direct Payments to Adult Social Care clients.

FOR INFORMATION

1. EXECUTIVE SUMMARY

1.1 A limited assurance audit report was issued in October 2020, following a review of the processes in place for making Direct Payments within Adult Social Care. The outcomes of this audit were reported to the Committee in November 2020.

1.2 The Committee requested an update on this audit and, to allow the service time to report more fully, this update will be presented to the Committee at their meeting in June 2021.

1.3 An interim follow-up audit on the progress made to implement recommendations has recently been completed which are summarised in this report. Further follow-up will be undertaken when the impact of changes made, can be fully tested for compliance. This work is planned for the latter part of March 2020.

2. RECOMMENDATION

That the Committee consider and comment on the outcomes from the interim follow-up review and identify any issues that need to be addressed in the report from the service in June 2021.

3. BACKGROUND

3.1 An Internal Audit review was undertaken in 2017/18 on the systems and controls in place when making Direct Payments for Adult Social Care clients and a final report issued in June 2018. A total of 12 recommendations were made (one high, four medium and seven low priority). A follow up review on the implementation of these recommendations was planned for 2019/20. As some time had passed since the original audit, with changes in structures, responsibilities, staff and reporting it was agreed with the service that it would be more appropriate to undertake a full audit. This review was completed and a draft report issued in June 2020 and the final limited assurance report issued in October 2020.

4. INTERIM FOLLOW-UP OUTCOMES

4.1 Follow-up audits are undertaken to ensure that recommendations made are implemented as agreed and within the appropriate timescales. Some recommendations can be implemented more quickly than others but cannot always be tested for compliance until they been in place for a period of time. As this was a limited assurance review, an interim review of the progress made to implement the recommendations was undertaken in January/early February with a further review of compliance planned for late March 2021.

4.2 The interim follow-up noted that the service is making progress with implementing the recommendations so that the processes operate effectively and efficiently for service users and the Council.

Recommendation Status	High	Medium	Low	Total
Total Number of Recommendations Made:	3	5	5	13
Number Implemented:	0	1	1	2 (15%)
Number Partially Implemented/In Progress:	2	3	2	7 (54%)
Number Not Implemented:	1	1	2	4 (31%)
Totals	3	5	5	13

4.3 It should be noted that the Direct Payments process involves various teams within Adult Social Care as well as the Council's Customer Delivery Team. All parties are continuing to work together to achieve the required outcomes and a full update will be provided to the Committee in June 2021.

David Hughes
Shared Services Director for Internal Audit, Fraud, Risk and Insurance

Background papers:

Internal Audit Reports

If you have any queries about this Report please contact:

Moira Mackie on 0780 0513192 **Email:** Moira.Mackie@rbkc.gov.uk

or

David Hughes on 07817 507695 **Email:** David.Hughes@rbkc.gov.uk

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE – 8 MARCH 2021

REPORT BY THE EXECUTIVE DIRECTOR OF RESOURCES AND ASSETS

QUARTER 3 TREASURY OUTTURN REPORT 2020/21

The Council's treasury management practices require this report to be made to the Lead Member for Finance and Modernisation and to the Audit and Transparency Committee. The latter is the body identified as being responsible for the scrutiny of treasury management.

FOR INFORMATION

1. Introduction

1.1 This is the treasury management activity report for the period to 31 December 2020.

1.2 The purpose of this report is to present the Council's treasury management activity to 31 December 2020 (Q3).

1.3 The treasury management activity report covers:

- The economic background
- 31 December 2020 treasury position
- The treasury management strategy for 2020/21
- Treasury borrowing and investment
- Capital expenditure and borrowing limits
- Compliance with treasury limits

2. Economic Background

2.1 During the quarter, two COVID-19 vaccines were given approval by the UK Medicines and Healthcare Products Regulatory Agency (MHRA). The UK MHRA provided authorisation for emergency supply of two COVID-19 vaccines in December 2020 and the rollout to individuals in the highest priority groups began.

2.2 A trade deal with the European Union was agreed with only days to spare before the 11pm 31st December 2020 deadline. The trade deal was voted through the House of Commons by 521 votes to 73 and then written into law after passing through the House of Lords and given Royal Assent.

2.3 The Bank of England (BoE) maintained the Bank Rate at 0.1% during the quarter and extended its Quantitative Easing programme by £150 billion to £895 billion at its November 2020 meeting. In its December 2020 interest rate announcement, the BoE noted that plans to roll out COVID-19 vaccines would reduce some of the downside risks to the economic outlook, but that recent rises in the number of infections is likely to lead to weaker GDP growth than had been predicted in its November 2020 Monetary Policy Report.

2.4 GDP growth rebounded by 16.0% (upwardly revised from first estimate of 15.5%) in Q3 2020 (Jul-Sep 2020) according to the Office for National Statistics (ONS), revising the annual growth rate up to -8.6% from -20.8% in Q2. Construction rose by a huge 41% over the quarter and services output was up by almost 15%, as was production output. However, recent monthly estimates of GDP have shown that growth is slowing and only a 1.1% monthly rise was managed in September 2020.

2.5 The headline rate of UK Consumer Price Inflation (CPI) rose to 0.6% year/year in December 2020, up from 0.3% in November 2020, still well below the Bank of England’s 2.0% target.

2.6 The Council’s treasury management adviser, Arlingclose, expects the Bank Rate to remain at the current 0.10% level. The central case for the Bank Rate is no change, but further cuts to zero, or perhaps even into negative territory, cannot be completely ruled out.

2.7 Gilt yields will almost certainly remain low in the medium term. Shorter term gilt yields are currently negative and are expected to remain around zero or below until either the Bank expressly rules out a negative Bank Rate or growth/inflation prospects improve.

2.8 Downside risks remain and appear heightened in the near term as the economy adapts to the UK’s transition period from the EU concluding.

3. Treasury Position at 31 December 2020

3.1 The Council's debt and investment positions at the beginning and end of the quarter were as follows:

	Principal 31-Dec-20 £m	Rate 31-Dec-20 £m	Principal 30-Sep-20 £m	Rate 30-Sep-20 £m
Fixed Rate Borrowing Public Works Loan Board	263.83	4.03%	263.83	4.03%
Total Weighted Average	**263.83**	**4.03%**	**263.84**	**4.03%**
Investments Fixed Term deposits	97.50	0.38%	122.50	0.92%
Money Market Funds	80.30	0.07%	75.25	0.09%
Total Weighted Average	**177.80**	**0.24%**	**197.75**	**0.61%**
Net Cash Balance	**-86.03**		**-66.09**	

3.2 The following table shows a summary of how the portfolio was invested at 31 December 2020:

Counterparty Type	Investment Type	Amount £m	Percentage of Total Investment	Weighted Average Rate of Return
Banks	Fixed Deposit	55.0	30.9%	0.10%
Other Local Authorities	Fixed Deposit	42.5	23.9%	0.75%
Money Market Funds	MMF	80.3	45.2%	0.07%
Total		**177.8**	**100.0%**	**0.24%**

Appendix B shows the volume and value of investments made with approved lending list counterparties.

4. Treasury Management Strategy Statement (TMSS) for 2020/21

4.1 The TMSS for 2020/21, approved by the Council on 4 March 2020, was based on the expectation that the bank base rate would be more likely to be cut if the global growth did not pick up and the uncertainty over the UK's trade agreement with the EU.

4.2 The Council has continued with its strategy, especially since the COVID-19 outset, to keep investments short-term and invest with only highly rated or UK Government backed institutions, resulting in capital preservation and relatively low returns.

4.3 Benchmark rates remained flat during Q3 of 2020/21, with the Council's returns comfortably exceeding the LIBID Seven-Day rate. The following table shows the weekly average of the Council's performance against the LIBID Seven-Day rate.

Quarter Ended	Average Balance £m	Weighted Average Rate	Average 7 Day Rate
30-Jun-20	238.72	0.81%	-0.04%
30-Sep-20	223.87	0.61%	-0.07%
31-Dec-20	198.98	0.36%	-0.08%
Average	**220.46**	**0.61%**	**-0.06%**

4.4 As illustrated, the council outperformed the benchmark by 67 bps. The Council's budgeted investment return for the year on external investments is £1.61m. Investment income for the year to 31 December 2020 is £0.90m, and the full year projection to 31 March 2021 is estimated at £0.98m.

