

Audit Committee – 24 March 2010

European Structural Fund Objective 2

Summary of report:

The attached report prepared by Grant Thornton LLP addresses the resolution of the Council made on 14 September 2009.

The report includes:

Introduction
Chronology of key events
Project management and governance
Key lessons learned
Recommendations

Recommendation:

1. To consider the contents of the report prepared by Grant Thornton.

Paul Sheehan
Chief Executive

16 March 2010

Background:

The European Regional Development Fund funding round ran from 2000-2006. Projects in place at 31 December 2006 were funded up to 31 December 2008. Close down of the programme was completed in 2009 with the necessity to de-commit around £2.5 million.

At its meeting on 14 September 2009, the Council considered the matter and concluded that an independent investigation was required. The Council resolved:

“This Council notes with concern the recent report to Cabinet on the audit of past payments made under the European Regional Development Fund and European Social Fund programmes.

- Council calls for a full and accurate disclosure of the financial consequences to the Council Tax payers of Walsall and this to be tabled at a future meeting of the Audit Committee.

- This full investigation to show how the management and records for this programme were not to the standard required to justify the payments, and how the risk assessment did not uncover this potential serious loss for the Council, as warned by a previous employee of this Council, two weeks after taking up post.
- Council also requires referral to Audit Committee of a further report detailing the action plan to prevent any such losses occurring in current and future projects.”

Resource and legal considerations:

The report details significant resource implications. Specific legal advice will be made available to Members.

Governance Issues / Citizen impact:

Issues of governance of the European programme are addressed. There have been impacts upon local citizens in that it has not been possible to secure all of the grant to which the Council may have been entitled.

Performance and risk management issues:

Performance and risk management systems were not as effective as they should have been during the funding round 2000-2006 and the final funding period.

Equality Implications:

None arising directly from this report.

Consultation:

Those referred to in the report have been consulted on the draft and, where appropriate, the final report reflects the comments made.

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Grant Thornton

Walsall Metropolitan Borough Council

Investigation into the European Structural Fund Objective 2

Action Plan ("Community Regeneration in Walsall")

16 March 2010

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- 2 Glossary of key terms**
- 3 Chronology of key communications**

1 EXECUTIVE SUMMARY

INTRODUCTION

BACKGROUND

- 1.1 The European Union stimulates economic development in least prosperous parts of the European Union using European structural funds. Walsall Metropolitan Borough Council participated in the Objective 2 funding round 2000 to 2006 under its Action Plan "Community Regeneration in Walsall". The Action Plan was approved by the Government Office for the West Midlands, which issued its grant offer letters in late 2003.
- 1.2 The Action Plan comprised both European Regional Development Fund and European Social Fund grants. The main distinction between the two is that the former is focussed on supporting the economic development and conversion of industrial, urban and fisheries areas facing difficulties, whereas the latter is focussed on adaptation and modernisation of policies and systems of education, training and employment.
- 1.3 Whilst the funding round period was from 2000 to 2006, projects in place by 31 December 2006 were funded for expenditure up to 31 December 2008. Thereafter, the Action Plan ceased and entered the closure phase.
- 1.4 The Council is the Accountable Body responsible for administering the programme. Approved 'third sector organisations' deliver eligible community projects and make claims from the Council for their expenditure. The Council, in turn, submits claims for reimbursement to the Government Office for the West Midlands. Therefore, from a financial perspective this funding should generally be neutral in terms of the Council's finances.
- 1.5 On 24 June 2009, prior to submission of the final grant claims, Council officers requested, and the Cabinet approved, the elimination of grant claims that might not be deemed eligible (due to lack of supporting evidence) and which might jeopardise the overall grant claim. The Council approved a figure of "*at least £1 million*".
- 1.6 The final grant claim was submitted on 7 August 2009. At around the same time the Government Office for the West Midlands completed its Article 10 inspection of the Action Plan on ERDF measures. This was reported to the Council on 19 August 2009,

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and concluded that there were major deficiencies with the Council's arrangements regarding this programme.

- 1.7 Based on the findings of the Article 10 inspection and the qualification of external audit certificates on final grant claims, the Government Office for the West Midlands insisted that the Council re-submit the final grant claim or face the risk of losing all, or substantial, amounts of the total ERDF grant of £3.2 and/or potentially a fine.
- 1.8 A further final grant claim was re-submitted to the Government Office, which resulted in a loss of £2.5 million grant funding. This was significantly in excess of the anticipated amount of £1 million, but less than the full ERDF amount of £3.2 million, due largely to the remedial efforts of the Director of the Walsall Borough Strategic Partnership and the Finance team, who were engaged at this late stage in improving the evidence submitted to support the final claim.

SCOPE AND OBJECTIVES

- 1.9 The detailed scope of our work is set out in Section 2 and is not repeated here. However, it should be noted that the Members of the Council expressed concern and requested a formal and independent review into the matter on 14 September 2009.
- 1.10 Our approach to the work comprised the request of relevant information relating to the Action Plan, an extensive range of interviews with Council and Walsall Borough Strategic Partnership officers, Councillors and representatives from other external organisations (the Government Office for the West Midlands, the Audit Commission and West Midlands Police) and review of requested documents.
- 1.11 This work is performed as part of our statutory role as the Council's appointed external auditor.

SUMMARY OF KEY FINDINGS

- 1.12 We have summarised our key findings below in the following themes.

PROGRAMME MANAGEMENT ISSUES

- 1.13 The ERDF Article 10 inspection report of 19 August 2009 commented critically on the weaknesses in the Council's management of the programme. In particular, the executive summary of the report stated that:

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"In fact, other than limited examples of good practice at the Council on Article 4 (monitoring) visit coverage and project closure reports, there were few positive points arising from their administrative activity on the project. Overall, this is a wholly unsatisfactory position and reflects very poorly on the Council's management & control systems which were found to be inadequate for the complexity of such a programme.

Away from the considerable shortcomings in terms of accounting processes, transparency, and contractual clarity, a number of schemes, especially capital schemes, and initiatives have been satisfactorily delivered but, apart from this sample, the GOWM Inspection Team can offer little or no assurances in terms of compliance given the extent of the problems identified and the content of the qualified audits. These are likely to result in further significant losses or considerable reductions in some schemes and, more generally, the application of a financial correction to be established by the GOWM European Team to reflect on the inadequate management and control systems. Overall, this was also a disappointing inspection of one of the most experienced players in the region."

- 1.14 The Article 10 report is, therefore, indicative of a lack of capacity and competence within the programme team, which resulted in poor levels of compliance with grant conditions, particularly in providing the audit trails and other supporting evidence for the Action Plan projects.
- 1.15 The programme team did not work effectively with the third sector organisations delivering the projects. In addition, the Government Office noted little direct involvement of senior management with the Neighbourhoods Directorate when discussing the Council's arrangements at that time, there was little support sought from the Council's finance team, beyond processing of claims, and Internal Audit did not review the financial controls in place.
- 1.16 With the exception of a limited period of temporary national embargo, throughout the period of the Action Plan, the programme management team was required to complete and have audited annual grant claims. These were, however, not always completed as required. The 2003/04 and 2004/05 claims were completed and audited by the Audit Commission (the Council's auditors at the time). However, claims for years 2005/06, 2006/07 and 2007/08 were not submitted until mid 2009. As a result, external audits for these years did not take place until after the closure of the programme.
- 1.17 The 2004/05 claim certification (dated May 2006) contained qualifications by the auditor surrounding the level of audit trail and acceptance of claims from the third sector organisations, which contained missing or incomplete data. Subsequent experience has shown that the Council did not respond effectively to this early warning indicator.

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- 1.18 Also, during this period, the Government Office for the West Midlands became concerned that monitoring visits by the programme management team (referred to as Article 4 monitoring visits) on third sector organisations were either not being undertaken, or, where completed, were not in the requisite format.
- 1.19 From the inception of the Action Plan in 2004 the role of the Walsall Strategic Borough Partnership was to provide guidance and strategic direction. The initial group set up to undertake this role, the Walsall European Partnership, was widely accepted as having failed to provide effective guidance. This group was subsequently replaced by the Walsall European Programmes and Performance Board in September 2005, although our report identifies that this Board was also not effective in monitoring the programme management arrangements and communicating its members' concerns over the quality and regularity of programme monitoring information back to the Council, as the formal 'Accountable Body' for the Action Plan.
- 1.20 There were, therefore, several contributory factors leading to the root cause of problems with the Action Plan from its inception through to around late 2007. Where possible we have identified in this section, and in the body of our report, those individuals responsible where weaknesses have occurred. Of note is the fact that most of the programme management issues relate, in our opinion, to the Neighbourhoods Directorate. In many cases it was not possible to relate specific findings to the individuals responsible within the Directorate. It should be noted that overall responsibility for the work of the Directorate (including that of the programme team) was that of the Executive Director of Neighbourhoods (and the predecessor Regeneration, Housing and Build Environment Directorate).

