



Thanet District Council – S.24 Direction

Lessons Learnt Paper – Public Summary

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Introduction & Terms of Reference

On the 12th October 2021, due to inadequate arrangements in governance in responding to whistleblowing, grievances and disciplinary procedures with the direct financial costs adding further pressure to already fragile finances, Thanet District Council's, (TDC), external auditor, Sarah Ironmonger, (SI), of Grant Thornton, pursuant to powers under S.24 & Schedule 7 of the Local Audit and Accountability Act 2014, issued a report containing four statutory recommendations for TDC, (attached at **Appendix A** to this report).

On 2nd November 2021, the S.24 report was considered at an extraordinary meeting of TDC's Full Council which unanimously agreed to accept the recommendations. The full text of the approved resolution is set out at **Appendix B** and paragraph one provides for the appointment of an Independent Monitoring Officer, (IMO), who will, amongst other things, prepare a 'lessons learnt' report collating themes and recommendations from all externally commissioned reports and any other appropriate evidence, to be submitted to the General Purposes Committee, (GPC).

On the 12th December 2021 TDC appointed Quentin Baker to undertake the role of IMO and on the 18th December a S.24 Implementation Plan prepared by the IMO and attached at **Appendix C**, was approved by the TDC Chief Executive and Leader of Council. The plan sets out the agreed approach which includes reviewing relevant documents such as investigation reports and interviewing officers/others who have knowledge of these matters, including TDC councillors, officers, stakeholders and advisors.

The S.24 report refers to eight reports by six external independent reviewers during the two and a half years preceding the report. In the course of the IMO's review a number of other documents emerged including investigation reports and legal advice and in total 20 such documents formed the core group of externally commissioned documents reviewed. In addition, minutes of meetings, relevant internal policy documents and email correspondence were also reviewed as part of this process.

In addition to the documentary review, the IMO met with a selection of Officers, Councillors and other stakeholders to obtain first-hand observations regarding the recent events at TDC.

The summary findings of the IMO governance review are set out in the following paragraphs and conclude with a set of recommendations for actions that are designed to alleviate the identified governance deficiencies and reduce the risk of similar issues occurring in future. The detailed analysis of evidence considered is contained in a separate report which has

been shared with TDC Officers, Councillors, and External Auditors but which for legal reasons will not be made publicly available.

Summary of Governance Review

The External Auditor's, (SI), report contains contextual information based on observations made in the course of their interaction with TDC over recent years. This provides a helpful indication of the primary concerns which relate to the way in which TDC has, in recent years, responded to and managed grievances, whistle-blower complaints and disciplinary proceedings. Underlying these headline concerns is the emergence in 2019 of a serious break-down in the relationships between the four officers comprising the Corporate Management Team (CMT), Madeline Homer CEO (MH), Tim Willis Dep Chief Executive & S.151 (TW), Gavin Waite Corporate Director of Communities (GW) and Tim Howes Corporate Director of Governance & Monitoring Officer (TH).

Accordingly, the scope of this review focusses primarily on circumstances and events arising in the period of 3 years from early 2019 to December 2021, including the grievances raised during that period and closely followed by a number of associated grievances, whistleblowing complaints and disciplinary action which resulted in several investigations and reviews by external lawyers and HR specialists. On two occasions disciplinary proceedings were launched against members of the CMT one of which resulted in a serious disciplinary sanction against the Monitoring Officer, leading to their dismissal. The costs associated with handling these various matters has been significant with the latest estimate in excess of £730,000 and expected to rise further as a number of matters remain extant and unresolved.

The manner in which these matters have been handled is a matter of concern and has been a factor in causing or aggravating the dispute between members of the CMT. Incorrect processes have been used and credible advice not followed which together has led to questionable outcomes. Opportunities to de-escalate, mediate and limit the damage, have been missed and the relationships between councillors and officers have fractured due to the failure by senior officers to properly engage and inform elected members in respect of these matters. The observations arising from the review indicate a deep-set and persisting problem in the governance of TDC which has its roots in the leadership and culture of the organisation.

