

Independent Panel Report

Waltham Forest

1 Introduction

- 1.1 In May 2009, we were requested by the Chief Executive of Waltham Forest, Andrew Kilburn, who had taken up his post in October, to review certain long standing issues relating to community projects within Waltham Forest. Although there was an action plan that had been prepared to deal with these issues some time earlier, the Chief Executive was becoming increasingly concerned that the plan may not be producing the necessary changes within Waltham Forest. He therefore raised these issues with the former Leader and it was agreed that an independent review was necessary for both internal and external assurance. The Terms of Reference at that time were agreed and the period of examination to be covered was subsequently altered to commence from April 2004 rather than April 2005. The date change was as a result of one of the interviews, which highlighted a significant document pre-dating the original commencement date.
- 1.2 In order to expedite a complex and time consuming process, we have used other independent resources to conduct detailed reviews. The report of the Independent Panel should be considered alongside the detailed reports attached at Appendix 1 by Sarah Wood, the recent Interim Director of Finance (and Section 151 Officer) for Waltham Forest, and the report of Rita Sammons, who was engaged to look at HR issues through Solace Enterprises, attached at Appendix 2.
- 1.3 The Council should consider these as an integrated suite of reports rather than a set of independent unrelated reports if they are to benefit fully from the reviews undertaken by the Panel, Sarah Wood and Rita Sammons.
- 1.4 Whilst it may disappoint a number of individuals we have spoken to, the Independent Panel does not believe that any purpose is served by re-examining the many previous audit reports and reviews and rechecking detail. Rather the Panel has read the many reports and interviewed key players in order to provide an overview of the systems and embedded weaknesses in Waltham Forest. However, it should be noted that the Terms of Reference have been fully discharged by the suite of reports referred to above.
- 1.5 It is our conclusion that it is incumbent on Waltham Forest at a political and executive level to consider these reports and produce a comprehensive and holistic response to rebuild public confidence in the Council.

2 Background

- 2.1 Waltham Forest has been an authority in a hurry to improve with good reason. Local authorities demonstrating best practice can show a clear focus on priorities and produce energy and resilience. Waltham Forest has undoubtedly succeeded in many aspects of achieving best practice. There are, however, areas where best practice has not been achieved.
- 2.2 In 2002, when the Audit Commission introduced the Comprehensive Performance Assessment (CPA), the performance of Waltham Forest was inadequate. The Council was subject to government intervention and was classified as one of the worst performing councils in the country. Over the last 7 years Waltham Forest has propelled itself from the bottom of the categorisation to almost the very top.
- 2.3 During that period, councillors and senior managers have had to take difficult decisions to improve services. Inevitably, that has created potential friction within the Council and with residents and communities within the area. This is evidenced by relatively low public satisfaction scores and indicates that the Council still has much more to do in terms of corporate and community leadership. However, the Audit Commission state:

“Through strong political and managerial leadership, good planning and robust performance management it [the Council] has effectively turned round the performance of council services. All service blocks are now rated as at least good under the Comprehensive Performance Assessment framework. However, this meant that the Council did not have sufficient capacity, at that time, to deal with some of the broader challenges facing the area such as health inequalities and regeneration. Overall, prioritisation has delivered real improvements in council services.”

Source: Waltham Forest Corporate Assessment, Audit Commission (2008)

- 2.4 However, Waltham Forest is now at a crossroads. In chasing CPA stars, it has extended the organisation to the point where it may no longer be resilient. Whilst this is not yet evidenced across core services, it is apparent in many of the actions and responses which have resulted in whistle blowing and complaints around a number of relatively small community regeneration projects, which have a small value when compared with the Council's annual budget of approaching £1billion.
- 2.5 This is also evident in the way that the Council interacts with critics of its programmes and some local community groups. The Council is seen as difficult to engage and slow to respond where information is

sought or where criticism is levelled. This is in stark contrast to the strong relationships with other public service providers within the area.