4.5 While most local authority counterparties are not independently credit rated, they are considered to offer very high security. No local authority or joint authority has ever defaulted on a loan repayment. Under section 13 of the Local Government Act 2003, 'all money borrowed by a local authority, together with any interest on money borrowed, shall be charged indifferently on all the revenues of the authority'.

4.6 This means that any loan which is not paid back on the due date is a charge on future revenues until such time as it is discharged in full. The Council, along with its Tri-Borough colleagues, operates a rating methodology for determining the financial robustness of the authorities to which it will lend. This is reviewed on a regular basis.

4.7 The estimated balance of cash equivalents and deposit balances held by the Council will be £158.9m at 31 March 2021. It is anticipated that new borrowing will not be undertaken and £11.6m existing loans will be allowed to mature without replacement.

5 Treasury Borrowing

5.1 The Council has an increasing capital financing requirement (CFR) and officers continue to monitor long term interest rates for suitable borrowing opportunities. In November 2020, the PWLB published its response to the consultation on 'Future Lending Terms'. On 26 November 2020 the margin on PWLB loans above gilt yields was reduced from 1.8% to 0.8%, provided that the borrowing authority can confirm that it is not planning to purchase 'investment assets primarily for yield' in the current or next two financial years.

5.2 Following the implementation of the self-financing initiative, the HRA has continued to be partly funded using the Council's general fund cash reserves. The HRA has paid interest to the general fund for the use of this money. This is charged, based on PWLB three-month variable rates, and will decrease as HRA internal borrowing decreases.

6 Capital Expenditure and Borrowing Limits

6.1 The total original budget figure for capital spend in 2020/21 was £205.50m. At Quarter 3, a variance of £67.29m was reported and budgets were updated accordingly to the current budget of £138.21m. An update to this position will be reported to Leadership Team as part of the Quarter 3 Budget Monitoring process.

7 Compliance with Treasury Limits

7.1 During the financial year, the Council operated within the treasury limits. The detailed outturn for Treasury Management Prudential Indicators is shown in **Appendix A**.

7.2 Other non-Treasury related Prudential Indicators are set and monitored as part of the Council's Budget process.

FOR INFORMATION

Mike Curtis
Executive Director of Resources

Background papers: CIPFA Code of Practice on Treasury Management for the Public Sector

MHCLG Guidance on Local Government Investments

Contact Officer e-mail: xrong@westminster.gov.uk

APPENDIX A

RBKC – TREASURY MANAGEMENT PRUDENTIAL INDICATORS 2020-21

Indicator	Approved Limit £m	Actual Debt at 31 December 2020 £m	No. of days Limit Exceeded
Authorised Limit[1]	415.0	263.8	None
Operational Boundary[2]	395.0	263.8	None
Interest Rate Exposure	**Lower Limit**	**Upper Limit**	**Actual at 31 December 2020**
Fixed Rate Debt	0%	100% of total debt	100% total debt
Variable Rate Debt	0%	50% of total debt	0
Maturity Structure of Borrowing	**Lower Limit**	**Upper Limit**	**Actual at 31 December 2020**
Under 1 year	0%	30%	11%
1 year to 2 years	0%	30%	2%
2 years to 5 years	0%	30%	9%

[1] The Authorised Limit is the maximum requirement for borrowing taking into account maturing debt, capital programme financing requirements and the ability to borrow in advance of need for up to two years ahead.

[2] The Operational Boundary is the expected normal upper requirement for borrowing in the year.

5 years to 10 years	0%	60%	8%
Over 10 years	0%	100%	70%

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APPENDIX B

Principal Outstanding

Royal Borough of Kensington and Chelsea (Accounts: GENERAL FUND, HRA)

As At: 31/12/2020

Start / Purchase Date	Maturity Date	Counterparty	Rate	Principal O/S (£)
20/03/20	18/03/21	North Tyneside Metropolitan Borough Council	1.0500%	-5,000,000.00
02/04/20	01/04/21	Worcestershire County Council	1.1500%	-7,500,000.00
28/02/20	26/02/21	North Lincolnshire Council	1.1500%	-3,000,000.00
05/03/20	04/03/21	Fife Council	1.3000%	-5,000,000.00
13/03/20	11/03/21	Moray Council	1.3000%	-5,000,000.00
19/10/20	19/03/21	Babergh District Council	0.0500%	-7,000,000.00
17/11/20	19/04/21	Cornwall Council	0.0500%	-5,000,000.00
27/11/20	26/11/21	North Lanarkshire Council	0.2100%	-5,000,000.00

Local Authorities Total **-42,500,000.00**

05/10/20	06/04/21	Goldman Sachs International	0.0650%	-10,000,000.00
16/10/20	16/04/21	Santander UK plc	0.3000%	-5,000,000.00
13/11/20	16/02/21	Standard Chartered Bank	0.1340%	-10,000,000.00
29/09/20	29/03/21	DBS Bank Ltd	0.1000%	-5,000,000.00
09/10/20	09/04/21	Australia and New Zealand Banking Group Limited	0.0600%	-10,000,000.00
17/11/20	17/05/21	National Bank of Canada	0.0500%	-5,000,000.00
31/12/20	30/06/21	DBS Bank Ltd	0.0600%	-10,000,000.00

Banks Total **-55,000,000.00**

20/12/17		Morg Stnly Sterling Liquidity Inst	0.0700%	-30,000,000.00
02/01/18		JPM Liq Sterling Liquidity Institutional Dis NAV GBP	0.1200%	-30,000,000.00
18/04/19		Aberdeen Sterling Fund Flexible Income F130 Fund	0.0100%	-20,300,000.00

MMF Total **-80,300,000.00**

Deposit Total **-177,800,000.00**

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE MEETING
8 MARCH 2021

REPORT BY THE SHARED SERVICES DIRECTOR FOR AUDIT, FRAUD, RISK AND INSURANCE

PROGRESS REPORT ON INTERNAL AUDIT WORK – 2020/21

The purpose of this report is to inform the Audit and Transparency Committee of progress against the 2020/21 audit plan in the period November 2020 to January 2021.

FOR INFORMATION

1. EXECUTIVE SUMMARY

1.1 Although the Covid-19 pandemic has slightly delayed the start of the 2020/21 Internal Audit work, good progress is now being made in undertaking the audits contained in the revised Audit Plan and two audits have been finalised and four draft reports issued since the last report to the Committee. No overall opinion is given at this time on the adequacy and effectiveness of the Council's governance, risk management and controls.

1.2 **Appendix 1** shows the Internal Audit work completed as at the end of January 2021 and the status of the remaining audit work for the current year.

2. RECOMMENDATION

That the Committee consider and comment on the results of the internal audit work carried out during the period.

3. BACKGROUND

3.1 The Council's internal audit service is provided by the Shared Services Internal Audit Team. Audits are undertaken by the in-house audit team or by the external contractors to the service, in accordance with the Internal Audit Charter. The Audit and Transparency Committee are provided with updates at each meeting on progress against the Annual Audit Plan and on any limited or no assurance audits issued in the period.

4. INTERNAL AUDIT OPINION

4.1 As the provider of the internal audit service to the Royal Borough of Kensington and Chelsea, the Shared Services Director for Audit, Fraud, Risk and Insurance is required to provide the Section 151 Officer and the Audit and Transparency Committee with an opinion on the adequacy and effectiveness of the Council's governance, risk management and control arrangements.

4.2 As reported to the last meeting of the Committee, the Covid-19 pandemic delayed the start of our work in 2020/21 and no overall assurance opinion can be given at this stage, although the S151 Officer and the Committee can be assured that sufficient internal audit work is in progress to ensure an appropriate assurance opinion can be provided by the end of the financial year. In addition, the Director of Audit, Fraud, Risk and Insurance and his team are involved in supporting a number of elements of the Council's ongoing Covid response which will help to obtain assurances to feed into the annual opinion.