This chapter in the life of TDC is best characterised as a period of disintegration/absence of good working relationships between the most senior officers in the authority resulting in collateral damage and dysfunction affecting the wider officer group and councillors. The various reports relating to these processes comprise over seven hundred pages of information and the comments in the lessons learnt report are not intended as an exhaustive record of all the issues raised but merely to highlight key events or actions which are symptomatic of the governance deficiencies identified at TDC and which have informed the recommendations set out below.

In seeking to analyse and understand what might have caused, aggravated or failed to prevent the problems faced by TDC the report acknowledges the role of human factors such

as fear, anger and hubris which when combined with a deficit of judgement, objectivity and professionalism, creates an environment in which normal governance quickly corrodes. Definitions of good governance are characterised in many ways but for the purposes of the report the following description/benchmark has been adopted.

“Organisations that have good governance use clear decision-making processes, behave openly by reporting on their activities, actively engage with their stakeholders, effectively manage the risks they face, and take responsibility for controlling and protecting their assets, including their reputation. Each of these areas of governance activity contributes to an organisations success.”

The observations arising from the review of documents and the conversations with Councillors and other stakeholders, illustrate that TDC has, to a greater or lesser degree, underperformed against all of the above facets of good governance. The review highlights a lack of grip or focus on governance by the CMT who were pre-occupied by their internecine dispute.

Although much of the references are to past events there is little evidence of any significant recent improvement and during the period of preparing the lessons learned report further matters of concern have arisen. The indications are that the culture is deep-set and will need a concerted transformational effort to bring about sustained improvement. The recommendations set out below represent the initial steps in a process of acknowledging the existence of the various elements of faulty governance and countering the cumulative effect which has beset TDC in recent years.

Key Areas of Concern

The following lists the key findings/deficiencies in governance as identified in the s.24 report.

- Serious Breakdown in relationships of the four senior officers.
- A number of interlinked instances of whistleblowing and grievances which in some cases were without adequate or in some cases any, supporting evidence.
- Missed opportunities to de-escalate, mediate or moderate the situation.
- Lack of appropriate and lawful processes for dealing with Grievances and Disciplinary matters involving Chief Officers.
- Failure to manage whistleblowing cases, grievances and disciplinary cases and their outcomes promptly and systematically.
- Failure by the General Purposes Committee to follow through with agreed outcomes or to deliver definitive resolution.
- Failure to identify and mitigate perceived and actual conflicts of interest in the choice of senior manager responsible for the investigation of complaints and deciding the outcomes.
- Failure to involve councillors at an appropriate stage and or with sufficient detail of information.

The information gathered when reviewing reports and interviewing councillors and officers has provided corroborative weight to the above findings and the recommendations are focussed on addressing the above issues.

Dysfunction within the Corporate Management Team

The most significant single element of the organisational malaise which has affected TDC from 2018-19 has been the dysfunction within the CMT itself. The observations captured within the various investigation reports and corroborated by personal recollections of those closely involved, provide glimpses of a small group of senior local authority executives whose actions indicate a loss of perspective on their roles and responsibilities as regards the operational leadership of Thanet District Council.

For reasons which aren't fully clear, during 2019 the working relationships between this group of officers became hostile, combative and distrustful. There is no doubt that a schism formed between on the one hand, the Chief Executive (MH), The Corp Director of Communities (GW), Director of Governance - Monitoring Officer (TH) and on the other, the Dep Chief Executive – S.151 Officer (TW).

The observations made by some of the external investigators and others identify a level of animosity which fomented between the four individuals and which materially impaired their ability to make rational, dispassionate business decisions in the best interests of TDC.

Several factors appear to have had a role to play in the breakdown/worsening of relations amongst CMT officers including the emergence of the close personal relationship between MH and GW which was for some time during 2018-19 the source of much gossip and speculation both amongst staff within the authority and more widely on the internet, which is likely to have impacted upon the dynamic of the small CMT. Although there is no prohibition on such relationships it is widely acknowledged that robust and transparent arrangements must be put in place so as to mitigate the risk that others will perceive favouritism. The steps taken were insufficient.

The handling of grievances and whistle-blower complaints also proved to be a point of contention amongst CMT members and there were tensions over decisions regarding the management of a major council project.