RECTIFICATION MEASURES

- 1.21 In response to the Government Office for the West Midlands' concerns regarding the programme, the Council prepared a 'Compliance Action Plan', which sought to address the compliance issues and ensure that claims were fully supported by audit trails and that grant conditions were fully met. This comprehensive document was finalised and submitted to the Government office during December 2007. Compliance was expected to be achieved by summer 2008 at the latest, if not earlier, but the Compliance Action Plan was never properly implemented.
- 1.22 We consider that, having had the significance of the weaknesses in programme administration raised clearly, and then putting into place a plan to remedy the situation,

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the non-implementation of this remedy is a major failure within the Neighbourhoods Directorate. In addition, the fact that the lack of progress (and the implication thereof) was known within the Neighbourhoods Directorate but not fully shared formally with others within the Council weakened considerably the Council's potential response to this issue, in our opinion.

- 1.23 Whilst officers were attempting to close the programme, they requested the Government Office for the West Midlands to delay its planned Article 10 inspection several times between June 2007 through to November 2008. We consider that the Neighbourhoods Directorate should not have taken this course of action. It should have engaged more promptly and fully with the Government Office for the West Midlands to take benefit from an early Article 10 inspection. An earlier inspection would have afforded the opportunity to identify flaws in the Compliance Action Plan, at an earlier stage, and put in place further mitigation measures.

TRANSPARENCY AND COMMUNICATION

- 1.24 The Council's risk management procedures first identified the risk in relation to European Union funding in July 2008, both in the Neighbourhoods Directorate risk register and the Corporate Risk register.
- 1.25 The key mitigating factor for this risk was the implementation of the Compliance Action Plan. However, as noted above, this was never achieved, nor was this (or the implications thereof) made clear within the Council's risk management arrangements.
- 1.26 In our view, the potential risk in relation to European Union funding not meeting grant conditions should have been identified at a much earlier stage. For example, in 2005 when the Walsall European Partnership was identified as failing and replaced by the Walsall European Programmes and Performance Board, when the annual statement of grant expenditure forms were not being completed and subject to external audit from 2006, and when concerns were raised by the Government Office for the West Midlands leading to the production of the Compliance Action Plan in 2007.
- 1.27 Throughout our review we have identified examples demonstrating that the Council would benefit from more transparent communication. For example:
- officers in the programme management team (including line management) have repeatedly communicated that the potential risk on this funding stream could be the

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entire ERDF grant amount (some £3.2 million). However, members and senior management have informed us that they had been reassured by the Neighbourhoods Directorate that the likely extent of disallowed grant was in the order of £1 million;

- the Chair of the Walsall European Programmes and Performance Board has stated that there was a reluctance to fully discuss matters at the Board in a forum containing other stakeholders from outside the Council;
- the Head of Neighbourhood Partnerships and Programmes attended the Audit Committee on 13 January 2009 and gave a presentation on the corporate risk of "failure to comply with EU grant regulations and repayments required". Neither the presentation nor the minutes reflect that the Compliance Action Plan had not been implemented, or the potential value of grants to be excluded from final claims; and
- the lack of wider communication of the Executive Summary of the Government Office Article 10 inspection report of 19 August 2009, which gave a clear indication of the severity of issues facing the Council following the submission of grant claims on 7 August 2009.

1.28 In our view, it is critical that matters of significance should be communicated throughout the Council in a timely, open and transparent manner (subject to appropriate confidentiality issues) to ensure efficient and effective management of issues.

RECOMMENDATIONS AND THE WAY FORWARD

1.29 We have set out several recommendations in Section 6. These findings and recommendations derive from our review of the Action Plan. However, the issues identified are equally applicable to other grant funding streams. **The Council should undertake a review of all other major grant funding streams in light of the findings and recommendations in this report.**

1.30 The Council should also ensure that the findings and recommendations are implemented as relevant for all future grant claims.

ACKNOWLEDGEMENTS

1.31 We would like to take this opportunity to thank all those officers, members and third party organisations who have assisted us during this review.

2 INTRODUCTION

BACKGROUND

- 2.1 Walsall Metropolitan Borough Council ("WMBC" or the "Council") facilitates regeneration in the Walsall Borough in a number of ways, including for example, the utilisation of various grants and funding arrangements from structural funds available from the European Commission on behalf of the European Union ("EU"). WMBC participated in the 2000 to 2006 funding period for Objective 2. The Council set out its plan for grant spending in a document called the Action Plan, entitled "Community Regeneration in Walsall". The Action Plan contained elements of both European Regional Development Fund ("ERDF") and European Social Fund ("ESF") funding.
- 2.2 The programme commenced with the issue of the Council's Action Plan in December 2002 and subsequent acceptance of grant offer letter from the Government Office for the West Midlands ("GOWM") on 29 October 2003. The programme ceased on 31 December 2008 (projects in place by 31 December 2006 were funded for expenditure up to 31 December 2008)¹. The programme has been in closure mode since 31 December 2008.

TERMS OF REFERENCE

- 2.3 Grant Thornton UK LLP ("Grant Thornton" or "we") is the statutory auditor of Walsall Metropolitan Borough Council. Grant Thornton is appointed under Section 3 of the Audit Commission Act 1998 and acts independently to the Audit Commission and Council. We have agreed with Walsall Metropolitan Borough Council that we should, as part of our statutory functions, consider a number of matters arising from the closure process during 2009. Specifically, the Council meeting on 14 September 2009, during which meeting Members of the Council expressed concern and resolved that:

"This Council notes with concern the recent report to Cabinet on the audit of past payments made under the European Regional Development Fund and European Social Fund programmes:

- *Council calls for a full and accurate public disclosure of the financial consequences to the Council Tax payers of Walsall and this to be tabled at a future meeting of the Audit Committee.*
- *This full investigation to show how the management and records for this programme were not to the standard required to justify the payments, and how the risk assessment did not uncover this*

¹ No new commitments are permitted under the Action Plan after 31 December 2006.

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potential serious loss for the Council, as warned by a previous employee of this Council, two weeks after taking up post.

- *Council also requires referral to Audit Committee of a report detailing the action plan to prevent any such losses occurring in current and future projects."*

2.4 In order to address the Council resolution it has been agreed between Grant Thornton and WMBC that we should investigate and report on the following:

- To establish and set out a chronology of events that led to the Council submitting a final claim for European Funding to the GOWM on 7 August 2009 that did not contain substantial sums that had been de-committed and a significant consequential impact on the Council Revenue Budget;
- To establish the nature, scale and impact of the deficiencies in management control, systems, risk management and any other areas that led to the need for this de-commitment;
- To identify who was responsible for the key decisions and judgements that were made in respect of both designing and running the programmes; and preparing and submitting the Council final grant claim in 2009, and the consequences of these key decisions and judgements;
- To identify the key lessons for the Council arising from this loss of external funding; and
- To recommend improvements of any kind that the Council could make that would minimise any repetition and protect the Council's future financial position in respect of external funding grant management and claims.

2.5 If further information is produced in respect of the audit during the current year and brought to our attention after service of this report, we reserve the right to revise our opinions as appropriate.

OUR APPROACH

2.6 Our approach to the work was based on a combination of the following:

- A request for relevant information as regards the set-up, management and control of the Action Plan;
- An extensive programme of interviews with WMBC Councillors, WMBC and Walsall Borough Strategic Partnership ("WBSP") staff and other key organisations

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(GOWM, Audit Commission and West Midlands Police). We interviewed both current and former programme team managers. For a full listing of all those interviewed as part of this review see Appendix 1;

- A review of electronic documents and emails for former programme management team members, to the extent available, in order to identify relevant documents; and
- A review of the documents provided as requested and identified during the course of our investigation.

