

## WIRRAL COUNCIL

### CABINET

22 SEPTEMBER 2011

<b>SUBJECT:</b>	<b>INDEPENDENT REVIEW</b>
<b>WARD/S AFFECTED:</b>	<b>ALL</b>
<b>REPORT OF:</b>	<b>CHIEF EXECUTIVE</b>
<b>RESPONSIBLE PORTFOLIO HOLDER:</b>	<b>COUNCILLOR STEVE FOULKES</b>
<b>KEY DECISION?</b>	<b>NO</b>

#### 1.0 EXECUTIVE SUMMARY

- 1.1 This report advises Cabinet of the progress of an Independent Review of Wirral Council's Response to Claims made by Mr Martin Morton (and others). The Independent Review was commissioned by the former Leader of the Council from AKA (the trading name of Anna Klonowski Associates Ltd.). AKA have prepared a comprehensive draft report, together with a draft Executive Summary report, in relation to those matters. However, AKA's lawyers have advised that this Report and Executive Summary must not be published until those named in the report have had the opportunity for a right of reply. This right to reply process is underway. The Council's Monitoring Officer agrees with this legal advice.
- 1.2 AKA have also produced a Supplemental Report entitled 'Wirral Metropolitan Borough Council's Corporate Governance Arrangements: Refresh and Renew' ('The Corporate Governance Report'): copy attached at Appendix A. Therefore this paper addresses The Corporate Governance Report which summarises the organisational weaknesses that allowed the issues raised by Mr Morton to occur; and which the Council failed to address.
- 1.3 As Chief Executive I regard the issues highlighted in The Corporate Governance Report as the most significant challenge facing the Council and I will personally lead and drive the corporate changes that are urgently required.
- 1.4 Failure to address the issues detailed in The Corporate Governance Report has led to:
- A) A Public Interest Report,
  - B) Two reports under the Public Interest Disclosure Act,
  - C) A "red flag" raised by the Audit Commission in relation to Adult Social Services Data,
  - D) A Care Quality Commission (CQC) Report relating to issues raised by the "red flag",
  - E) Concerns raised by the Council's external auditors, and

F) A number of issues raised by the Director of Finance in the Council's own corporate governance statements.

1.5 Consequently, AKA concludes that *"the Council has not yet learned the necessary lessons to enable its corporate governance arrangements to become more robust and fit for purpose."* In the opinion of AKA, the Council remains at risk of some form of external intervention. Despite the Government's intention to move to a system of self-regulation from April 2012, until the existing legislation is repealed, the Council could be subject to an external corporate governance inspection under Section 10 of the Local Government Act 1999.

1.6 AKA recommends a number of actions. Specifically, AKA recommends that a Cabinet Committee be established to oversee the assessment, design and delivery of improvements in the Council's corporate governance arrangements. AKA recommends that the Cabinet Committee be supported by the Council's statutory officers – The Chief Executive, Monitoring Officer (Director of Law, HR and Asset Management) and S151 Officer (Director of Finance) – together with one or more working groups.

## **2.0 RECOMMENDATIONS**

2.1 It is recommended that:

- (1) Cabinet accept the findings of AKA's report.
- (2) Cabinet establishes a Cabinet Committee in accordance with the recommendations in the Corporate Governance Report and instructs the Chief Executive to present a further report, for Cabinet consideration on 13 October 2011, detailing an action plan to address the issues identified by AKA.
- (3) Cabinet considers whether or not to appoint external support to assist in the assessment, design and delivery of the identified improvements.
- (4) Cabinet thanks AKA for the report, and approves payment to AKA. It is currently estimated that this is likely to total £250,000, including external legal costs.
- (5) The Chief Executive be instructed to organise a presentation by AKA to which all Members of the Council will be invited.

## **3.0 REASONS FOR RECOMMENDATIONS**

3.1 Good Corporate Governance is at the heart of how an effective local authority operates. The Chartered Institute of Public Finance and Accountancy and the Society of Local Authority Chief Executives define governance as being:

*“about how local government bodies ensure that they are doing the right things in the right way for the right people in a timely inclusive open honest and accountable manner. It comprises the systems and processes and cultures and values by which local government bodies are directed and controlled and through which they account to engage with and where appropriate lead their communities.”* (Delivering Good Governance in Local Government Framework)

- 3.2 The Audit Commission asserts that *“Good governance adds value; it ensures effectiveness in ever changing circumstances”*.
- 3.3 The Council may be at risk from an external corporate governance inspection under the Local Government Act 1999.
- 3.4 From April 2012, the government intends that councils will be required to operate under a self-regulation regime.
- 3.5 The Council therefore needs to address the weaknesses identified by AKA as a matter of urgency, to ensure that it can comply with the intended revised regulatory regime from April 2012.