Officers and councillors both shared the view that the advent of the Pandemic and the associated remote working was important factor in enabling the corporate management team to continue functioning due to the fact that 'in person' contact was significantly reduced.

Relationship between the Leader and Chief Executive

The negative impact of the CMT dysfunction on the organisational culture at senior levels has been significant. The relationship between the two most senior roles of Chief Executive and Council Leader is best characterised as lacking trust and mutual respect.

In a local authority the health of the relationship between the Leader and the Chief Executive is often a key determinant of the wider success of the authority and it is also one of the more complex relationships with the Chief Executive forming an interface between the officers who run the authority on a day to day operational basis and the councillors who decide the key policies and strategic priorities. The two groups have different perspectives

and drivers but it essential that they operate in unison. By all accounts, this hasn't proved to be the case at TDC which has been characterised by a lack of frankness and tension arising from confusion as regards role boundaries.

Relationships between Officers and Councillors

Across the wider staff group the ability of the teams to maintain a focus on delivering services despite the disruption caused by the barely contained disputes amongst the members of the wider officer community is a testament to their resilience and has enabled TDC to continue operating and providing services throughout the pandemic for which it should be commended.

The interface between councillors and officers has also played a role in the events of the last 3 years and the S.24 direction specifically identifies the dividing line between officer and councillor responsibilities as an area in need of clarification. Thanet's recent history is that of a dynamic political backdrop with changing political control and for much of the time a lack of any single party group in overall control.

This is a challenging environment for any local authority chief executive and their top team. The ability to get things done may be hampered by the need to build political consensus across very diverse political groups and their differing agendas. To be successful in this environment it is essential to foster relationships of mutual trust and confidence between the officers and the councillors. Transparency and proactive engagement is a building block for that relationship to develop and thrive but at TDC the opposite appears to have happened whereby information is tightly controlled, often on the basis of commercial confidentiality and the perceived risk of information being leaked by councillors.

In respect of staffing matters, there is little evidence of the engagement of councillors in the strategic oversight of staffing matters. Given the importance of the employees in delivering the council's outcomes this stance lacks a compelling rationale. Relationships of trust between councillor and officer are enhanced through reciprocity and notwithstanding the risk that information may be leaked, councillors must have access to key strategic information about the health and performance of their council and its workforce.

The review has identified specific examples of where significant information has been withheld from all councillors or not disseminated to the appropriate body of councillors. An example of this included an investigation report into a Whistle-blower complaint regarding the handling of a grievance brought by an officer. The report contained information highly critical of the process used and the decisions taken by officers. The report wasn't brought to the attention of the relevant group of elected members and there is no formal record of the reasons for withholding that information.

Another example of the pervading approach is highlighted by an incident where the CEX lodged a complaint against the Cabinet member for Finance alleging that they had breached the Members' Code of Conduct by submitting a request for information regarding the salary levels/pay awards of the CMT Officers.

The submission, by a local authority chief executive, of a complaint against a Cabinet Member is un-common and would generally be regarded as an indicator of a worrying level of conflict between officers and councillors. In the circumstances, as set out by the experienced investigator, it would appear that the decision to launch the complaint was ill-advised and unjustified due to the lack of any evidence of any breach. This may have been due to a misunderstanding of the legal position regarding councillors' rights of access to information, but this and other actions have given rise to a perception amongst some councillors that relevant information is being withheld unjustifiably.

There is also evidence of significant numbers of senior staff members having left the organisation under settlement or redundancy agreements over the last four years and there were recent examples of officers raising grievances.

Mishandling of Grievances, Whistle-blower Complaints and Disciplinary Matters

Another key theme identified by the external auditors and others is the way in which the grievance and whistle blower complaints have been handled by the senior officers in the council. The comments of the independent investigators, external lawyers and HR advisors have identified numerous procedural flaws and perceived mishandling of these matters. Examples of this include decisions on whether to refer matters for disciplinary action being taken by officers without reference to Councillors notwithstanding the fact that expert legal advice had confirmed the correct approach.

In one instance this resulted in findings and recommendations not being put before the relevant body of councillors for decision but instead decided by a Senior Officer. It subsequently emerged that the Senior Officer who had incorrectly assumed the role of 'decision maker' arrived at their decision on the investigation findings without having read any of the witness statements.