2.7 For the avoidance of doubt, our scope of work did not include review of the detailed project files or assessment of the extent to which projects delivered desired outcomes. Nor was the purpose of this review to re-audit the grant claims. The focus of this review was the overarching issues of programme management and governance.

2.8 In the interest of accuracy and fairness we undertook a consultation on a draft version of our report with several individuals. This consultation was directly between Grant Thornton and the individuals on relevant extracts of our report. We also provided the Council with a copy of the entire draft report. The Council undertook collective feedback on the draft report with relevant individuals including the Chief Executive and the Leader of the Council. Comments raised by individuals were forwarded to us for further consideration. We have set out findings and key lessons learnt in the remainder of this report.

2.9 We have included at Appendix 2 a glossary of the key abbreviations and terms used throughout this report.

STATUS OF REPORT

2.10 This document and the views presented in it are based on information provided to Grant Thornton by, or on behalf, of Walsall Metropolitan Borough Council, previous employees of the Council and other organisations during the course of our investigation. Such information has not been independently verified by Grant Thornton. Without limiting the foregoing, Grant Thornton shall have no liability or responsibility to the extent that any information supplied to it or representations made to it, or on the basis of which this document has been prepared, is inaccurate, incomplete or misleading.

2.11 This report has been prepared by Grant Thornton in connection with our statutory role as the Council's appointed external auditor and is therefore prepared specifically for this purpose. Grant Thornton neither owes nor accepts any duty of care to any third party and

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shall not be liable for an loss, damage or expense which is caused by any reliance that any other party may place on this information.

2.12 This report is subject to Section 49 of the Audit Commission Act 1998, which states that:

"(1) No information relating to a particular body or other person and obtained by the Commission or an auditor, or by a person acting on behalf of the Commission or an auditor, pursuant to any provision of this Act or in the course of any audit or study under any such provision shall be disclosed except -

(a) with the consent of the body or person to whom the information relates;

(b) for the purposes of any functions of the Commission or an auditor under this Act;...

(e) in accordance with section 37(6) or 41(4); or

(f) for the purposes of any criminal proceedings.

(2) References in subsection (1) to studies and to functions of the Commission do not include studies or functions under section 36.

(3) A person who discloses information in contravention of subsection (1) is guilty of an offence..."

2.13 Further to this provision, information contained in this report should not be disclosed to anyone unless the specific conditions in sub-section (1) are met.

2.14 This is a statutory audit report issued further to the auditor's duty under the Audit Commission Act 1998 and the Code of Audit Practice. Thus, this report is prepared as part of our statutory responsibilities for reporting annually on our conclusion whether the Council has put in place proper arrangements for securing economy, efficiency, and effectiveness in use of resources.

FORMS OF REPORT

2.15 For your convenience, this report may have been made available to recipients in electronic as well as hard copy format. Multiple copies and versions of this report may therefore exist in different media and in the case of any discrepancy the final signed copy should be regarded as definitive.

3 CHRONOLOGY OF KEY EVENTS

BACKGROUND

- 3.1 This section sets out the key events during the delivery of the European structural funds (ERDF and ESF) at WMBC under the Community Regeneration in Walsall Action Plan. We have also included at Appendix 3 a chronology of key communications identified during the course of our work.
- 3.2 European structural funds were set up to stimulate economic development in the least prosperous regions of the EU. As membership of the EU has grown, both ERDF and ESF have developed into major instruments for redressing regional imbalances and improving employment opportunities.
- 3.3 The structural funds are delivered by funding bodies in rounds. Structural funds are administered by member state governments via a 'Managing Authority', which in this case was the Government Office for the West Midlands. The round relevant to this report is the structural funding period 2000 to 2006. Funding is available under three objectives. The focus under Objective 1 was to promote the development and structural adjustment of regions whose development was lagging behind other European regions. Certain regions across the EU were designated as eligible for Objective 1 funding. In the UK these included Merseyside, South Yorkshire and Cornwall. The focus under Objective 2 funding was on supporting the economic development and conversion of industrial, urban and fisheries areas facing structural difficulties. Walsall fell into an eligible region and WMBC sought to capitalise on this source of grant funding. Objective 3 relates to the support, adaptation and modernisation of policies and systems of education, training and employment. All regions of the EU were eligible for Objective 3 funding.
- 3.4 Both Objectives 1 and 2 contained ERDF and ESF elements whereas Objective 3 contains only ESF. Our review is in respect of Walsall's Objective 2 programme.

KEY OFFICERS

- 3.5 We have summarised below the key WMBC and WBSP officers and staff and their respective titles for the years 2003 to 2009, covering the period from inception of the Action Plan through to the submission of final grant claims:

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	2003	2004	2005	2006	2007	2008	2009
Chief Executive	Ms Annie Shepperd		Mr David Martin			Mr Paul Sheehan	
WBSP Director	Ms Roberta Smith (k)		Mr Brian Holland (l)	Mr Clive Wright (e)			
Executive Director (a)	Ms Sonia Davidson Grant (RHBE) (b)		Mr Jamie Morris (Neighbourhoods) (d)				
			Mr Tim Johnson (Regeneration)				
Assistant Director	Mr Jason MacGilp (c)		Role ceased				
Programme Management Team:							
Head of Neighbourhood Management	Ms Julie Gethin (nee Ball) (f)						
Head of Programme Management	Mr Peter Francis (g)		Role ceased				
Programme Manager	Ms Dorcas Marshall (h)				Ms Alison Fisher (i)	Mr Steve Morris (j)	
Programme officers							

Note:

(a) Relevant Directorate was Regeneration, Housing and Build Environment ("RHBE") until this directorate was split in June 2005 into (i) Regeneration and (2) Neighbourhood Directorates.

(b) Appointed May 2003 and left April 2005.

(c) The role ceased following the re-organisation noted at (a) above.

(d) Appointed responsibility for Neighbourhoods following re-organisation in June 2005.

(e) Appointed February 2006. Transferred into Neighbourhoods in July 2009 reporting to Mr Jamie Morris. Took over line management of Ms Julie Gethin (September 2008).

However, Ms Gethin continued to report directly to Mr Jamie Morris re EU funding and certain other matters.

(f) Appointed June 2004 as Head of Neighbourhood Management and then later Head of Neighbourhood Partnerships and Programmes from April 2005.

(g) Appointed Head of Programme Management January 2004 and left June 2005.

(h) Senior Urban Regeneration Officer and then Programme Manager from July 2005. Left June 2007.

(i) Appointed September 2007 and left October 2008.

(j) Appointed October 2008.

(k) Appointed July 2003 and left June 2005

(l) Appointed June 2005 and left January 2006

3.6 We have expanded the above summary table to include details of other officers in Section 4.

THE ACTION PLAN AND OFFER LETTERS - 2003

3.7 WMBC submitted its Action Plan entitled "Community Regeneration in Walsall" to the Managing Authority (GOWM) on 31 December 2002. The plan was submitted by Ms Dorcas Marshall, the former European Programme Manager. The Action Plan identified the following objectives:

"1. To develop and enhance the organisational infrastructure and capacity for community economic regeneration within and across the priority areas of Walsall.

2. To develop employment opportunities for residents in the Priority 3 areas for Walsall and support the creation of new jobs, enterprises and income generating opportunities according to local needs.

3. To build sustainable and connected neighbourhoods within the Priority areas of Walsall and to enable communities to improve their local environment and strengthen local facilities.

4. To enhance and develop the skills of communities in the Priority 3 neighbourhoods in Walsall and to increase the opportunities for local communities to access learning and vocational skills and qualifications."

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3.8 The proposed structural funding included in the Action Plan comprised:

Category/measure	Funding £ 000's
Measure 3.1: Developing social capital and enabled communities	3,657
Measure 3.2: Developing employment opportunities	1,801
Measure 3.3: Building sustainable and connected neighbourhoods	6,654
Measure 3.4: Upskilling communities	2,897
Total	15,009

3.9 Measures 3.1 to 3.3 attract ERDF funding and measure 3.4 attracts ESF funding. ERDF comprises a mixture of revenue and capital expenditure whereas ESF is revenue only funding. The total original grant amount under the Action Plan was in the region of £7 million plus matched funding of £8 million (a total of £15 million).