5. AUDIT OUTCOMES (NOVEMBER 2020 TO JANUARY 2021)

5.1 The revised Audit Plan for 2020/21 was reviewed by the Committee in September 2020. Where significant changes in the coverage of the plan occur, these will be reported to the Committee and a full record of changes during the year is also reported within the Head of Internal Audit's Annual report.

5.2 Since the last report to Members, no limited/no assurance audits have been issued. Despite the pandemic, we have been able to plan and undertake all of our schools audit work virtually and we have received positive feedback from the schools on our approach. In the period two school audits have been finalised as follows:

Audit	Assurance	Recommendation Priority		
		High	**Medium**	**Low**
Ashburnham Primary	Satisfactory	1	5	0
Oratory RC Primary	Substantial	0	1	0
	Totals	**1**	**6**	**0**

5.3 In addition, four advisory reports have been issued in the following areas:

- Adult Social Care – Deprivation of Liberty Safeguards;
- Property Development – Governance;
- Resources – Review of Income Compensation Claim (1);
- Environment & Communities – Net Book Value of Refuse Vehicles.

Recommendations arising from advisory reports are followed up and the implementation of these recommendations will be reported in summary to the Committee.

6. IMPLEMENTATION OF AUDIT RECOMMENDATIONS

Eight follow-up reviews have been completed in the period which confirmed that 98 per cent of recommendations made had been or were partially implemented, with good progress made to fully implement the remaining recommendations:

<table>
<tr><th>Audit</th><th colspan="3">No of Recs Made</th><th colspan="3">No of Recs Implemented</th><th colspan="3">No of Recs In Progress</th><th colspan="3">No of Recs not yet actioned</th></tr>
<tr><td>St Mary's Primary School</td><td colspan="3">9</td><td colspan="3">9</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>All Saints College</td><td colspan="3">10</td><td colspan="3">10</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>Community Infrastructure Levy</td><td colspan="3">5</td><td colspan="3">5</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>Chamberlain House Dementia Resource Centre</td><td colspan="3">6</td><td colspan="3">6</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>Supplier Resilience (CHS)</td><td colspan="3">3</td><td colspan="3">3</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>Minimum Energy Efficiency Standards Regulations</td><td colspan="3">8</td><td colspan="3">5</td><td colspan="3">2</td><td colspan="3">1</td></tr>
<tr><td>Mental Health Supported Service (MIND)</td><td colspan="3">3</td><td colspan="3">3</td><td colspan="3">0</td><td colspan="3">0</td></tr>
<tr><td>Housing – H&S Temporary Accommodation</td><td colspan="3">11</td><td colspan="3">8</td><td colspan="3">3</td><td colspan="3">0</td></tr>
<tr><td>Total</td><td colspan="3">55</td><td colspan="3">49</td><td colspan="3">5</td><td colspan="3">1</td></tr>
<tr><td></td><td colspan="3"></td><td colspan="3"></td><td colspan="3"></td><td colspan="3"></td></tr>
<tr><td rowspan="2">Priority of recommendations</td><td>H</td><td>M</td><td>L</td><td>H</td><td>M</td><td>L</td><td>H</td><td>M</td><td>L</td><td>H</td><td>M</td><td>L</td></tr>
<tr><td>6</td><td>31</td><td>18</td><td>4</td><td>29</td><td>16</td><td>2</td><td>2</td><td>1</td><td>0</td><td>0</td><td>1</td></tr>
</table>

Follow up work is undertaken when the majority of the recommendations made are expected to have been implemented, as indicated in an agreed management action plan. Sometimes recommendations cannot be fully implemented in the anticipated timescales. In these cases, where appropriate progress is being made to implement the recommendations, these are identified as "in progress". Recommendations will be followed up until all high and medium priority recommendations are implemented or good progress in implementing them can be demonstrated. Where appropriate, the follow up is included in the next full audit of the area.

7. CHANGES TO AUDITING STANDARD ISA 540 AND THE IMPLICATIONS FOR THE ANNUAL AUDIT OF ACCOUNTS

7.1 As part of their preparations for the 2020/21 audit of the Council's accounts, Grant Thornton have highlighted the need to ensure that the Committee is made aware of the increased requirements placed on them, as a result of changes to International Standard on Auditing (ISA) 540, to give more attention and focus to material estimates, management judgements and uncertainty, during this year's audit of the accounts.

7.2 **Appendix 2** to this report is a briefing which has been prepared by the Chief Accountant to inform Members of the Committee about the changes made to the audit standard that covers accounting estimation, and the impact this will have on the audit of the Council's financial statements.

7.3 The purpose of the briefing is to ensure the Committee has sight and understanding of the Council's key estimates to enable key challenge questions to be put to officers and the external auditor when considering the annual accounts. The annual accounts include estimates in a number of areas including: property valuations, pensions liability, provisions, expected credit losses for debts and general income and expenditure accruals.

David Hughes
Shared Services Director for Internal Audit, Fraud, Risk and Insurance

Background papers:

Internal Audit Reports

If you have any queries about this Report please contact:

Moira Mackie on 0780 0513192 **Email:** Moira.Mackie@rbkc.gov.uk

or

David Hughes on 07817 507695 **Email:** David.Hughes@rbkc.gov.uk

APPENDIX 1

Audit Plan 2020-21 – Status Report to end January 2021

Completed Audits:

Plan Area	Auditable Area	Assurance level given	No of High Priority Recs	No of Med. Priority Recs	No of Low Priority Recs	Reported to Committee
Adult Social Care & Public Health	Direct Payments (cfwd 2019/20)	Limited	3	5	5	Nov-2020
	Local Outbreak Control Plan	Advisory	n/a	n/a	n/a	Sep-2020
	Deprivation of Liberty Safeguards (cfwd 2019/20)	Advisory	2	7	0	Mar-2021
Schools	Asburnham	Satisfactory	1	5	0	Mar-2021
	Oratory Primary	Substantial	0	1	0	Mar-2021
Housing Management	Procurement Process – Best Practice (Advisory)	Advisory	0	6	0	Nov-2020
Social Investment	Property Development (Advisory)	Advisory	0	0	0	Mar-2021
Finance & HR	Bank Reconciliation	Satisfactory	0	3	1	Nov-2020
	Income Compensation Claim 1	Advisory	0	0	0	Mar-2021
Environment & Communities	Purchase of Refuse Vehicles (NBV)	Advisory	0	0	0	Mar-2021

Plan Area	Draft Reports	In Progress	Being Scoped	To Be Confirmed	Defer/ Cancelled
Cross-Cutting		• GDPR Support to DPO across all Departments • Business Continuity • Digital Accessibility			
Adult Social Care & Public Health	• See also Finance & HR (Financial Assessments)		• Test and Trace Grant Expenditure		• Placements (to include in 2021/22 plan)
Children's Services		• Supporting People Claims (ongoing in year).		• External Placements	• Implementation of Replacement IT System (potential in 2021/22) • SEND Transport – reviewed recently so consider other areas • Youth Services – consider for future year due to Covid-19 impact on service
Schools	• Bousefield Primary	• St Francis of Assisi Primary • Chelsea Community Hospital (CCHS) • Christchurch Primary • St Joseph's Primary • Marlborough Primary • St Barnabas & St Philip's Primary • Thematic Reviews (Health & Safety and IT Security)			
Housing Management		• Acquired Properties – Ad hoc Repairs • Housing Repairs System			

Plan Area	Draft Reports	In Progress	Being Scoped	To Be Confirmed	Defer/ Cancelled
		• H&Sy Compliance – Gas Safety • Income & Financial Inclusion (was Housing Rents) • Voids			
Housing Needs & Supply					• Homelessness – request to defer to 2021/22
Social Investment		• New Homes Delivery Programme (PMO)			• Landlord Responsibilities (consider in future year) • Property Strategy (request to defer to 2021/22) • New Homes Delivery Programme (Procurement) - Q1 2021/22
Customer Services		• Council Tax – Cyclical • Housing Benefit – Cyclical • NNDR – Cyclical	• Procurement Compliance		• Health & Safety Corporate Arrangements – ongoing liaison to consider requirement for formal review
Finance & HR	• Financial Assessments (cfwd from 2019/20)	• Financial Management System, HR and Payroll Compliance • Treasury Management	• Income Compensation Claim 4 (may be 2021/22)		
IT		• Cyber Security follow up			• Supply Chain Management (no longer required) • Asset & Access Management – delay requested due to service pressures • Projects/ Programmes – delay requested as above

Plan Area	Draft Reports	In Progress	Being Scoped	To Be Confirmed	Defer/ Cancelled
Grenfell Partnerships	• Grenfell Project Fund (cfwd 2019/20)	• Pre-paid Card Scheme			
Environment & Communities		• Emergency Planning (cfwd 2019/20)	• Leisure Services – Covid Impact • Grants (VCS)		• Registrar Service – defer due to Covid pressures • Libraries – see above • Parking – Carbon Reduction – consider in future year

APPENDIX 2 – BRIEFING ON CHANGES TO AUDITING STANDARD ISA 540

1. Introduction

This brief has been prepared to inform Members of the Audit and Transparency Committee of a revision to the auditing standard that covers accounting estimation, and the impact this will have on the audit of the Council's financial statements.