The legal advice noted that TDC's procedures relating to these matters, (contained in Part 4 of the TDC constitution), were deficient in that they hadn't been updated in line with amendments to the relevant statutory instruments which came into force in 2015. The advice provided that these provisions should be updated as a matter of urgency at the next meeting of Full Council. This didn't happen until almost 12 months later.

In the meantime, further expert legal advice was commissioned which confirmed the approach that had been utilised was potentially unlawful but no corrective action was taken in relation to the specific matter. In that case the senior officer who submitted the grievance had left the authority under a settlement agreement.

The mis-handling of the grievance became the subject of two whistle-blower complaints and subsequently formed part of a grievance brought by one CMT member against the others. The whistle-blower complaints were investigated and found to be substantiated but as explained above, these weren't considered by the appropriate body of Councillors and their recommendations weren't implemented.

In another related action, a Statutory Officer, having raised concerns about the mis-handling of the grievance process, was suspended. The suspension was subsequently rescinded and

when the matter was brought before the appropriate body of Councillors no breach of discipline was found and consequently the legitimacy of the suspension itself is brought into question.

The above examples indicate a lack of respect for basic procedural governance and a willingness to ignore professional advice that didn't fit the desired outcome. As well as the resulting injustice for the complainants the approach added to the tensions within the CMT.

On a wider organisational level there is evidence of significant numbers of senior staff members having left the organisation under settlement or redundancy agreements over the last four years and there are recent examples of senior officers raising grievances regarding senior management. This indicates that the problem is longstanding and ongoing.

Availability of Adequate HR Support and Advice

TDC has over the last few years been experiencing high levels of demand for Human Resources advice and support. Until September 2021 TDC had been part of a shared service called East Kent Human Resources which comprised TDC and two other local authority partners. In 2021 the chief executives of the three partner authorities concluded that they needed an HR service more closely aligned to the culture and requirements of each council. The service was fully transferred back to TDC in September 2021 at which point a new head of HR transferred over to TDC to lead the provision of HR service in TDC.

It is understood that since 2019, due to the break down in relations between senior officers in TDC and EKHR, the utilisation of EKHR by TDC significantly reduced. This led to increased workloads falling to be dealt with by the limited capacity in-house resource which in turn resulted in a deficit of support for managers in the context of disciplinary/grievance and more generally for all staff in connection with learning & development and ongoing maintenance and review of HR policies.

TDC faces an urgent need to re-build this service provision to ensure that it has in place sufficient capacity to address the needs of managers and other staff within TDC. Apart from the case work, there is a pressing need to develop and embed a framework of competencies and behaviours and to review other core policies.

There is also a need for more information to be garnered about and from the workforce including their candid thoughts about the working environment. In the past TDC had undertaken annual workforce surveys but this stopped some years ago and should be restarted to provide a regular check on morale.

There is a perception held by some that a toxic working culture exists at TDC and excessive numbers of successful ET claims against TDC and high numbers of settlements for officers who have raised grievances, is cited as evidence supporting this view. Full details of ET claims and settlements wasn't readily available although some indication of the scale of settlements due to redundancy or other reasons indicates that between the financial years 15/16 to 20/21, £1,590,151 was expended on exit settlements of this nature.

In the absence of benchmarking data, it is difficult to assess whether this is excessive for an authority like TDC but it seems on the high side for a relatively small local authority. It is recommended that TDC put together a more comprehensive dashboard of key workforce information including the above and turnover etc. to be reviewed regularly by the CMT.

It would also assist transparency if councillors were involved in a meaningful way in the oversight of HR matters at a strategic level. The officers are key to the success of a local authority and as such councillors have a legitimate and understandable interest in this regard which could be facilitated through the establishment of an employment committee.

Berth 4/5 Project

The analysis in the report has focussed primarily on the governance regarding some processes within TDC and has not reviewed the wider operational performance of the council in delivering its services and activities. However, during the interviews one area of the operation was mentioned with such regularity that it warrants a mention in the lessons learned report. The resounding consensus was of concern regarding the quality of project management and the significant unforeseen expenditure.

