

EAST HERTS COUNCIL

AUDIT COMMITTEE - 23 JANUARY 2013

COUNCIL – 30 JANUARY 2013

REPORT BY CHIEF EXECUTIVE AND DIRECTOR OF CUSTOMER  
AND COMMUNITY SERVICES

RESPONSE TO AUDITORS RECOMMENDATIONS RELATING TO AN  
OBJECTION TO 2011-2012 ACCOUNTS

WARD(S) AFFECTED: ALL

**Purpose/Summary of Report**

- To inform Members of an objection received by the external auditor to the 2011/12 accounts, the external auditor's statement of reasons in response and the proposed response to the external auditor's recommendations.

<b><u>RECOMMENDATIONS FOR AUDIT COMMITTEE: That</u></b>	
<b>(A)</b>	<b>the Committee note the external auditor's statement of reasons; and</b>
<b>(B)</b>	<b>the Committee agrees the response to the external auditor's recommendations as set out at 2.7 below.</b>
<b><u>RECOMMENDATIONS FOR COUNCIL: That</u></b>	
<b>(A)</b>	<b>The Council notes and agrees the response to the external auditor's recommendations as set out at 2.7 below.</b>

1.0 Background

1.1 In September 2012, the Council's external auditors, Grant Thornton, received an objection to East Herts Council's 2011-2012 accounts. The objection challenged the lawfulness of broadband/telephone payments made by the council for on behalf

of Members and the £35 payment made to Members for IT provision.

## 2.0 Report

- 2.1 The Council's external auditor wrote to the Chief Executive and Director of Customer and Community Services in October 2012 providing details of an objection they had received to the 2011-12 accounts.
- 2.2 The objection related to a challenge that the flat rate £35 payment to Members for IT related costs which commenced following the May 2011 elections and the management by officers of the subsequent cessation of payments by the Council to BT and Orange for the provision of broadband lines for Members were unlawful.
- 2.3 The external auditor stated that they had considered and taken advice on the objection. In September 2012 the external auditor asked that the Council provide a response to a number of questions relating to lawfulness of payments made.
- 2.4 The Council took advice from one of the leading legal firms in this field which advised the Council on an appropriate response.
- 2.5 The Council acknowledged that officers had made mistakes in managing the cessation of the payments to broadband suppliers
- 2.6 The Monitoring Officer reports that the Council made payments to Members which were not lawful, according to the external auditor's response to the objection of the accounts. It was not lawful to continue to provide benefits to former Councillors after they had ceased to be Councillors. Payments were made to providers for broadband/ telephone services relating to official duties after they had ceased to be Councillors. The Council did not identify when the services were used for Council business.
- 2.7 The external auditor subsequently produced a final response to the objector dated 13 December 2012 which provided the objector with their decision, a statement of reasons on the main points of the objection and recommendations for the Council. This is provided as **Essential Reference Paper "B"**.
- 2.8 The external auditor stated that he will monitor the Council's progress in response to the recommendations but decided that the

sums involved were not material in terms of the Council's overall budget and that no further action was appropriate at this stage.

- 2.9 The Council will seek to regularise payments to members and has asked the Independent Remuneration Panel to consider what payment should be made to Members and make a recommendations to Council accordingly. Council will then have an opportunity to consider the recommendation of the Independent Remuneration Panel.
- 2.10 With regard to the possible recovery of costs incurred by the Council for broadband which continued after the scheme was to have ended, a detailed examination of the circumstances has been undertaken.
- 2.11 The external auditor's recommendations have been considered and they are produced in the table below with recommended responses summarised.

Auditors Recommendations	Council response
a) Seek Counsel's opinion on the operation of the Scheme and payments outside of the Scheme.	The Council has had the benefit of opinion of one of the leading legal firms with an outstanding reputation in the field of local government law. It does not believe that the expenditure of further public money is appropriate in this case.
b) Takes steps to recover outstanding monies from Councillors where possible and where not ensure any write- offs are approved in accordance with the Council's constitution	The Council will pursue the recovery of unlawful payments as appropriate.

<p>c) Consider a more proactive approach to the reliance on S111 powers for decision making and indeed given the impact of the Localism Act, explore in more details powers that the Council relies on in decision making in new initiatives, schemes and programme.</p>	<p>The Council acknowledges that a challenge has been raised over the reliance on S111 of the Local Government Act 1972 (power to do anything that is conducive or incidental to the discharge of the Council's functions). The Council will take a more pro-active approach as recommended by the external auditors.</p>
--	---

### 3.0 Implications/Consultations

3.1 Information on any corporate issues and consultation associated with this report can be found within **Essential Reference Paper 'A'**.

### Background Papers

Contact Member: Councillor Mike Tindale, Executive Member for Finance

Contact Officer: George A Robertson, Chief Executive and Director of Customer and Community Services  
01992 531410  
[george.a.robertson@eastherts.gov.uk](mailto:george.a.robertson@eastherts.gov.uk)

Report Authors: George A Robertson, Chief Executive and Director of Customer and Community Services  
01992 531410  
[george.a.robertson@eastherts.gov.uk](mailto:george.a.robertson@eastherts.gov.uk)

*Simon Drinkwater, Director of Neighbourhood Services and Monitoring Officer*  
01992 531405  
[Simon.drinkwater@eastherts.gov.uk](mailto:Simon.drinkwater@eastherts.gov.uk)