2. Background

Auditing Standard ISA 540 – auditing accounting estimates and related disclosures, has been enhanced to place increasing demands on auditors to understand and assess an entity's internal controls over accounting estimates.

Key changes include a requirement to:

- Consider evolving risks associated with more complex estimates with high estimation uncertainty
- Adopt a more independent and challenging sceptical mindset
- Improve dialogue between auditors and those charged with governance (Committee Members) about complex accounting estimates and those with high estimation uncertainty or subjectivity.

3. Exercise of Professional Scepticism

The Council's relationship with its external auditor, Grant Thornton, is based on mutual respect, open dialogue and a shared desire to do the right thing. The demands placed on auditors by the revisions to ISA 540 will lead to increased challenge, beginning with audit of the current year's (2020/21) financial statements.

Increased challenge includes the auditor's exercise of professional scepticism. This may be through:

- Designing and performing further audit procedures in a manner that is unbiased towards obtaining corroborative or contradictory evidence
- 'Standing back' to critically evaluate audit evidence obtained regarding the accounting estimates
- Using stronger language ("challenge", "question" and "reconsider") to reinforce the importance of exercising professional scepticism
- Focusing on management bias in risk assessments and work effort.

4. Role of the Audit and Transparency Committee

As part of this process auditors need to obtain an understanding of the role of those charged with governance, which is particularly important where the estimates have high estimation uncertainty or require significant judgement.

Specifically, auditors will seek to ascertain whether Committee Members:

- Understand the characteristics of the methods and models used to make the accounting estimates and the risks related to them

- Evaluate how management made the accounting estimates
- Are satisfied that the arrangements for accounting estimates are adequate.

5. Identifying accounting estimates

The Council's approach to identifying areas requiring estimation and the techniques used is often governed by the CIPFA Code of Practice on Local Authority Accounting ('the Code'), International Financial Reporting Standards (IFRS) and other regulations.

In all cases the Council will apply specialised skills and knowledge in exercising professional judgements around the methods and techniques it employs to derive accounting estimates. Where appropriate, it engages third party experts to assist. Key third party experts currently used include:

Accounting Activity	Third Party Engagement
Treasury activity including cash flow forecasting	Arlingclose – independent treasury advisors
Property, Plant and Equipment portfolio valuations	JLL – professional real estate valuers
Actuarial valuations including pension liability	Barnett Waddingham – independent consultants in pensions and insurance
Business Rates Appeals calculation	Valuation Office Agency (VOA) - Analyse Local

Estimates are commonly used in accounting for the following areas:

Area of Financial Accounts	Estimation Approach
Manual debtor and creditor accruals for income receivable and expenditure payable	Income for services provided by 31st March but not yet received and expenditure for goods / services received by 31st March but not yet paid for are identified through budget monitoring and outturn review. Where an amount is known, which is in most cases, the accrual is raised for this value. Otherwise service accountants use past experience, similar transactions, indices and probability calculations to determine the best estimate.
Expected Credit Losses (ECL) (under IFRS 9)	Methodologies depend on the type of debt e.g. for accounts receivable, debts over £250k are individually assessed whilst amounts lower than this are grouped by type of debt and collectively assessed. Percentages applied are generally based on historical performance refined by professional experience, local knowledge and environmental factors which could affect the debtors' future ability to repay over the lifetime of the debt.
Provisions	There are prescribed tests to be met before establishing a provision, including being able to make a reliable estimate. This is done using external or systems reports, legal judgements and the experience of lead officers.
Property, Plant and Equipment (PPE)	External valuers use significant experience and informed professional judgement to model data sets and determine valuations.

Pension Liability (under IFRS 19)	Actuaries use significant experience and informed professional judgement to model data sets and determine valuations. Reports include methods and assumptions including demographics, financial and settlements. Sensitivity analysis is also undertaken for the most significant assumptions.

6. Review of outcomes of previous accounting estimates

The nature of some estimates, including valuation of PPE and the pension liability, mean that these cannot be reviewed until the following year-end. For income and expenditure accruals, ECL and provisions, the Council carries out an annual detailed exercise to review estimated amounts against actual outcomes.

The 2019/20 review evidenced that the Council's estimation techniques are robust and produce materially accurate estimates when compared to actual outcomes.

Accounting Area	Total Value (£)	Amount Estimated (£)	Actual Outcome (£)	Variance (£)	Variance (%)
Accruals	23.903m	2.224m	1.941m	0.283m	1%

The variance on estimated accruals is shown as a percentage of total accruals raised.

Accounting Area	Total ECL (£)	Total Debt (£)	Estimated recovery (£)	Actual recovery (£)	Variance (£)	Variance (%)
ECL	47.019m	73.168m	26.149m	14.404m	11.745m	16%

This is based on collection during the first nine months of 2020/21; some debts contributing to the variance are expected to be recovered by year-end. Government guidance and policy decisions to not enforce debt collection and allow debt payment holidays during the pandemic, including on council tax and business rates, has increased the variance.

The VOA estimated the Council's Business Rate Appeals provision requirement at 31st March 2020 of £19m. They revised their estimate in January 2021 to £17m. This represents future appeals yet to be heard and the VOA is still reviewing cases from 2010 to 2017 listings. The estimate is therefore calculated on best information available at the time, using the VOA Analyse Local model based on data from other local authorities, property type, success of similar appeals and so on.

7. Risk Management

The Council uses professionally qualified industry experts to produce material estimates in all complex areas and where there is a high degree of estimation uncertainty. This includes use of actuaries, surveyors and valuers.

Data sets and other information shared with experts include details of parameters and assumptions made to ensure that they understand the data. Regular dialogue takes place to address queries and any adjustments are documented. Once valuation reports are received, the Council's area leads carry out internal reviews to check:

- Completeness – has all data provided been included?

- Reasonableness – are values in line with expectations?
- Comparison to previous reports – are there any significant variances from last year which have not been fully explained?
- Challenge – are assumptions made and techniques used within valuation models appropriate?
- Unusual items – are there any one-off or unusual items included or missing that need to be considered individually?

For accounting estimation carried out by Council officers, annually updated guidance documents are provided by the Chief Accountant to ensure staff are aware of the latest rules and processes to be followed. Workshops and training are also provided.

The Council also undertakes analytical review on all its financial statements and queries any unexpected variances, taking corrective action or providing explanation to audit as necessary.

8. Impact of COVID-19 on accounting estimation

The Council has considered the impact of valuation uncertainty arising as a result of the pandemic on key areas of the 2020/21 accounts. Discussions with third party experts are ongoing to ensure this is reflected in their valuations and officers are assessing the likely impact on impairment of debtors, using a range of sensitivity profiles.

The Council will make additional disclosures in its Narrative Report around government grants received and budget pressures linked to the pandemic.

Disclosure of significant judgements made in applying accounting policies and assumptions made about major sources of estimation uncertainty for the future will be updated to reflect the increased risk during this period of uncertainty.

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE MEETING
8 MARCH 2021

REPORT BY THE SHARED SERVICES DIRECTOR FOR AUDIT, FRAUD, RISK AND INSURANCE

INTERNAL AUDIT PLAN 2021-22

The purpose of this report is to inform the Audit and Transparency Committee of the draft Internal Audit Plan for 2021-22, which is based on the Strategic Audit Plan and current risks.