3.10 The Action Plan acknowledged that WBSP would be required to play an important role in the delivery of the Action Plan (paragraphs 4.12 to 4.22) in that it would provide guidance, expertise, advice and information regarding European funding to manage opportunities using a partnership approach to all organisations in Walsall.

3.11 On 29 October 2003, following discussions with the Council, GOWM issued its offer letter for payment of total ERDF grants (measures 3.1 to 3.3) under the Action Plan of £6.0 million to WMBC based on forecast eligible spend of £15.3 million. The offer letter was addressed to Ms Sonia Davidson-Grant, Executive Director at WMBC. The offer letter sets out various detailed conditions attached to the grant funding. We have set out some of the detailed conditions in Section 4, as part of the introduction to the project management and governance arrangements. The total ESF grant (measure 3.4) under the Action Plan was subject to a separate offer letter dated 21 November 2003 (covering the years 2003 to 2005) and was for grant of £0.7 million based on forecast eligible expenditure of £1.5 million. The total grant offer, therefore, being £6.7 million.²

3.12 As the Action Plan progressed, variations were agreed between WMBC and GOWM in light of the Council's progress with objectives and outcomes. The original offer letter of 29 October 2003 was subsequently replaced with amended grant amounts agreed between WMBC and GOWM in June 2005, December 2008 and March 2009. The final amended grant offer letter comprised ERDF grant of £4.6 million on total eligible expenditure of £11.6 million.

² ERDF of £6.0 million plus ESF of £0.7 million.

IMPLEMENTATION OF ACTION PLAN 2004 THROUGH 2005

- 3.13 Following the offer letter of October 2003, the programme management team commenced with the task of identification, appraisal and contracting with the Third Sector (i.e. voluntary organisations) for the delivery of the Action Plan objectives. The consultation process took place from 2002 through to April 2004, with ongoing appraisals of new project applications and contracting as necessary throughout the life of the Action Plan.
- 3.14 The detailed programme management and governance arrangements are set out in Section 4. However, in brief and in order to understand the chronology, it is relevant to note that during this period, the body providing the overarching strategic guidance for the Action Plan was the WBSP, with detailed guidance via the sub-group Walsall European Partnership ("WEP"), which was replaced from September 2005 by the Walsall European Programmes and Performance Board ("WEPPB").
- 3.15 It should be noted that the Council had undergone significant upheaval in this period and this is relevant to the understanding of issues arising from the early period of the Action Plan. The Action Plan was instigated around the time of significant change in the Council. WMBC was subject to 'special measures' by Government to improve its arrangements and performance. There was a high level of interim senior managers (i.e. consultants and employees on short term contracts) within the Council until around 2004.
- 3.16 Officers have explained that the early changes in the programme management team and changes elsewhere in the Council resulted in the programme team becoming insular. Further, we understand that there were significantly strained working relationships between senior officers at the Council culminating in proceedings at Employment Tribunal. For example, the suspension of Mr Peter Francis, the first Head of Programme Management. Such factors contributed, in some officers' opinion, to the insularity of the programme management team.
- 3.17 Further, there was little or no testing of the procedures and systems in place, by management and Internal Audit, during this early period to identify whether the programme management team had in place robust procedures to meet grant conditions.

MONITORING AND COMPLIANCE 2005 THROUGH 2006

3.18 The delivery of the Action Plan should be monitored in a variety of ways, in order to ensure that the grant funds are being delivered appropriately and in accordance with the desired objectives and outcomes.

3.19 We have set out here brief details of the monitoring and compliance roles during this period (which are explained in more detail in Section 4):

- Programme management team - during this period and throughout the remaining period of the Action Plan through to final grant claims, the programme team was required to undertake Article 4 monitoring visits on projects. It has been widely acknowledged during our discussions with officers that such monitoring visits were either not taking place, or taking place but not in accordance with the required guidelines;
- Throughout this period the programme management team was required to collate ERDF 20 forms, from third sector organisation, detailing the financial spend and progress towards outcomes. These should be the detailed support for ERDF 40 forms, which form the basis of grant claims submitted to GOWM by WMBC. These documents were not being collated and reconciled;
- The programme management team was required to prepare annual statement of grant expenditure forms for individual projects (forms ERDF 60 and ERDF 80) and for the Action Plan (form ERDF 50AP). These were not always completed throughout the period;
- Internal audit - there were a number of ad hoc reviews taking place during this period that identified potential weaknesses in the audit trail for those projects subject to review;
- External audit - certification of annual statement of expenditure forms provides a mechanism to test the procedures and systems, albeit these are 'long-stop' audits, in that they take place after expenditure has been incurred. These audits took place in 2003/04 and 2004/05. The 2004/05 certification was qualified and included lack of appropriate supporting documentation. However, no subsequent annual statement of expenditure forms were submitted by the programme team until mid 2009;
- External audit was also involved in irregularity reviews similar to those noted for Internal Audit above;

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- GOWM - undertook an Article 4³ monitoring visit of the Action Plan in May 2006 and did not report any issues of particular significance but did identify the need for some improvement in processes;
- A mid-term review was undertaken by consultants, ERS, which reported on the progress of the Action Plan to May 2006. The report identified a number of issues such as governance arrangements and the instability in the programme management team arising from high turnover of staff.

3.20 Therefore, a number of significant concerns surfaced as regards the management of the Action Plan at this stage.

COMPLIANCE ACTION PLAN AND SUSPENSION BY GOWM 2007 - 2008

3.21 During 2007, following a number of compliance monitoring visits by GOWM, concerns were raised as regards the level of supporting documentation and audit trails maintained by the third sector organisations responsible for grant funded projects and WMBC as the Accountable Body.

3.22 GOWM wrote to the then WMBC Chief Executive, Ms Annie Shepperd, on 26 February 2007 explaining that over the previous 18 month period European Commission auditors nationally had become concerned by a number of issues of a serious nature, including the assurances received from Article 4 monitoring visits.

3.23 There followed various training sessions and monitoring visits by GOWM but following continued concerns with the level of assurance and flaws in the management and administration of action plans nationally, GOWM wrote to the then Chief Executive, Mr David Martin, on 28 August 2007 stating that GOWM was *"required to suspend payments of claims to the plans until the required assurance can be given"*.

3.24 Subsequently, WMBC put into place a Compliance Action Plan to address deficiencies in the audit trail in order to bring supporting documentation on third sector managed projects back into compliance with EU funding regulations.

3.25 The Compliance Action Plan was provided to GOWM during December 2007. It set out a timetable for achieving compliance during the course of 2008. GOWM subsequently

³ Details of GOWM Article 4 inspections are set out in Section 4.

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lifted the suspension on payment of grants. It is of note that WMBC had not submitted an interim grant claim since September 2007, pending the detailed work set out in the Compliance Action Plan.

- 3.26 In addition, as matters progressed and detailed work was undertaken during 2008 little progress was made regarding the implementation of the Compliance Action Plan .
- 3.27 From the perspective of risk management, the risk that there might be a failure to comply with EU grant regulations was first identified on the WMBC risk registers in July 2008.
- 3.28 As of August 2008, the programme management team had assessed the potential financial risk and liability to the Council, by way of de-commitment, at some £1.9 million. Work continued to be undertaken by the programme management team with a view to achieving greater levels of compliance.

PROGRAMME CLOSURE PHASE - 2009

- 3.29 The programme effectively closed on 31 December 2008 from the perspective that this was the last day of the Action Plan period. Following this, from 1 January 2009 onwards the focus of the programme management team switched to closure of the Action Plan.
- 3.30 During this closure phase the programme management team compiled the necessary documentary evidence to support final claims and deal with a number of monitoring visits and inspections including for example the ERDF Article 10 visit by GOWM, which had been deferred from June 2007, due to the Council not being ready with supporting paperwork for the inspection.
- 3.31 On 24 June 2009, based on advice from the programme management team, the Cabinet approved the de-commitment of a minimum sum of £1 million⁴ of ERDF funding, in order to achieve an eligible final grant claim.
- 3.32 The final grant claims were submitted by WMBC to GOWM (following agreed extensions with GOWM) on 7 August 2009.
- 3.33 On 19 August 2009, the findings of the Article 10 inspection were provided by GOWM to the Executive Director of Neighbourhoods. The report contained reference to significant issues surrounding the audit trail and compliance with the EU grant funding

⁴ Whilst the approval was for a minimum of £1 million, the expectation was that the de-commitment would be in the order of £1 million.