TDC Improvement Plan - Recommendations:-

The following recommendations are designed to address the issues highlighted in the preceding review and should be regarded as a starting point as opposed to an exhaustive list.

1. Review of the TDC Constitution:-
 - a. Review the member officer protocol to ensure/clarify/reinforce the need for sharing of information between officers and Cllrs and to engage councillors in the work of the authority. This should include clear guidance on the rights of access councillors have over and above members of the public.
 - b. To review the scheme of delegation to ensure that it is clear and easy to understand and also includes appropriate conditions requiring engagement of Cllrs in strategic and high-risk decisions.
 - c. Establish an Employment Committee to consider strategic Human Resources & OD matters.
 - d. Review the arrangements for handling Whistle-blower complaints to ensure that there is a robust and confidential system for handling such matters including a range of confidential channels via which such complaints may be submitted.
2. Restructure of Senior Management Team
 - a. CMT to be restructured with a view to creating at least one additional Corporate Director role to include responsibility for HR.
 - b. Develop a wider management group/ forum with a view to promoting levels of transparency and communication between all tiers.
 - c. Review the existing arrangements in place to manage the potential conflict of interest arising from the close personal relationship between the CEO and

Director of Operations. The arrangements should be demonstrably transparent to provide assurance that relevant decision making is handled independently.

3. Development Work for Member Officer Relationships
 - a. LGA or other body to lead development work – team building and developing understanding of the different roles and responsibilities of officers and Cllrs. A particular focus on officers understanding the responsibilities of Cllrs for the overall running of the council and their public facing role.
 - b. Improve responsiveness to information requests from councillors to officers and put in place mechanisms which will ensure that key information about TDC decisions and activities affecting local wards is disseminated to relevant ward councillors.
 - c. Ensure that all Senior Councillors are briefed on the contents of all reports produced in the context of the CMT dispute in order that they have parity of access and understanding.
4. Coaching/ Mentoring Programme for CEO and Directors
 - a. CEO to enter into formal coaching/mentoring arrangement.
 - b. CMT to undertake team building -
5. Introduction of Regular Staff Survey and other staff feedback forums.
 - a. Information on staffing including turnover/sickness absence/settlement agreements/ ET's etc. regularly reported to CMT and to employment committee.
6. Review of the HR resource within TDC to ensure that it is sufficient to meet the needs of the council in respect of HR case work and organisational development.
 - a. Development and implement a framework of values and behaviours for staff with a view to promoting improved staff management and working environment.
7. Undertake an independent review/audit of the Berth 4/5 project from its inception to the present day with a view to identifying the causes for of delay and cost overruns which have beset the project including the project governance. The results to assist in identifying lessons for the future management of large projects.
8. Establish an Independent Assurance/Assistance Panel
 - a. The panel to comprise independent S.151, MO and HOPS to oversee the swift implementation of the above actions and to act as a source of independent support/advice during the recovery phase.

Quentin Baker
Independent Monitoring Officer

Appendix A - S.24 Report

Attachment

Appendix B – Proposals Agreed by TDC Full Council at an Extraordinary Meeting on 02-11-2021

1. Commission an experienced, independent Monitoring Officer from a large local authority to report to the General Purposes Committee on:
 - a. A risk assessment of the current employment tribunal claims and proposed actions which safeguard the Council's best interests including a detailed financial analysis of the options available to the Council.
 - b. An assessment of the status of all outstanding grievances, alleged whistleblowing complaints and any continuing suspensions and propose a plan of action to address them.
 - c. A lessons learnt report collating themes and recommendations from all externally commissioned reports and any other appropriate evidence.
2. Bring the current IDSC process to a conclusion with clear actions that are reported and monitored.
3. Revisit the financial plans and identify additional savings plans to address the further cost pressures created in resolving the grievances and whistleblowing complaints.
4. Agree an approach where the Council demonstrates that it is responding to the substance of concerns raised including a clear agreement on where Officer and Member responsibilities lie.
5. In addition to the recommendations proposed by the auditors, members agreed that regular updates of the actions to address the recommendations will be provided to full Council

Appendix C – S.24 Implementation Plan

Attachment