FOR REVIEW

1. EXECUTIVE SUMMARY

1.1 The Strategic Audit plan has been reviewed to document significant, persistent risks that the Council faces and the business areas to be covered over a five-year period. The Strategic Plan will support the annual planning process and ensure that internal audit continues to provide assurance over the breadth of the Council's operations.

1.2 The Plan has been prepared following consultation with Directors and takes into account the Council's corporate risks and priorities.

1.3 To ensure that the Annual Audit Plan is more responsive to changing risks and challenges, it has been developed as a '3 plus 9-month' Plan. This approach allows for the first three months to be identified in detail with the remaining nine months being more flexible to suit the needs of the Council at the time. The Plan will be reviewed and updated following discussions with Directors, taking into account changing risks and priorities. The revised Plan will be reported to the Committee on a quarterly basis.

2. RECOMMENDATIONS

2.1 The Committee review the draft Strategic Audit Plan as set out in **Appendix 1** and consider whether it covers the persistent risks that the Council faces and outlines the business areas of themes that need to be considered as part of a five-year Plan.

2.2 The Committee review the draft of the Annual Audit Plan, as set out in **Appendix 2**, and comment on the audit work due to be undertaken in the first quarter of 2021/22 and identify any specific audits to be considered during the coming year.

3. BACKGROUND

3.1 The Council's internal audit service is provided by the Shared Services Internal Audit Team. Audits are undertaken by the in-house audit team or by the external contractors to the service, in accordance with the Internal Audit Charter. Internal Audit is required to provide the S151 Officer, senior management and the Audit and Transparency Committee with an opinion on the adequacy and effectiveness of the Council's governance, risk management and control arrangements. The Audit and Transparency Committee are provided with updates at each meeting on the progress and outcomes from the internal audit work completed in the period.

3.2 A primary role of internal audit is to provide assurance that the Council has robust systems of governance and control place to achieve its priorities and meet its statutory responsibilities. The Council's internal and external environment continues to evolve and the way in which the Internal Audit Service is delivered must change to keep pace with this. The traditional audit approach of planning a full year of audits in advance has become unsuitable as the original plan fails to keep pace with the organisation's needs.

3.3 As a result, we are implementing the following changes to the way in which we deliver the Internal Audit Service:

- A Strategic Audit Plan is being developed which documents the significant, persistent risks that the Council faces and outlining, in broad terms, themes to be covered over a five-year period. This will help to ensure that internal audit does not become a purely reactive function. A draft of the Strategic Audit Plan is attached as **Appendix 1**;
- We will work with a '3 plus 9' Annual Audit Plan – planning out the next three months in detail, taking into account key risks and priorities, whilst keeping the remaining nine months more flexible. The plan will then be revisited each quarter to confirm the following quarter's work and will include sufficient audit coverage to enable an overall annual opinion to be reached on the Council's control framework;
- New reporting formats will be developed which are more appropriate to the work being undertaken, such as succinct reports for short/focused reviews.
- The option of faster paced audit work, through more focused coverage or less formal reporting, will be available where the traditional approach would not provide assurance as quickly as needed; and,
- We will seek to increase attendance on 'working groups' where real time input to projects and initiatives would be useful.

3.4 The draft '3 plus 9' Internal Audit Plan for 2021/22 is attached as **Appendix 2** to this report. It should be noted that this plan is an early draft, intended to focus on the work planned in the first quarter of 2021/22 and some changes may be required once all of the planning meetings have been held.

David Hughes
Shared Services Director for Internal Audit, Fraud, Risk and Insurance

Background papers:

Internal Audit Planning Files

Risk Registers

If you have any queries about this Report please contact:

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Draft Strategic Internal Audit Plan

The Strategic Audit Plan sets out the medium-term direction of the Internal Audit service. This five-year plan outlines the priorities of the service and how Internal Audit can continue to provide an adequate level of assurance whilst taking account resource limitations and the changing risk landscape.

The Strategic Plan is supported by the Audit Charter, which sets out the roles and responsibilities of Internal Audit, and the Annual Audit Plan which outlines the internal audit work which will be undertaken each year.

All Local Authorities have faced significant financial reductions in recent years and increasing demand for services. All Council services have seen a reduction in the resource available to them and this in turn has an impact on the control environment. In addition, local authorities are taking more risks as they explore innovative solutions in order to bridge the funding gap and transform the organisation. It is important that the Internal Audit service continues to evolve to ensure that it remains an effective assurance provider.

This Strategic Audit Plan has been prepared to document significant, persistent risks that the Council faces and outlines, in broad terms, themes to be covered. The intention of the five-year period of this plan is to ensure that, in becoming more agile, internal audit does not become a purely reactive function and continues to provide assurance over the entire breadth of the Council's operations.

The Strategic Audit Plan will be aligned where possible to the Council's priorities and risks.

Area of Review	Significant Persistent Risks	Five-year Approach
Corporate Resources Back office and support functions including Finance, HR, business continuity, risk management, health and safety and procurement	• Internal and external fraud • Poor Financial management • Risks to staff safety and welfare • Value for money not achieved in commissioning, procurement and contract management • Council funds not invested effectively • Staff do not have the skills, resources or support to discharge their roles effectively • Council unable to cope with business disruption or emergencies.	At least one full audit of each key financial system and ongoing testing of key controls every year. Cyclical Coverage of Revenues and Benefits over a three-year period. At least one audit of each key HR Function Work on other functions, themes or departments based on conversations with management, assessment of risk and other sources of assurance. Annual coverage of management of individual procurements and contracts based on review of forward plans, perceived risk, significance and discussions with management.

Area of Review	Significant Persistent Risks	Five-year Approach
Governance, Partnerships and Transformation Council governance functions, key strategic partnerships, commercial ventures and transformation programmes and projects.	• Governance failures, bringing the Council into disrepute or leading to the aims and objectives of the Council not being achieved. • Programmes and projects are not managed effectively within the required budget and timescales, delivering all expected benefits. • Ill-advised strategic partnerships or ventures entered into or poor governance arrangements lead to objectives not being achieved. • Information requests (such as SARs and FOIs) are not responded to promptly and appropriately. • Statutory functions such as Registrars and Electoral Services are not discharged effectively • Commercial property portfolio is not managed effectively.	At least one full audit of SARS, FOIs, Members Enquiries and Complaints. Annual coverage of Health and Safety based on discussions with management and understanding of risk areas. At least one audit of Gifts, Hospitality and Declarations of Interest. At least one audit of the Registrars Service. Annual audits of specific areas of governance based on discussions with management and understanding of risk. Coverage of each significant Partnership, Joint Venture, Council Owned Company or Commercial Venture. Annual Coverage of Risk Management at either a corporate, thematic or departmental level.
Information Management & Technology Management of data, compliance with the Data Protection Act /GDPR. Information technology including cyber security, asset management and disaster recovery.	• Loss of information, data breaches or inappropriate disclosure. • Loss of access/information due to systems failure or cyber attack. • Breach of access controls.	Periodic IT audit needs assessment and frequent discussions with management to understand risk areas.

Area of Review	Significant Persistent Risks	Five-year Approach
Housing Housing Services provided to Council Tenants, Leaseholders and those at risk of homelessness.	• Properties are either acquired or disposed of that are not in line with the Council's strategy or value for money is not achieved. • Rent payments are not recovered promptly and completely • Council housing is acquired through fraud or is used inappropriately • Housing stock is not maintained in a satisfactory condition leading to health and safety hazards and increased reactive maintenance. • Risks to the health and safety of residents are not identified and addressed promptly. • Leaseholders and not consulted and correctly charged for any works affecting their property. • Homeless and those at risk of becoming homeless in the borough do not receive the support they require.	At least one full audit of key Housing functions such as Rents, Homelessness, Housing Allocations, Temporary Accommodation, Tenancy Management, Leaseholder Services. More frequent coverage of both responsive repairs and planned repairs and maintenance. Annual coverage of building Health and Safety compliance.
Children Services Provision of services for children and families including looked after children, family support, schools and SEND.	• Failure in service continuity, safeguarding arrangements, financial management and governance; • Increased demands for services with reduced funding.	On-going in-year assurance on funding claims for Supporting People. Cyclical full review of specific areas such as placements, direct payments, looked after children based on discussions with management and understanding of risk. Each school reviewed at least once (with more frequent review where required).