2.6 The Council therefore needs to deal with issues around four major themes:

- Community leadership, engagement and accountability
- Corporate responsibility, governance, roles and accountabilities, including compliance and transparency
- Capacity in a changing public sector environment
- Requirements for improvement going forward

2.7 However, fundamental to these is a need to change the culture of Waltham Forest.

3 Community Leadership

3.1 The CPA in 2008 identified strong leadership across the partners and their responsibilities to Waltham Forest. But even in this there was recognition that some sections of the voluntary sector do not feel fully engaged. This feeling was also shared by certain community leaders marginalised by this process:

“Overall the Council uses strategic partnership working well, but some sections of the voluntary sector do not feel fully engaged. Through the Building Schools for the Future (BSF) programme the Council has secured capital expenditure in excess of £210 million to radically improve the fabric of all secondary schools, with very good progress to date. The Council has a pragmatic approach to procurement and has created a mixed economy of service provision. Major services such as refuse collection, street cleansing and grounds maintenance have been outsourced, and decisions about which education services should be brought back in house were based on an accurate assessment of capacity. Waltham Forest has a joint venture profit-sharing agreement for provision of building consultancy services and it is leading work on integrated regulatory services with the other Olympic host boroughs. A strong commissioning framework is in place, but some voluntary sector partners do not feel well engaged and the 2003 Compact is not a live document. The Council has developed a new Partnership Framework which covers procedures for conflict resolution between partners.”

Source: Waltham Forest Corporate Assessment, Audit Commission (2008)

3.2 In addition, one of the major complaints that the Council has to deal with is that some communities believe they have been marginalised in

setting priorities and taking decisions. During our interviews, we had described to us that there were a number of clear changes of policy in the way that the Council engaged local communities. During its period of service improvement, Waltham Forest reduced the involvement of community groups as community forums became panels and are now focus groups. There are also allegations or concerns regarding transparency and the availability of Local Strategic Partnership minutes. It is claimed that only the involvement of local activists got these minutes put into the public domain.

- 3.3 As an Independent Panel, we have asked for the Cabinet report that proposed alternative options which led to these changes in community engagement. Despite every effort, we have yet to locate any public report on these changes.
- 3.4 It should be emphasised that there is no proper single or simple answer for dealing with communities and their aspirations, but what is important is that the audit trail showing the rationale for these changes and the relevant processes for groups to continue to engage with the Council is clear. At present this does not appear to be the case.
- 3.5 This deficiency has led to a belief that the Council does not listen to communities and that decisions are not made based on effective consultation. This lack of transparency is an issue which will recur throughout this report.
- 3.6 For the future, there is a change in dynamic in the public sector. The role of local authorities in the Comprehensive Area Assessment is to lead 'place-shaping and making'. In future, Waltham Forest will be assessed not only for its own performance but for all public services in the local authority area. "Total Place" pilots relating to all public services in an area and multi area agreements covering more than a single authority are becoming the new mantra for performance assessment and service delivery. It is vital that the community leadership role of the Council is elevated and that it has a resonance and a context for all its communities going forward. This will require a change in pace not only for Waltham Forest but for all local authorities.
- 3.7 This in itself is particularly difficult but it is exaggerated by the significant shift in the availability of public sector resources over the next 5 to 10 years. Harder choices, less resources and no single agency authority or delivery will require greater community engagement and dialogue to establish priorities, as well as effective systems for implementing programmes and projects that achieve even better value for money and set future expectations.

4 Governance

- 4.1 It has become clear in this review that the strong drive to achieve CPA performance improvement has produced results. However, this has been at some cost to corporate behaviour both at a political and executive level. In her report, Rita Sammons has identified a series of issues that need to be addressed. Indeed, one of her points is that there is a failure of leadership to take ownership of issues and to respond collectively and proactively to the issues raised. She goes on to say:

“There is a need to develop an organisational culture where there is greater accountability by senior and other managers for the performance of the council overall.”