#### **4.0 BACKGROUND**

- 4.1 The report on matters of corporate governance arises from AKA’s appointment by the Council to review issues raised by the whistleblower relating to concerns in the Department of Adult Social Services Learning Disabilities Services.
- 4.2 AKA was appointed by the then Leader of the Council under delegated powers to:
  - A) Determine whether, in her professional opinion, all of the issues raised by Mr Morton have been properly and adequately addressed;
  - B) Determine if all lessons to be learned across the Council have been properly and thoroughly heeded; and
  - C) Reassure the Leader and the Portfolio Holder that no similar matters need to be addressed.
- 4.3 I extended these terms of reference whilst Interim Chief Executive, following consultation with the then Leader, to include work around the Improvement Plan produced in response to the report from CQC (see paragraph 1.3); issues around the Disability Discrimination Act; and issues raised by the Equalities and Human Rights Commission.
- 4.4 The Council has received a separate and comprehensive report together with an Executive Summary report in relation to those matters: however, AKA’s lawyers have advised that those reports cannot be published until those named in the report have had the opportunity for right of reply. The Council’s Monitoring Officer agrees with this advice.
- 4.5 AKA has produced an additional report into the governance issues arising from the work. This additional report is the subject of this paper.

## THE CORPORATE GOVERNANCE REPORT

- 4.6 The report is reproduced in Appendix 1.
- 4.7 AKA identifies examples of the impact of a variety of corporate governance weaknesses:
- A) Inadequate systems to manage performance and spot failures
  - B) Being unable to understand and implement fees and charges properly
  - C) Not being able to commission, manage and, where necessary, dismiss failing contractors and suppliers
  - D) Shortfalls in the way the Council evaluates the impact of its policies both prior to execution and in response to evidence about the impact
  - E) A reluctance to listen to and support Wirral Council staff when they have tried to raise and resolve issues on the Council's behalf
  - F) The reluctance of some staff to speak out because of the perceived impact this might have on them and/or their career at Wirral.

Additionally, and consistent with the self-regulation regime which is being introduced from April 2012, AKA asks the Council to assess its performance over a number of key corporate governance issues. AKA has provided an indicative assessment of these key issues based on the Independent Review.

Area of Corporate Governance	AKA's Assessment (X= issues to be addressed)
Financial Issues	X
Member Capacity	X
Officer Structures	X
Service Quality	X
Corporate Planning	X
Partnership Working	
Procurement	X
Community Engagement	
Risk Management	X
Equalities	X

- 4.8 For illustrative purposes, AKA highlights how other councils have addressed identified weaknesses in similar issues. It is clear that the Council must respond effectively to the issues identified in all these areas.

## **5.0 RISKS**

5.1 Embedded appropriate corporate governance arrangements ensure that:

- A) Authority policies are implemented in practice,
  - B) Authority values and ethical standards are met,
  - C) Laws and regulations are complied with,
  - D) Required processes are adhered to,
  - E) Published information is accurate and reliable,
  - F) Human, financial and other resources are managed efficiently and effectively, and
  - G) High quality services are delivered efficiently and effectively.
- A failure in effective corporate governance therefore means there is a risk that that these fundamental issues have not been met.

## **6.0 OTHER OPTIONS CONSIDERED**

6.1 None: the Corporate Governance Report sets out issues identified through an independent external review commissioned on behalf of the Council.

## **7.0 CONSULTATION**

7.1 This report concerns issues raised by an independent review commissioned on behalf of the Council. The objective is to improve corporate governance which underpins how the Council engages with the community.

## **8.0 IMPLICATIONS FOR VOLUNTARY, COMMUNITY AND FAITH GROUPS**

8.1 The objective is to improve corporate governance which underpins how the Council engages with the community.

## **9.0 RESOURCE IMPLICATIONS: FINANCIAL, IT, STAFFING AND ASSETS**

9.1 Financial: the estimated cost of AKA is £250,000, including legal fees. However, this estimate is dependent on any further work required as a result of the 'right to reply' process. There may be additional costs should external support be engaged. These costs will be funded 2011/12 from balances.

9.2 IT, staffing and assets: there are no direct implications.

## **10.0 LEGAL IMPLICATIONS**

10.1 Until the existing legislation is repealed, the Council could be subject to an external corporate governance inspection under Section 10 of the Local Government Act 1999.

## **11.0 EQUALITIES IMPLICATIONS**

11.1 Equalities is an area of corporate governance weakness identified by AKA.

## **12.0 CARBON REDUCTION IMPLICATIONS**

12.1 None.

## **13.0 PLANNING AND COMMUNITY SAFETY IMPLICATIONS**

13.1 None.

**REPORT AUTHOR:** Jim Wilkie  
Chief Executive  
Telephone: (0151) 6918589  
Email: jimwilkie@wirral.gov.uk

## **APPENDICES**

Appendix A: AKA Supplemental Report entitled 'Wirral Metropolitan Borough Council's Corporate Governance Arrangements: Refresh and Renew' dated September 2011.

## **REFERENCE MATERIAL**

None

## **SUBJECT HISTORY (last 3 years)**

<b>Council Meeting</b>	<b>Date</b>
<b>Cabinet</b>	<b>6 November 2008</b>
<b>Audit and Risk Management Committee</b>	<b>4 November 2008</b>
	<b>29 June 2009</b>
	<b>29 September 2009</b>
	<b>3 November 2009</b>
	<b>(2 Reports)</b>
	<b>25 November 2009</b>
	<b>24 March 2010</b>