Area of Review	Significant Persistent Risks	Five-year Approach
Adult Social Care Services provided to adults including day care, home care, direct payments and reablement.	• Increased demands for services with reduced funding; • Lack of suitable provision; • Weak supplier financial resilience.	Cyclical review of specific areas such as direct payments, home care, day centres, client affairs, charges and debt management, partnership agreements based on discussions with management and understanding of risk.
Public Health Services provided to support the public health of the community including the response to the Covid-19 and other pandemics.	• Access to appropriate affordable resources to support improvement to public health priorities; • Changing public health priorities and capacity for delivery (as exemplified by Covid-19 pandemic).	At least one procurement and one contract monitoring review across 2 to 3-year period. Targeted reviews in specific areas based on discussions with management and understanding of risk.
Environment, Infrastructure and Community Services Management of highways infrastructure and services provided for residents, businesses and visitors. Includes Planning & building control, parking, highways, public realm, environmental health, trading standards, community safety, leisure, culture and amenity services.	• Statutory and regulatory functions not discharged effectively; • Weak supplier resilience / lack of provision; • Poor value for money/ ineffective service delivery/ failure to deliver outcomes for the community; • Injury to health /wellbeing to the community, businesses and visitors.	At least one procurement and one contract monitoring review across 2 to 3-year period. Cyclical review across the service areas based on discussions with management and understanding of risk.

Strategic Risks

The risks that could impact on the sustainability and delivery of the Council's statutory and non-statutory services and operations are considered to be of strategic significance. At the time of preparing the Audit Plan the Council's Strategic Risks are identified as:

Number	Risk
1	Failure appropriately and effectively to meet the housing, emotional and psychological needs of former residents of the Tower and Walk
2	Failure to manage the impact of Public Inquiry hearings (particularly modules 3 and 4 of Phase 2), potential criminal charges and other legal action related to Grenfell on organisational effectiveness
3	Failure to create an effective new model for social housing in Lancaster West.
4	Failure to meet landlord health and safety requirements (maintenance and housing services) for social housing tenants/properties.
5	Failure to safeguard local residents from radicalisation and extremism or to respond effectively to a major terrorist attack, civil disorder or other significant event outside RBKC control.
6	Failure to protect/safeguard individuals/businesses/ visitors from significant incidents or incidents affecting large numbers of residents (e.g. pandemic health incident, infectious disease outbreaks, legionella outbreaks).
7	Failure to protect/safeguard individuals/businesses/ visitors from the effects and impact of the Coronavirus pandemic.
8	Failure to respond effectively to another major incident (fire or other event).
9	Impact of significant external economic factors, affecting service delivery.
10	Failure to establish corporate mechanisms for corporate planning, policy development, performance and control framework.
11	Failure in service continuity/safeguarding arrangements
12	Serious Information/Cyber Security Incident leading to all or multiple council systems shutdown and/or council unable to undertake business and/or significant ICO fine & reputational damage due to data breach, malware outbreak, phishing or ransomware attack
13	Failure effectively to address the medium-term budget challenge
14	Major IT failure - hardware or software
15	Major failure of key contractor/supplier/ partner organisations
16	Fragility of the local Care Market in light of Covid (pressures include staffing and financial resilience).
17	Failure to prepare for the impact associated with climate change, including air quality/pollution, water quality/availability, extreme weather (e.g. flooding, heat).

Draft Annual Plan 2021/22

The Annual Internal Audit Plan for 2021/22 is presented in two parts: the three months of the year where we have identified a number of audits to be undertaken; and the remaining nine months where planning is more flexible.

To achieve this, we have increased our engagement with Management Teams to:

- Become more involved in risk discussions throughout the year, to better understand the risk environment and alternative sources of assurance available;
- Firm up the scope and timing of the following quarter's audit work; and
- Identify other areas for internal audit involvement not yet considered in the Annual Audit Plan.

Where possible the Plan is aligned to the Council's strategic risks and identified audits will be prioritised. However, it should be noted that the Council's strategic risks and priorities may change during the year and the Plan will be updated as appropriate. The Plan will be presented to the Executive Management Teams and the Audit and Transparency Committee at the start of the financial year and will then be presented every quarter. The delivery of the Plan helps to create a culture of accountability, ensures that risk management processes are embedded and contributes to the Council's governance framework.

In addition, areas of fraud risk are evaluated by the Corporate Anti-Fraud Service (CAFS) and this information will be used to inform and focus some of the audit work planned, as well as identifying areas where pro-active exercises and data analytics can provide additional assurance that fraud risks are effectively managed.

Corporate Anti-Fraud Service (CAFS) – Quarter 1 2021/22

The work undertaken by the Corporate Anti-Fraud Service (CAFS) complements the work of Internal Audit and provides additional assurance to the Council that fraud risks are being managed effectively.
The majority of CAFS quarter one 2021/22 activities will focus on the National Fraud Initiative (NFI).

The NFI is a biennial, mandatory, data matching exercise which all UK local authorities must participate in. The aim of the exercise is to identify any cases of fraud, error and overpayments within public bodies, e.g. local authorities, central government, the NHS.

The last exercise generated over 7,000 matches and similar numbers are again expected this year. The matches only indicate inconsistencies that require examination and there is no presumption that any errors, fraud or overpayment have occurred until the investigations have been completed. There is no requirement for all matches to be investigated, but to assist with the prioritisation of investigation, matches were categorised as high, medium or low risk.

During the last exercise, investigation work cleared 1,560 matches including all high-risk referrals. The work identified 18 instances of fraud with a notional saving of £106,294.

As equally important as finding fraud is the assurance the NFI gives in the areas covered by the exercise, where large numbers of matches are reviewed without significant problems. We also benefit from the deterrent effect the NFI creates.

Draft Internal Audit Plan – Quarter 1 2021/22

Department	Review	Potential Coverage	Strategic Risk*
Cross-Cutting	S113 Agreements	Process for ensuring review and agreement is taking place at the appropriate level (ASC, CHS, Resources).	n/a
Adult Social Care	Direct Payments	Assistance with improvements to address previously identified control weaknesses.	11
Adult Social Care	Debt Management	Review of processes in place to ensure that debt is minimised and managed effectively.	9, 11
Adult Social Care - PH	Covid Grant Funding	Dependent on timing of returns & reviews done in 2020/21.	6, 7
Children's Services	Case Management System	Advice on internal audit controls in replacement system. Ongoing assurance on procurement if required.	11
Children's Services	Integration of Operational & Financial Systems	Alignment of financial information and reporting. Potential to compare and contrast across WCC and RBKC.	11
Children's Services	SEN High Value Placements	To discuss further with the service.	11
Children's Services	Purchase Cards	To consider work undertaken within finance and identify where additional review could provide benefits.	11
Children's Services	Placements	Shared Services Placements Team – Assurance on processes and controls.	11
Children's Services	Payments & Direct Payments	Shared Services Payments and Direct Payments Team – Assurance on processes and controls.	11
Children's Services - Schools	Schools to be confirmed	Financial control and governance review.	11
Customer Delivery	Complaints	Review of effectiveness of process.	10
Environment & Communities	Facilities Management – Track Record System	Review effectiveness of system for recording compliance reviews and managing time bound repairs and allocation of work to contractors.	9
Housing & Social Investment	Building Safety Assurance Group	Less formal review of the set-up and work of the group. Test the arrangements to see if they are effective.	4

Department	Review	Potential Coverage	Strategic Risk*
Housing & Social Investment	New Homes Delivery Programme - Procurement	Follow on review to the PMO review in 2020/21 to consider the procurement activity associated with the programme.	3
Resources – Financial Management	RAM System	Review access and content of the system.	9
Resources – HR	IBC Reporting & Data Analysis	Review of data and adequacy of management reporting and potential improvements	10
Resources – HR	Sickness Reporting	Review of data and adequacy of management reporting and potential improvements	10
Resources – HR	Pay Increases and Honoraria	Review of compliance with policies and controls.	10
Resources – HR	LMS System	Learning Management System – compliance and reporting in respect of training. Focus on mandatory training.	10
Resources – HR	IBC Post & Employee Set-up and Monitoring	Compliance with policies and procedures and local management controls.	10
Resources – Information Systems	Projects & Programmes	To be discussed with the service .	12, 14
Resources – Information Systems	Asset Management	Deferred from 2020/21.	12, 14

*The Council's current strategic risks are detailed at the end of Appendix 1 (Strategic Internal Audit Plan). These will be reviewed and updated during the year as appropriate.