- 4.2 There is an emphasis on performance and issues within each directorate which will in time damage the performance of Waltham Forest if it is not dealt with now. There is a new Leader of the Council and a new permanent Chief Executive Officer (CEO). This creates a unique opportunity to restate the appropriate roles of the Leader, Cabinet, Scrutiny, the CEO, the other statutory officers, the corporate management team and individual officers in terms of standards, expectations and responsibilities, both corporately and departmentally. Setting expectations from the top of an organisation creates a momentum that will otherwise be missed and without these clear standards and expectations it will be more difficult to instil the cultural and behavioural changes across the organisation that are required.
- 4.3 The absence of an effective strategic Human Resources (HR) department is a serious barrier. It has clearly been ineffective for many years in Waltham Forest and there is no strategic direction for the organisational or personal development that is required going forward. The HR function is also ineffective operationally and there is evidence that there is no penalty for not complying with corporate rules. This is not just an issue for HR alone but for the senior management of the Council. Again, this is a serious issue which cannot be left and the redefinition of roles and expectations by the Leader and CEO will legitimise the expectations, but without the capacity to respond progress is doomed to failure. There is an urgent requirement to improve the Human Resources function and its contribution to driving improvements in behaviour
- 4.4 This report also cites examples where there is inadequate public reporting of important issues. Informal briefings appear to have replaced reports to Cabinet and as a result matters have been left unremedied for several years. Again, this is referred to below. The EduAction report is the most glaring example of this.

- 4.5 The failure to report openly and transparently on critical issues is also part of the reason for the mistrust that exists for important stakeholders, including MPs and some sections of the local community.

5 Compliance/Capacity

- 5.1 At the heart of the issues to be addressed is a culture where an action plan is produced to remedy deficiencies but any improvement is non-existent or at best short-lived. There are four important reports (or suites of reports) which highlight this starkly:

1. The 2004 Ann Malloy report on the Neighbourhood Renewal Fund (NRF) and procurement issues (see Appendix 3)
2. The Internal Audit report on internal matters related to a contract with EduAction, begun in 2006 (see Appendix 4)
3. A report from mid-2009 in respect of a regeneration company (see Appendix 5)
4. Two audit reports in respect of procurement issues identified in 2006 (see Appendix 6)

- 5.2 These reports are dealt with in more detail below but there are striking similarities which extend over this five year period in terms of deficiencies on procedures and outcomes which are common to all of these.

- 5.3 In 2004, the Malloy report on NRF was hard hitting and an action plan was produced to resolve issues. The same deficiencies are evident in the Internal Audit report on EduAction begun in 2006 and, similarly, despite limited action, the problems were not resolved and many still aren't.

- 5.4 Sarah Wood, the recent Interim Director of Finance, has produced a series of reports highlighting many of the same recommendations that were evident in 2004. In Appendix 1 to Sarah Wood's first report, a series of clear key messages are identified.

- 5.5 She goes on as part of the implementation of the Terms of Reference for this review to examine compliance against corporate requirements within departments. Despite the problems identified with contracts, the situation has in fact deteriorated and whilst there was a compliance of approximately 25% before January 2009, it has dropped to only 19% since then.

- 5.6 Both figures show compliance is not seen as a priority despite the emphasis placed on this by successive CEOs. As an example, in some cases the contract does not appear on the contract register, in

some cases it has no value, and in other cases the contract is not in a form approved by the Director of Governance and Law.

- 5.7 Even more damning, she goes on to say that many users were unprepared for requests for contractual documents. One email sent to the Corporate Audit and Anti-Fraud Team (CAAFT) made plain that the file had been assembled for the benefit of the auditors rather than part of existing practice.
- 5.8 Together, these issues indicate almost a recklessness to get work done rather than doing it through the proper processes. It is worth repeating that this was the case in 2004 when Ann Malloy produced her report. Appendix 1 to Sarah Wood's first report concludes:

“Initiatives and instructions made by the former interim CEO have not yet achieved any discernible improvement in procurement practices within the Authority”.