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requirements. The recommendations were assessed, by officers of the Neighbourhoods Directorate, as having little or no impact on the grant claim position. However, the executive summary of the report made explicit reference to the entire claim being at potential risk.

- 3.34 In light of the Article 10 inspection report and the qualified audit opinions, GOWM insisted on re-submission of the final grant claim by WMBC. The result was that, following review of all project claims, WMBC submitted, with the agreement of GOWM, an amended final submission of grant claims on 29 September 2009.
- 3.35 Grant Thornton's role in this process included the certification of claims submitted on 7 August 2009 (which contained major qualifications) and the subsequent re-issued certifications for the final submission of grant claims on 29 September 2009.

FINAL GRANT ASSESSMENT

- 3.36 The amended final grant claim submitted by WMBC to GOWM on 29 September 2009 resulted in the de-commitment of further grant funding. The level of de-committed grant funds increased significantly from the anticipated £1.0 million approved by the Cabinet on 24 June 2009 to a final figure of £2.5 million in September 2009. This was significantly in excess of the anticipated amount of £1 million, but less than the full ERDF amount of £3.2 million, due largely to the remedial efforts of the Director of the Walsall Borough Strategic Partnership and the Finance team, who were engaged at this late stage in improving the evidence submitted to support the final claim.

4 PROJECT MANAGEMENT AND GOVERNANCE ARRANGEMENTS

OVERVIEW

- 4.1 The previous section sets out in overview the nature of the Action Plan and the key events leading to the finalisation of grant claims to GOWM on 29 September 2009.
- 4.2 In this section, we have set out details of the key aspects of the programme management and corporate governance arrangements in place to manage and monitor the Action Plan and how risks were identified and mitigated.

GOVERNANCE OVERVIEW

- 4.3 By way of background, the Executive (the Leader and the Cabinet) is at the heart of the strategic decision-making process. The Council exercises corporate governance through the following structures:
- Scrutiny and Performance Panels - these panels are central to the Council functioning. They mirror the role of parliamentary select committees. The panels (such as Environment, Health or Social Care) contribute to the development, monitoring and review of Council policies and procedures and monitor performance targets. They discuss and make recommendations on the development of policies and hold the Executive to account. These panels, therefore, provide a check and balance on the exercise of powers of the Executive;
 - Regulatory Committees - a range of committees established to carry out specific key functions relating to development control, enforcement and licensing; and
 - Specific committees, such as the Audit Committee and Standards Committee, which ensure that the Council operates prudently and meets acceptable and effective governance standards.
- 4.4 Effective corporate governance requires the identification, analysis and management of risks for the Council. The Council Corporate Risk Management Strategy states that the Audit Committee has responsibility for ensuring risk management arrangements are sound and effective. However, the Corporate Risk Management Strategy also makes it clear that each aspect of the Council structure has a role to play in the identification, analysis and management of risks.

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4.5 The remainder of this section should be read in the light of the above overview of the governance and risk management procedures.

OFFER LETTER REQUIREMENTS

4.6 The Action Plan grant offer letter⁵ from GOWM sets out the detailed grant terms and conditions. One particular feature of the Action Plan and grant offer letter was the introduction of the role of Accountable Body.

4.7 The original grant offer letter of 29 October 2003 sets out, amongst other terms, the following key governance and financial accounting requirements (which are the responsibility of the Accountable Body):

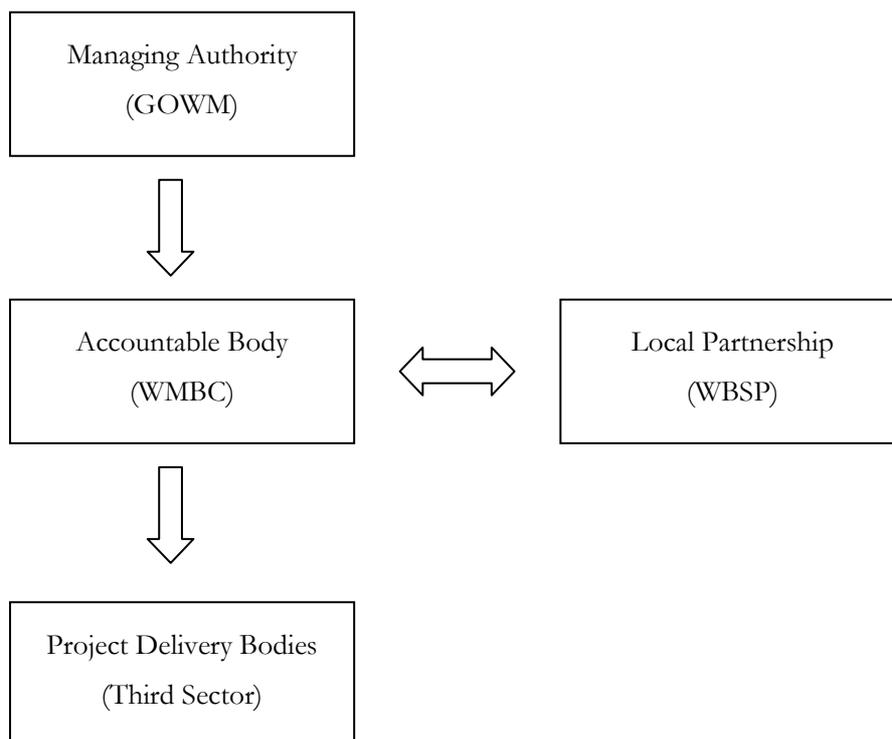
- Financial accountability:
 - effective appraisal, project monitoring and financial systems to identify costs for each project, pattern of expenditure, outputs, results and impacts;
 - the Programme Secretariat (at GOWM) should be notified if any financial irregularity (such as fraud, impropriety, mismanagement, or use of funds for purposes other than approved) is suspected and should indicate steps being taken;
- Provision of information, documentation and inspections:
 - any material changes in the Action Plan must be notified to the Programme Secretariat;
- Payment arrangements:
 - claims must be made in arrears on standard forms certified by WMBC's Chief Finance Officer;
- Audit arrangements:
 - at the end of each calendar year a final account must be prepared for all expenditure under the Action Plan for that year, which must be certified by an independent external auditor.

4.8 The above is a summary of some of the key conditions. The detailed conditions are set out in the grant offer letter and detailed guidance issued by GOWM. In context of the main requirements noted above we have considered the role of programme management and governance arrangements.

⁵ Whilst there have been a number of offer letters the terms and conditions remain substantially the same throughout the life of the Action Plan.

ACCOUNTABLE BODY

4.9 The following summarises key constituents and lines of accountability as regards the Action Plan:



4.10 WMBC entered into the Action Plan with the Managing Authority (GOWM in this case) based on the terms set out in the grant offer letter. WMBC is referred to as the Accountable Body as it is the legally constituted entity with which the Managing Authority contracts. The Accountable Body in turn contracts with the various Project Delivery Bodies from the Third Sector (i.e. voluntary and not-for-profit organisations for the delivery of the projects⁶).

4.11 The management of the Action Plan is assisted by the local partnership, WBSP. However, it is the Accountable Body that is responsible for the correct administration and delivery of the Action Plan, in line with terms of the grant offer letter.

⁶ WMBC also participated in the Action Plan directly under the Local Neighbourhoods and Partnership scheme.

WBSP - ROLE OF WEP/WEPPB

- 4.12 The grant offer letter sets out a clear requirement for an Accountable Body to be formally accountable for the delivery of the Action Plan and that this role could not be fulfilled by WBSP. However, certain functions can be fulfilled by the local partnership, as was the case with WMBC, as set out in more detail at paragraph 4.19 below.
- 4.13 WBSP brings together representatives from the local statutory, voluntary, community and private sectors to address local issues, allocate funding, and discuss strategies and initiatives. The aim is to encourage joint working and community involvement. WBSP is not a legal entity. It is an unincorporated body set up under the Government's guidance on local strategic partnerships.
- 4.14 The Action Plan set out details of the Walsall European Partnership ("WEP"), a key sub-group established under the guidance of WBSP to provide:

*"guidance, expertise, advice and information regarding European funding to maximise opportunities using a partnership approach to all organisations in Walsall"*⁷

- 4.15 The membership structure of the WEP partnership group comprised:
- public sector organisations which serve the Borough of Walsall;
 - community organisations and local people;
 - voluntary organisations; and
 - businesses.
- 4.16 However, Members and Officers have explained to us that WEP was ineffective. The Mid-Term Review report, prepared by consultants ERS, stated that WEP was a technical group comprising several stakeholders and therefore lacked the authority to drive the process forward. The Action Plan noted that two further groups within WBSP (namely the Walsall Economic Forum and European Technical Panel) would provide a support role. However, the ERS report concluded that these supporting groups within the WBSP lacked structure and failed to develop fully⁸.
- 4.17 Therefore, it is clear that the early stages of putting in place the governance and monitoring structures for the Action Plan were flawed and the lack of coherent guidance

⁷ Action Plan, draft WEP terms of reference.