Appendix 2

Draft Internal Audit Plan – Quarter 2 to 4 2021/22

Department	Review	Potential Coverage	Strategic Risk*
Cross-Cutting	Governance & Compliance	Compliance with expected standards: • Declarations of Interest • Gifts & Hospitality • Business Continuity • Risk Management • Delegation of Decision Making • Budget Holder Accountability	 10 10 5, 8 10 9, 10 9
Adult Social Care	Covid-19 Inequalities	To discuss further with the service.	6, 7
Adult Social Care	Quality Assurance	Review existing processes in place and information from other sources of assurances.	11
Children's Services	Tri-borough Placements (LAC)	To be discussed further with the service.	11
Children's Services - Schools	Schools to be confirmed	Financial control and governance.	11
Customer Delivery	Council Tax	Cyclical review.	9
Customer Delivery	Housing Benefit	Cyclical review.	9
Customer Delivery	NNDR	Cyclical review.	9
Customer Delivery	Corporate Debt Recovery	Potential review of plans to recover debt accumulated over the pandemic	9
Customer Delivery	Events	Commission payments and debt recovery.	9
Environment & Communities	Libraries	To discuss further with the service (deferred from 2020/21)	9
Environment & Communities	Registrars	To discuss further with the service (deferred from 2020/21)	9
Environment & Communities	Facilities Management	Review of contracts – possibly split into two elements. One covering Hard FM and the other covering Soft FM.	15
Environment & Communities	Parking and Carbon Reduction	To be discussed further with the service.	17
Grenfell Partnerships	To be confirmed	Possible review of non-prepaid card services provision.	1

Department	Review	Potential Coverage	Strategic Risk*
Housing & Social Investment	Health & Safety Compliance	Two areas suggested for review: • Asbestos Management • Water Hygiene	4
Housing & Social Investment	Major Works	Scope to be discussed with the service.	4
Housing & Social Investment	Lancaster West Refurbishment	Scope to be discussed with the service.	3
Housing & Social Investment	Property Strategy	Scope to be discussed with the service.	10
Housing & Social Investment	Homelessness	Deferred from 2020/21.	4
Resources - HR	Pensions Administration	Change to in-house provision. New review.	9
Resources - HR	Pension Payments BACS Processes	Change to in-house provision. New review.	9
Resources – HR & Financial Management	Key HR & Financial Controls Testing	Annual programme of testing.	9
Resources – Information Systems	Other – to be confirmed	To be further discussed with the service.	12, 14
Resources – Legal Services	Lexcel Certification	Critical friend as part of preparation for certification process.	n/a

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THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA

AUDIT AND TRANSPARENCY COMMITTEE
8 MARCH 2021

REPORT OF THE CHAIRMAN OF THE AUDIT AND TRANSPARENCY COMMITTEE

The terms of reference of the Audit and Transparency Committee require that the Chairman provides an annual report to full Council on the activity of the Committee. This report covers the work of the Committee during the past 12 months.

FOR INFORMATION

1. INTRODUCTION

1.1 The Royal Borough has a history of strong corporate governance and scrutiny of which the Audit and Transparency Committee forms an integral part. The Committee comprises both Councillors and independent members. The Councillors are highly experienced, and the three independent members bring to the Committee a wealth of commercial and governance experience and have, over several years, contributed effectively to its work.

2. COMMITTEE ACTIVITY

2.1 The Committee's programme of work, agreed at the start of the year has been achieved.

2.2 The Committee's membership during 2020 was as follows:

Cllr Ian Wason	Chairman
Cllr Adrian Berrill-Cox	Vice-Chairman (until May 2020)
Cllr David Lindsay	Vice-Chairman (from May 2020)
Cllr Charles Williams	Member
Cllr Emma Dent Coad	Member
Mr Andrew Ling	Independent member
Ms Lorraine Mohammed	Independent member (until Feb 2020)
Mr Ian Luder CBE	Independent member (until Feb 2020)
Ms Liz Murrell	Independent member (from May 2020)
Ms Cosette Reczek	Independent member (from May 2020)

2.3 During 2020, two of our independent members, Mr Ian Luder and Ms Lorraine Mohammed stood down from the Committee. An external recruitment exercise was undertaken and Ms Liz Murrell and Ms Cosette Reczek were appointed following a recommendation to full Council in 20 May 2020.

2.4 I would like to take this opportunity to thank Mr Luder and Ms Mohammed for the significant expertise, insight and constructive challenge they both brought to the work of the Committee over a number of years.

2.5 The Committee was scheduled to meet on the following dates during the calendar year:

- 11 February 2020
- 27 July 2020
- 17 September 2020
- 9 November 2020

2.6 The meetings were quorate on each occasion. The Executive Director of Assets and Resources and/or Director of Financial Management and the Shared Services Director for Audit, Fraud, Insurance and Risk were in attendance at each meeting, along with other executive directors and directors in respect of specific items on each agenda.

2.7 The meetings in 2020 considered the following areas of activity:

11 February 2020:

- Treasury Management Activity
- External Audit Plan 2019/20
- External Auditors Progress Report
- Risk Management Update
- Insurance Report
- Draft Internal Audit Plan 2020/21
- Internal Audit Progress Report
- Local Code of Corporate Governance
- Oral Report on IBC (Finance, HR, Payroll service provided by Hampshire County Council)
- Chairman's Annual Report
- Forward Programme and Action Tracker (Standing Item)

27 July 2020:

- Draft Statement of Accounts and Annual Governance Statement 2019/20

- Addendum to External Audit Plan in Respect of Covid-19
- Risk Management Update - Covid-19
- Treasury Outturn Report
- Update on IBC
- Management of the Property Portfolio
- Annual Report on Internal Audit and Internal Control 2019/20
- Anti-Fraud End of Year Report for 2019/20
- Anti-Fraud and Corruption Strategy Review

17 September 2020:

- Forward Programme and Action Tracker
- Treasury Management Activity to June 2020
- External Audit Findings Report (ISA 260)
- Final Statement of Accounts and Annual Governance Statement 2019/20
- Internal Audit Charter and Strategy
- Progress on Internal Audit Work 2020/21

9 November 2020:

- Forward Programme and Action Tracker
- Treasury Management Activity – Quarter 2
- Anti-Fraud Half-Year Report
- Anti-Fraud Policies Review:
  - Anti-Bribery Policy
  - Anti-Money Laundering Policy
  - Fraud Response Plan
- Progress Report on Internal Audit Work
- Risk Management Update

Review of Effectiveness

2.8 In July 2019 the Committee considered the effectiveness of its own arrangements, those of the internal audit function and the Director of Audit and Executive Director of Resources and Assets (as the Chief Financial Officer) against best practice standards and guidance published by the Chartered Institute of Public Finance and Accountancy. A further review of the above will be undertaken in 2021 with options for an external review of the Committee's effectiveness being considered.

2.9 In response to the 2019 review the Committee has implemented a forward plan/work programme and action tracker to ensure that actions they had requested had been implemented. In addition, the Committee held a separate private meeting with the external auditor, in line with good practice, which took place in July 2020.

2.10 In February 2020, the Committee reviewed and recommended the Local Code of Corporate Governance to be presented to full Council and to be included in the Council's Constitution.

Audit and Fraud Service Delivery Models

2.11 During 2020 the Committee received regular progress reports on Internal Audit's activity and progress against the agreed 2018/19 and 2019/20 Audit Plans. The Committee noted that there continued to be a single Audit function working across the three Councils with resources drawn predominantly from an in-house team supplemented by ad-hoc support from the service's delivery partners Mazars and PwC, including undertaking reviews in specialist areas. The Committee was pleased to note that the standard of audits had been maintained during the year.