Source: Sarah Wood Report 1, Appendix 1, page 11

- 5.9 There are a number of specific issues that highlight this issue.

6.1 EduAction

- 6.1 Under its NRF-funded Youth at Risk programme, Waltham Forest entered into a contract worth £240,000 with EduAction. There have been numerous complaints through whistle blowers and a number of Freedom of Information (FOI) requests around this contract. It has been impossible to find any individual within the Council itself who understands what was contracted and what has been delivered for the money. Of even more concern, there appears to be little concern from key people that this is the case.

- 6.2 There are a number of stages which are vital to effective procurement and they may be summarised as follows:

- An initial and comprehensive needs assessment
- An identification of the outcomes to be achieved
- The criteria which are to be used to establish the target groups for intervention
- Consideration of whether there are other Council funding streams for delivering complementary outcomes
- A package of interventions which is developed for the additional resources and matched against the criteria which form the selection of the target group embodied in a detailed specification, set out in an appropriate form of contract or agreement
- Clear metrics for assessing outcomes and a delivery plan

- Monitoring processes to establish the effectiveness of the interventions on an ongoing basis
- Evaluation of the programme against the original core objectives

6.3 For the contract with EduAction, the specification was inadequate. Before the contract was awarded, there was no proper process that set out the priorities for the programme and the criteria to be established for the target group, and there was ineffective monitoring as a result, meaning outcomes and effective interventions are virtually impossible to establish.

Note

At the request of Waltham Forest, and on the basis of external legal advice obtained by the Council, paragraphs 6.4, 6.5 and 6.6 will be dealt with in closed session. This is because they contain exempt information.

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(See the Legal Implications section of the Chief Executive's covering report for full details)

- 6.7 The Ann Malloy report referred to a number of critical deficiencies in 2004 that may be broadly summarised as follows:
- Inadequate specifications before contracting
 - Inadequate performance monitoring of contracts
 - Inadequate demonstration of outcomes through the contracting process

- 6.8 The EduAction contract displays all these characteristics and more. No one ever accepted that they are accountable for this contract involving approximately a quarter of a million pounds of public money. No one took corporate responsibility for the contract or looked to address the weaknesses when identified in various reports. This represents a systemic failing in Waltham Forest in respect of procurement, contract management, contract evaluation, monitoring and stewardship. Senior management failed to act, at least through omission, and senior officers abrogated themselves of any involvement or responsibility for performance or any failings, even where they impinged on their core areas of responsibility. Indeed, there is no evidence that even now they recognise their part in what can at best be described as very poor practice.
- 6.9 Good organisations learn from problems and rectify them. Waltham Forest appears to do neither. The relentless push for CPA stars has meant that there has been less focus on embedding proper process and accountability within the Council. Unless remedied, there almost certainly will be future problems in procurement and further reputational issues for the Council to deal with. The Council will also be in a position where it is impossible to demonstrate value for money to its council tax payers, its partners and government.

7 A Regeneration Company

- 7.1 This is a relatively small contract for work costing approximately £30k. A Waltham Forest senior employee was asked to produce a specification for this work with the full knowledge of certain more senior individuals in the Council that he was going to join a regeneration company who were going to bid for the work. He produced the specification and sent it to his new company, left the Council and then returned the completed bid back to the Council. It was not the lowest bid and there were no proper evaluation criteria but the contract was still awarded to the company.
- 7.2 There can be no excuse for this behaviour. It questions the ethics, governance and compliance with processes that are at the heart of any well-governed public sector body. Disciplinary investigations are underway to deal with this. They should be concluded quickly and effectively. Any investigation should also deal with the behaviour of the company in its dealings with Waltham Forest. Government Office for London should also be made aware of the circumstances leading to the award of this contract.