⁸ ERS Mid Term Review Report, paragraphs 4.4 and 4.5

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and assistance hampered the effective embedding of systems and controls for the ongoing management of projects.

4.18 Due to the failings of WEP a successor group, the WEPPB, was set up in September 2005, some 21 months⁹ into the Action Plan implementation.

4.19 The WEPPB terms of reference¹⁰ states that the purpose of WEPPB was to:

- evaluate submissions from organisations for EU grant funding;
- approve bid proposals from projects for funding following initial appraisal by the programme management team;
- oversee the performance of the EU funds used across the Borough, where WMBC is the Accountable Body;
- monitor compliance once the grant has been made; and
- maximise funding opportunities using the partnership approach.

4.20 The composition of the WEPPB meetings generally¹¹ comprised of:

- Executive Director - Regeneration (Mr Tim Johnson)
- Head of Finance - Regeneration and Neighbourhood Services (Mr Paul Simpson, then Ms Alison Jarett and latterly Ms Vicky Buckley);
- Head of Neighbourhood Partnerships and Programmes (Ms Julie Gethin); and
- Two members from stakeholder organisations from WBSP.

4.21 Throughout the period, from September 2005 to the submission of grant claims, the Chair of WEPPB was Mr Tim Johnson (Executive Director - Regeneration). The meetings were also attended by the Programme Manager (Ms Marshall, Ms Fisher and then Mr Morris). The programme management team provided various reports for consideration by WEPPB to assist the Board in fulfilling its role.

4.22 Whilst WMBC appointed WEPPB to performs the roles set out at paragraph 4.19 above, the Council as the Accountable Body remains responsible for the correct administration

⁹ From January 2004 through to September 2005 (21 months).

¹⁰ The Terms of Reference were not formally approved until around January 2008, over 2 years after WEPPB was established.

¹¹ The Terms of Reference states that membership includes Head of Strategic Regeneration from WMBC but our review of minutes indicated attendance by this member was not always the case in practice.

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and delivery of the Action Plan. In law, the Council was not able to delegate its responsibility as the Accountable Body. It was entitled, however, to request that WEPPB assist in the process and report back and indeed, this was good practice insofar as it involved the participation of a wide range of bodies. The reporting back to Council is critical so as to ensure that the Council retained ultimate responsibility. To this extent the WEPPB Board comprised Council officers. Further, the WBSP Executive Committee met regularly to discuss (and included on its agenda) the progress of EU funding, along with other matters.

4.23 We have reviewed the WEPPB Board minutes for the period from September 2005 to May 2009 and note that:

- there are long periods during which the WEPPB did not formally meet - June 2007 to December 2007 and then again between January 2008 to July 2008;
- there is little evidence in the WEPPB minutes of detailed discussion of the monitoring and the impact of the Compliance Action Plan;
- during the meeting on 28 January 2008, a report was presented to WEPPB by the programme management team which set out information as regards the Compliance Action Plan and noted that *"The plan is ambitious but needs to be to minimise the risk of the Council being fined. The work in the action plan will ensure that by the end of March there is a definitive picture of compliance, whether projects have incurred ineligible expenditure and whether there are ongoing risks."* The minutes recorded that *"The board discussed responsibility for the implementation of the Compliance Action Plan. It was noted that the Council will have overall responsibility as the accountable body, and the board will oversee the completion of actions by the Programmes Team. Exceptions will be reported to the Board by the Programme Manager. At present the plan is on target to meet deadlines"*;
- however, there were no further WEPPB meetings for the next 6 months during which time the detailed work under the Compliance Action Plan was being progressed;
- at the next meeting on 5 August 2008, Ms Fisher reported that *"The Risk and Liability Assessment was estimated at £2 million due to projects' failure to evidence claims but this was now reduced to £1.9 million and could be reduced further once reconciliations and claw-backs have been effected"*;
- the next meeting was held on 19 November 2008 and was the first meeting following Ms Fisher's departure and the appointment of Mr Steve Morris as Programme Manager. The report submitted at the meeting records that *"Whilst there*

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is time, therefore, the team will continue to work with the community to maximise the evidence of eligible costs and minimise the number of irregularities and clawback requests." However, there is no estimate of the potential financial risk;

- at the meeting on 3 February 2009, Mr Steve Morris explained that the Action Plan was in its closure phase and there was considerable pressure to meet deadlines - whilst a number of inspections were under way. Significant problems with local project financial records made reconciliations difficult. Mr Steve Morris estimated that there was a potential liability of at least £600,000 (arising from projects that had ceased) and further potential of £207,000 on the Enhancing Access to Learning project.

4.24 Our general observation is that the minutes do not reflect an adequate level of detailed scrutiny of the potential impact of the Compliance Action Plan. In particular, during the period February 2009 to July 2009 the WEPPB did not meet. Mr Tim Johnson has explained that he cannot recall any substantive time being spent by WEPPB on monitoring the progress of the Compliance Action Plan. Mr Tim Johnson also confirmed that the frequency of WEPPB Board meeting diminished at around the time the Compliance Action Plan was being implemented.

4.25 Mr Tim Johnson also explained that the WEPPB Board may not have been as effective as desired due, at times, to incoherent information being provided by the programme management team. This was an issue which was not directly addressed due to the programme management team reporting via the Neighbourhood Directorate rather than the Regeneration Directorate for which he was responsible. Further, he explained there were potential elements of not wishing to address issues directly in a forum which included organisations from outside the Council.

PROGRAMME MANAGEMENT TEAM

4.26 The Council had undergone significant upheaval in earlier years and this is relevant to the understanding of composition of the programme management team and reporting lines.

4.27 The Action Plan was instigated around the time of significant change in the Council. WMBC was subject to 'special measures' and there was a high level of interim senior managers (i.e. consultants and employees on short term contracts) within the Council until around 2004.

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4.28 The programme management team was created in January 2004. The following chart sets out a fuller depiction of the composition of the programme management team and senior officers to which they report:

	2003	2004	2005	2006	2007	2008	2009
Chief Executive	Ms Annie Shepperd		Mr David Martin			Mr Paul Sheehan	
WBSP Director	Ms Roberta Smith (k)		Mr Brian Holland (l)	Mr Clive Wright (e)			
Executive Director - Corporate Services	Ms Carole Evans (m)						
Assistant Director - Finance (CFO role)	Mr James Walsh (m)					Takes over CFO role	
Executive Director - Resources (n)							Mr Rory Borealis
Head of Corporate Finance	Ms Vicky Buckley						
Head of Finance - Regeneration (o)	Mr Paul Simpson			Ms Alison Jarrett			Role ceased
Executive Director - (a)	Ms Sonia Davidson Grant (RHBE) (b)		Mr Jamie Morris (Neighbourhoods) (d)				Mr Tim Johnson (Regeneration)
Assistant Director	Mr Jason MacGilp (c)		Role ceased				
Programme Management Team:							
Head of Neighbourhood Management	Ms Julie Gethin (nee Ball) (f)						
Head of Programme Management	Mr Peter Francis (g)		Role ceased				
Programme Manager	Ms Dorcas Marshall (h)				Ms Alison Fisher (i)		Mr Steve Morris (j)
Programme officers							

Note:

- (a) Relevant Directorate was Regeneration, Housing and Build Environment ("RHBE") until this directorate was split in June 2005 into (1) Regeneration and (2) Neighbourhood Directorates.
 (b) Appointed May 2003 and left April 2005.
 (c) The role ceased following the re-organisation noted at (a) above.
 (d) Appointed responsibility for Neighbourhoods following re-organisation in June 2005.
 (e) Appointed February 2006. Transferred into Neighbourhoods in July 2009 reporting to Mr Jamie Morris. Took over line management of Ms Julie Gethin (September 2008). However, Ms Gethin continued to report directly to Mr Jamie Morris re EU funding and certain other matters.
 (f) Appointed June 2004 as Head of Neighbourhood Management and then later Head of Neighbourhood Partnerships and Programmes from April 2005.
 (g) Appointed Head of Programme Management January 2004 and left June 2005.
 (h) Senior Urban Regeneration Officer and then Programme Manager from July 2005. Left June 2007.
 (i) Appointed September 2007 and left October 2008.
 (j) Appointed October 2008.
 (k) Appointed July 2003 and left June 2005.
 (l) Appointed June 2005 and left January 2006.
 (m) Ms Carole Evans in role since April 1988 and left in October 2007. Role included CFO responsibilities. Mr James Walsh took over this responsibility from October 2007.
 (n) Appointed February 2009, with much expanded responsibilities from previous Corporate Services role.
 (o) Mr Paul Simpson from November 2003 to June 2006 and the Ms Alison Jarrett from September 2006 to November 2008. Role then was merged with Head of Corporate Finance.