Audit Plan

2.12 The Committee reviewed the 2020/21 Internal Audit Plan at its meeting in February 2020 and was satisfied it provided sufficient coverage of the Council's key systems and processes. The Director of Audit was able to assure the Committee that there was sufficient staff/contract resource to fulfil the plan, so as to provide sufficient evidence to support the Director of Audit's annual opinion and assurance report.

2.13 During the year the Committee received regular reports on the progress against the plan and on the outcomes from the individual audits undertaken. As a result, the Committee was satisfied that the plan was substantially completed by the year end, in line with recognised good practice.

2.14 The Committee was updated on the outcomes of follow up work where the original audits could only assign a '*Limited*' or '*Nil*' assurance rating and noted the relatively low numbers of audits receiving inadequate assurance ratings. The Committee noted that operational managers were taking appropriate actions to bring about the required improvement in controls.

Managed Services

2.15 The Committee continued to receive update reports in the Managed Services solution provided by Hampshire County Council (covering Finance, HR and Payroll systems and service which went live in December 2018) and steps being taken ensure that the new system and controls bedded down effectively.

Cumulative Assurance

2.16 In relation to its principal role in providing the Council with independent assurance on the Council's governance arrangements, including the risk management framework and the associated control environment, the Committee gained assurance from a number of sources. The Committee received the draft Annual Governance Statement (AGS) in July 2020, along with the annual accounts. The AGS established that there were no significant gaps in the Council's compliance with CIPFA/SOLACE's *Delivering Good Governance in Local Government Framework.* The AGS took account of a number of factors including assurances received from individual assurance statements and governance reports from each of the Directors for 2019/20.

2.17 The Director of Audit's annual report on Internal Audit's work and the Council's internal control arrangements for 2019/20 confirmed that overall satisfactory internal control arrangements and procedures remain in place across the Council, with 83% of audits receiving a positive assurance opinion for 2019/20.

2.18 The Committee gained a level of assurance from the External Auditor that, in their view, the Council continued to have a strong control environment in place. Unqualified opinions were provided on the Council and Pension Fund Accounts. The External Auditor raised two Medium priority recommendations arising from their work on the 2019/20 Council accounts and three Medium priority recommendations in respect of the Pension Fund accounts. Two out of seven recommendations made in 2018/19 were carried forward to be reviewed again in 2020/21.

2.19 During the year the Committee continued to challenge the Council's key systems and procedures and the associated management of risk in these areas and specifically requested follow-up reports, presentations or information from senior management on the following:

- To receive a report on the Council's insurance service and claims against the Council, including claims for accidents;
- Further updates on the controls within the IBC solution (covering Finance, HR and Payroll);
- Confirmation as to which officers were responsible for overseeing the implementation of the Hillsborough Charter and Charter for Public Participation and whether it was the Committee's role to monitor the Charters;

- A further report to be provided to the Committee once the Covid-19 crisis was over, so that lessons could be learned should there be a similar pandemic in future;
- Details regarding arrangements for Cyber Security insurance to be provided to the Committee;
- A report on Grenfell expenditure was requested;
- The external auditor was asked to set out the reason for not being able to provide a value for money conclusion in their draft opinion;
- The review of the treasury management policy to be undertaken at the appropriate time rather than waiting for the annual approval at full Council;
- That the £10,000 reporting threshold in the Money Laundering Policy be reviewed and explicit reference made to the possibility of criminal prosecution of tipping off offences;
- The Committee asked the Director of Adult Social Care and the Director of Finance to attend a future meeting to discuss the direct payments audit; and,
- That the National Risk Register be considered by officers when updating the Strategic Risk Register and the outcome reported to the Committee.

2.20 The Committee will continue to call in Cabinet Members, directors and senior officers where appropriate, to reinforce the need to strengthen controls and risk management processes and to implement agreed recommendations. The Committee took some assurance from the fact that the number of call-ins continued to be low during 2019.

Risk Management

2.21 The Committee received regular reports on risks across the Council throughout the year and noted the work being undertaken to enhance comprehensive risk management processes and supporting risk registers across all services, in particular in areas such as housing management.

2.22 Having received two reports on the management of risk in Housing in the previous year, the Committee considered two of the strategic risks being managed in Environment and Communities in February 2020, namely, safeguarding local residents in the event of a major terrorist attack, civil disorder or other significant event outside RBKC control and how the Council would respond effectively to another major incident (fire or other event), setting out the work being done to align the Council's practice with the Resilience Standards for London.

2.23 During 2020 the Committee focussed on the Council's emergency response to the Covid-19 global pandemic along with the preparations for the UK's transition from the European Union at the end of December 2020.

2.24 The committee considered the short- and medium-term financial impacts of Covid, the robust approach to risk management through the emergency command structures and the steps being taken by the Council to help residents and businesses to recover from the effects of lockdown and ongoing restrictions arising from the pandemic. The committee also considered the implications of multiple event risks occurring simultaneously, in terms of Covid, winter flu and the EU exit arrangements.

Fraud Updates

2.25 The Committee continued to receive regular reports during the year on the Council's anti-fraud activity and welcomed the continuing high-profile focus of anti-fraud resources on illegal sub-letting and other tenancy fraud.

Statement of Accounts

2.26 The Committee is required, under its terms of reference, to recommend for approval the Council's Annual Statement of Accounts and to consider whether appropriate accounting policies have been followed. In relation to that role the Committee received reports from officers on the Statement of Accounts for 2019/20 during the year.

2.27 The Committee was encouraged that the External Auditor (Grant Thornton) continued to find the accounts and supporting working papers to be to a high standard with only two Medium and no High priority recommendations being raised in their Annual Audit Letter for 2019/20 which was presented to the Committee in September 2020.

2.28 The Committee noted that the External Auditor was not able to give a value for money conclusion due to the ongoing inquiry and investigation into the fire at Grenfell Tower in June 2017 and the fact that the previous external auditor had not issued its value for money conclusion on the 2017/18 annual accounts.

2.29 The Committee continued to receive regular reports on the Council's Treasury Management activity and noted the nature of the Council's investment strategies.

3. MEMBER CONDUCT

3.1 During the year the Committee received no issues regarding Councillor conduct or complaints which required its consideration or attention. The Council is also supported by an Independent Ethics Panel which also produces an annual report covering its work.

4. INDEPENDENT COMMITTEE MEMBERS

4.1 The independent members play a vital role within the Committee, providing a strong external challenge to the Council's systems of internal control and to the audit process itself. The Committee has been fortunate to recruit two new professional independent members who, along with our continuing independent member, share extensive experience of the public and financial services sectors and of risk management. I would once again like to record my appreciation of their support and that of my fellow Councillors during what has been another busy year for the Committee.

5. CONCLUSION

5.1 The Audit and Transparency Committee continues to present a focused and professional challenge to the Council's systems of governance and financial reporting arrangements.

5.2 One of the Committee's roles over the next 12 months will be to ensure that the highest standards of internal control are maintained and are not compromised by budget cuts, that the Council continues to respond well to the challenges posed by the Covid pandemic and that the Council implements an effective recovery programme for residents and businesses which is aligned with the Council Plan.

5.3 The Committee will ensure, through the Annual Governance Statement, the internal audit plan, its consideration of the Strategic Risk Register and challenging directors on the management of risk that the Council has appropriate arrangements to manage risk and is able to provide robust assurance to residents and Members following the Grenfell Tower fire, taking account of work done by the Grenfell Public Inquiry and the Grenfell Task Force.

5.4 The Committee will also continue to monitor and challenge the management of risk at both a corporate and departmental level so as to ensure demonstrable best practice is in place across the Council.

5.5 The Committee will continue to monitor the implementation of recommendations raised in audit and fraud reviews to ensure a strong corporate governance framework remains in operation and to ensure that Cabinet Members and Senior Management are brought to account where standards in any area are considered to be inadequate or falling.

6. RECOMMENDATION

6.1 That the report be received and forwarded to full Council for information.

COUNCILLOR IAN WASON
CHAIRMAN OF THE AUDIT AND TRANSPARENCY COMMITTEE FOR 2020/21

Background papers: None other than previously published Committee documents

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