8 Dealing with Issues and Individuals

- 8.1 The examples above show problems in compliance with rules and procedures but effective action against individuals is not evident.
- 8.2 We have referred to the inadequate operational HR function. Throughout the period 2004 to 2008 there are glaring examples of inadequate or improper performance of duties. There have been references to a number of disciplinary investigations. However, there is no evidence that there is any follow through on these. The timescale for closure is protracted and individuals have either left the Council or there is no case to answer. This is disturbing in that improper action with no consequence is not a deterrent. Non compliance with rules can easily become acceptable behaviour and even be condoned just to get the job done. It is vital that this perception is removed and that improper behaviour or conduct is dealt with quickly, effectively and appropriately. The regeneration company contract gives an opportunity for this to be a new starting point for Waltham Forest.

9 Internal Audit

- 9.1 This function typifies the lack of a coherent strategy around assurance and compliance. The function appears to be structured on a basis that expects non-compliance rather than a function that has methods of testing and obtaining assurance on systems and processes. This in itself breeds mistrust and suspicion between various parts of the Council. It is also a reputational danger for the authority as prevention is seen as less important than investigation of problems after they have happened. What is more, there is no clear link between a problem in an audit investigation and subsequent management follow through. Action is at best delayed and at worst avoided so that there is no visible impact of what is a large investigation resource.
- 9.2 There are cost and structure implications for any organisation that does not provide assurance. Waltham Forest is currently facing some of those costs. The best local authorities operate an audit function that prevents problems and tests its systems for adequate internal checks and controls. It has an effective system of follow through to ensure effective compliance through various arrangements including its Audit Committee. This is not the case in Waltham Forest. Improvement will only be possible if the standards and expectations for compliance are restated and effective penalties are imposed if standards are flouted or ignored.
- 9.3 At present, the whole direction and structure of the internal audit function should be an immediate area for review. Given its focus and the apparent lack of follow through on its activities, it represents extremely poor value for money.

10 External Relationships

- 10.1 Waltham Forest is seen as insular and secretive by some important stakeholders, if not by its partners. During the course of this independent review, a number of people, including MPs, have confirmed that the only way they get a response is through FOI requests. This is now regarded as the normal method of communication by many. Even on that basis, delays in responses are normal. This leads them to doubt the governance and propriety within the Council and fosters the belief there are things that are hidden. Whilst we have no evidence that this is the case, it is undoubtedly true that where problems exist there is little transparency or urgency in finalising issues and the EduAction and regeneration company reports are examples of this.
- 10.2 Waltham Forest needs to improve the use of its Cabinet reports as a means of informing the public, and it also should look to use Scrutiny to reinforce the standards that are evident in local authorities demonstrating best practice.

11 Recommendations

- 11.1 A detailed set of recommendations are set out in Annex 1. The CEO should report at the earliest opportunity to a public meeting with a response to these recommendations and plans for dealing with the issues raised by this report together with those of Sarah Wood and Rita Sammons.

12 Summary

- 12.1 Waltham Forest has much to be proud of. Over the last 7 years it has a record of achievement and progress that is clearly evidenced. The residents of Waltham Forest now have improved value for money and better services and they are being delivered at a level that could only be an aspiration in 2002. Whilst we have focussed on issues of relatively low value in terms of the overall expenditure levels of Waltham Forest, it would be folly to ignore the general conclusions as they indicate systemic and cultural issues that go beyond the areas we have examined.
- 12.2 The organisation is fragile in terms of its ability to go beyond current levels. Only by a comprehensive programme to address these systems and cultural issues and to embed new behaviours will there be a change. It is vital that this change programme is publicly available and monitored transparently so that public confidence is restored.
- 12.3 This has been a difficult exercise for the Panel and the Council, and this is an important moment for politicians and officers alike to

recognise these issues and see them finally resolved if the Council is to progress. It will be damaging to the Council, its reputation and its residents if this is seen as merely restating the former interim CEO's improvement plan, as that has already fallen into disrepute.

- 12.4 We would like to take this opportunity to thank all those individuals we interviewed and in particular Sarah Wood and Rita Sammons for their work on our behalf.