4.29 The ERS Mid-Term review identified the following issues as regarding the programme management team:

- the team is characterised by high turnover of staff;
- from creation there had been a number of changes in line management;
- the team had not benefited from stability and growth experience below the programme manager level;
- the team had numerous deadlines and other demands placed on them for management of a Co-Finance plan (which was another European grant funded neighbourhood development scheme at WMBC), which diverted resources;

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- responsibility for the detailed management of the projects was divided between the two programme officers in the programme management team - which, in ERS's view, was insufficient.

4.30 It is widely accepted that the staff resources available to the team was insufficient. Ms Marshall confirmed to us that throughout the early stages of the implementation of the Action Plan adequate staffing was an issue impacting on the team's performance.

4.31 During our interviews and discussions, officers have commented that the detailed knowledge of the EU programme funding was held within the programme management team but was not necessarily shared more widely with other parts of the Council.

4.32 As regards the more senior officers, during our discussion with GOWM, they explained that the level of interaction was primarily with the Programme Management Team and with little or no dialogue with either the Head of Neighbourhood Partnerships and Programmes or Executive Director until late 2007.

4.33 Further, the changes in the programme management team and the requirement to obtain detailed supporting documentation from the third sector organisations delivering the projects resulted in difficulties for some of these organisations. The Council appointed consultants RHCS to undertake a final evaluation report on the Action Plan. The report noted¹² that:

"Action since the Mid Term Review includes restructuring of the Programme Management Team with new members being recruited in 2007. Whilst this led to a difference in approach, hence the emphasis being placed on identifying eligible spend and the need to produce suitable evidence which in turn led to closer scrutiny, it undoubtedly led to difficulties for applicant organisations."

FINANCE SUPPORT

4.34 The grant offer letter, as noted above, stipulates that the Accountable Body should demonstrate financial accountability by having, amongst others, effective financial systems to identify costs for each project.

¹² RHCS report, 'Final Evaluation of Walsall's Objective 2 European Action Plan', dated June 2009, paragraph 3.2.4, page 31. Note - finance officers have explained that they were not consulted on the scope of this report nor had the opportunity to comment on its findings.

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- 4.35 From the finance perspective, EU grants do not represent monies directly spent by the Council. At its simplest level, projects run by third sector organisations incur expenditure in delivery of the Action Plan objectives and submit their claims to the Council for reimbursement. In turn the Council aggregates the various project claim expenditure and submits its own claim to GOWM for reimbursement of monies paid to third sector organisations. Therefore, the impact on the Council finances should be neutral (subject to certain ineligible costs).
- 4.36 The Council sets out detailed guidance as to how it manages grant claims in its Grants Manual. The Manual sets out clear roles and responsibilities in order to effectively manage grant claims.
- 4.37 The programme management team did not directly include a finance officer to manage the financial aspects of the claims. A nominated finance officer dealt with the processing of claims from the Council's financial perspective, to ensure third sector organisations were paid and that income was subsequently received from GOWM. However, as set out in the Council's Grants Manual, this role was separated from the administration of the scheme as the primary responsibility was placed on the programme management team to ensure adequate evidence and proper record keeping was maintained in support of claims from the third sector organisations to the Council and in turn from the Council to GOWM.
- 4.38 Mr James Walsh is the current Chief Finance Officer ('Section 151 Officer')¹³. He took up this role in October 2007. Section 151 of the Local Government Act 1972 imposes a duty to ensure lawfulness and financial prudence of decision making and overall financial responsibility for the administration of financial affairs of the Council. This would include responsibility for:
- ensuring that the Council's supporting accounting records are sufficient to show the Council's transactions are maintained in accordance with proper practices and kept up to date;
 - ensuring that there are adequate and effective systems of internal financial control and internal audit at the Council; and
 - certifying the grant claim on behalf of the Council, once satisfied that grant terms and conditions have been adhered and entries contained are accurate and

¹³ Referring to Section 151 of the Local Government Act 1972.

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substantiated.

- 4.39 In light of the above, Mr Walsh has explained to us that, in line with the Grants Manual, the finance officer in charge of processing a claim should ensure checklists are completed prior to submission (there are detailed check lists for the grant claim compiler, grant claim verifier and project manager). When signing off claims, Mr Walsh relies on assurances from his finance officers that checklists have been completed and that verification has been completed. As noted previously, the Grants Manual stipulates that the primary responsibility for the claims lie with the programme team as the finance officer is not an integral part of the programme management team.
- 4.40 The finance team and other supporting officers (led by Mr Clive Wright and Ms Vicky Buckley supported by the programme team and others) involved in dealing with the final amended grant claims provided considerable effort and assistance in ensuring the completion of the final grant claims on 29 September 2009. This concerted effort was effective as a means of considerably reducing the amount of potential clawback of ERDF grant claim from some £3.2 million to the final figure of £2.5 million. It should be noted that this late stage work comprised collation of evidence files which task should have been capable of being prepared by the programme management team. During our discussions, senior officers from GOWM also confirmed that they were impressed with these collective efforts.

INTERNAL AUDIT

- 4.41 The role of Internal Audit is pivotal in ensuring effective systems of internal control are in place throughout the Council. The Internal Audit strategic plan is based on a risk assessment in order to focus efforts on those areas considered as most at risk. Those matters which are key to the achievement of corporate objectives are examined as priority. Mr David Blacker, the Chief Internal Auditor, has explained that each year the proposed annual internal audit work plan is discussed with the Audit Committee, Executive Directors/senior managers, the Corporate Management Team and the Section 151 Officer prior to approval.
- 4.42 Internal Audit first had involvement with ERDF issues in January 2004 during a meeting between Mr David Blacker, Ms Rebecca Neill, Internal Audit Manager, and Mr Peter Francis the then Head of Programme Management. The scope of the meeting was to discuss the commencement of Neighbourhood Renewal Funding ("NRF"), Single

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Regeneration Budget ("SRB") programmes, and ERDF project reviews and was to include the review of systems and project files. The audit reviews of NRF and SRB were part of Internal Audit's planned work for that year. Internal Audit officers have explained to us that Mr Francis requested that European funding also be included within Internal Audit's work as this was a new area for which he was responsible. Mr David Blacker has explained that Mr Peter Francis did not, however, raise any specific concerns with Internal Audit regarding the management of European programme. Mr Peter Francis has explained to us that he requested this Internal Audit (as he had just taken over responsibility as Head of Programme Management in January 2004) and had some initial concerns around the adequacy of appraisals and approvals of projects but wished to gain assurance on the overall systems and procedures.

- 4.43 Following a brief suspension of Mr Peter Francis between 21 January 2004 and 10 February 2004, the Internal Audit of the ERDF programme was progressed, but initial attempts made by Internal Audit to review arrangements were frustrated by a lack of clear procedures and guidance from the programme management team. Internal Audit wrote to Mr Peter Francis on 22 April 2004, to which Mr Peter Francis replied that he was reviewing procedures and would provide a response in due course. No response was received and the review did not take place.
- 4.44 Internal Audit officers explained to us that during the months following April 2004 their limited and unallocated resources were focussed around NRF issues and matters involving the subsequent suspension and departure of Mr Peter Francis. This report does not address these historical issues as the matter is outside of our scope. However, we have considered the specific issue as to whether, or not, Mr Peter Francis made specific allegations as regards the Action Plan.
- 4.45 We have interviewed Mr Peter Francis on this matter. He has explained he had initial concerns regarding the appraisal and approval process for projects under the Action Plan but he did not express any specific concerns as regards the underlying systems and processes in place for the management and governance of the ERDF programmes. He had, however, requested the Internal Audit review on ERDF programme procedures and systems which was intended to provide positive assurance on this matter. As previously noted, this audit did not then take place due to Internal Audit's focus on the high demands from NRF and other matters surrounding Mr Peter Francis' departure.

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- 4.46 We have also discussed matters with Mr John Gregory (District Auditor, Audit Commission), who conducted enquiries into the historical NRF related matters and Detective Chief Inspector Jo Chiltern (West Midlands Police), who conducted an extensive police investigation into NRF related matters.
- 4.47 Mr John Gregory explained that he had prepared a detailed audit report around the Employment Tribunal case against the Council brought by Mr Peter Francis. Based on his work and also his review of the Audit Commission files around the time of the Employment Tribunal matter, he could find no record of Mr Peter Francis making any specific allegations as regards the management of the ERDF programmes.
- 4.48 This is consistent with Detective Chief Inspector Jo Chiltern's comments to us that, during the Police investigation around 2008 into allegations made by Mr Peter Francis, the issues revolved around the Council's NRF programme and not its ERDF programme.
- 4.49 Internal Audit officers explained to us that their approach to audit planning was risk based. The Internal Audit work plan is based on review of the risk registers, Cabinet, Council, and Corporate Management Team minutes, the Corporate Plan, Council structures as well as cumulative audit knowledge and experience. Following completion of the draft audit plan feedback is sought on the contents from the Audit Committee, Executive Directors, senior managers, heads of service and Corporate Management Team. Internal Audit officers have explained to us that the issue of audit review of the Action Plan was not raised and that their understanding was that funding was subject to external audit examination. This view was supported, in their opinion, by the fact that they were requested by the programme team to be involved in unplanned audit reviews.
- 4.50 These unplanned audit reviews included for example:
- In October 2004, GOWM was seeking to recover potential grant repayments of some £123,000 due to failure to provide evidence of spend for a 2002/03 ESF project. This was requested by Ms Dorcas Marshall, the former European Programme Manager. Internal Audit concluded that systems and the control environment were generally sufficient but were not operating effectively and raised 38 recommendations for improvements. Whilst this is not an ERDF project the findings in principle are relevant for other grant funds including the Action Plan;
 - In August 2005, Ms Dorcas Marshall requested a review of the 'Enhancing Access to Learning' project following an irregularity report to GOWM to support the

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expenditure claimed. This was a direct bid and was outside the ERDF Action Plan project, however, the lessons learnt are equally applicable to the Action Plan. The Audit Commission's (the then Council statutory auditor) final audit report on this project estimated that some £10,471 might be subject to repayment and hence the Council was required to review the circumstances. Both the Audit Commission and the Internal Audit reports made recommendations agreed by management detailing, amongst other actions, regular quarterly monitoring visits/analysis of grant recipients' compliance with grant conditions for all ERDF projects and that a reconciliation of the evidence available of spend to match funding provided by SRB and ERDF should be undertaken and evidenced. Internal Audit was informed by managers that recommendations had been implemented in January 2006; and

- At the request of Ms Julie Gethin, around August 2007, Internal Audit undertook a review of Walsall Community Development Trust ("WCDT"); a project under the Action Plan. The third sector organisation alleged that it was owed funds of £26,414 from the Council. However, this was disputed due to the lack of supporting evidence from the project. Internal Audit concluded that there was insufficient supporting documentation to confirm monies were owed to WCDT. A claim was brought in the County Court and the matter was settled prior to the hearing.

4.51 The Enhancing Access to Learning project was subsequently subject to a separate monitoring visit performed by the GOWM Article 4 monitoring team. This visit revealed additional significant errors and GOWM was expecting a repayment of the entire grant funding of some £207,000. The final repayment was agreed at around £125,000 resulting in the retention of some £81,000.¹⁴

4.52 Internal Audit explained that following the elevation of the risk that grant funding may not meet EU funding requirements in January 2009 (paragraph 4.68 below), Internal Audit planned to undertake a review of ESF and ERDF funding. This work was to be undertaken by an external firm of accountants which provides assistance to the Internal Audit function. However, this was delayed at the request of the Head of Service, Ms Julie Gethin due to the demands being placed on the programme management team during this closure phase of the Action Plan and requirement to deal with GOWM inspections.

4.53 In our view, whilst there are several factors why the ERDF Action Plan was not subject to an Internal Audit review, and Internal Audit should not seek to place total reliance on

¹⁴ See also paragraph 4.23.

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external audit work by the Audit Commission. The occurrence of issues identified following the various ad hoc reviews and the qualifications of the ERDF 50AP for 2004/05 (paragraph 4.58 below) should have prompted Internal Audit to assess the level of grant funding compliance and the implications for the Internal Audit programme.

EXTERNAL AUDIT

4.54 The grant offer letter sets out certain criteria for the audit of grant claims¹⁵. The detailed guidance on the audit requirements is set out in the Department for Communities and Local Government ("DCLG") guidance for forms ERDF 60 and ERDF 80. In particular there are requirements for annual claim audits and/or final claim audits as follows:

- all non-Local Authority projects receiving in total £20,000 or more, and Local Authority projects receiving more than £100,000 ERDF grant, require a final grant claim;
- projects receiving £250,000 or more of ERDF grant and lasting more than one year must be audited annually for the year ended 31 March. Projects receiving £250,000 or less and lasting less than one year must be audited before the final claim is paid; and
- GOWM may, at its discretion, request an annual audit of projects with less than £250,000 of grant.
- Audits by bodies that use auditors appointed by the Audit Commission (including Local Authorities) are required to use statement of grant expenditure form ERDF 60. All other bodies are required to use statement of grant expenditure form ERDF 80.

4.55 An ERDF 50AP annual statement for grant expenditure is required for the total Action Plan each year.

4.56 These annual audits, therefore, provide an opportunity to identify potential weaknesses in the processing of grant claims and identifying the extent to which projects and Accountable Bodies maintain supporting evidence and audit trails. Albeit these audits will take place after the period in which expenditure is incurred.

4.57 The Audit Commission has explained to us that it introduced a temporary embargo on certification of annual statements of grant expenditure (forms ERDF 60, ERDF 80 - for

¹⁵ Original offer letter, Annex 5

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individual projects and ERDF 50AP - for the Action Plan in total) from November 2007 through to June 2008, whilst further guidance was agreed between DCLG and Government Offices as regards a revised risk-based approach to the requirement for auditor certification. However, during this period the DCLG guidance was that forms ERDF 60, ERDF 80 and ERDF 50AP should continue to be prepared even if not subject to certification.¹⁶

4.58 The Council submitted annual statements of grant expenditure form ERDF 50AP for 2003/04 and 2004/05 both of which were certified by the Audit Commission. The 2003/04 form was certified without qualification on 6 July 2005. The 2004/05 form was certified subject to certain qualifications on 16 May 2006. The qualifications included:

- there were errors on the ERDF 50AP claim form, which might lead, in extreme cases, to withholding of grant funding and result in unnecessary costs to the accountable body. This led to a recommendation that the system for review of claims should be improved to ensure claims are checked by a third party not involved in the compilation of the claim.
- individual projects (within measures) submitted interim claim forms with details of their expenditure up to a specified time period with missing details, or data written in pencil. This would cause problems in verifying the schedules and matching to the claim form and ensuring entries are correctly included on the ERDF 50AP form. The recommendation was to ensure that all ERDF 20 forms (forms submitted by third sector organisations) have been completed fully and correctly and returned to them if incomplete or amendments were required.
- information from the ledger was not readily available to evidence payments had been made to claimants or income from GOWM received. The recommendation being that ledger reports should cover both income and expenditure with each grant claim.

4.59 Subsequent ERDF 50AP forms for the period 2005/06 onwards were submitted with the final submission claims in August 2009.

4.60 The initial grant certification by the Audit Commission identified problems with the audit trail in May 2006, albeit this is a 'long-stop', i.e. after the event. The lack of submission of

¹⁶ DCLG, ERDF Management Note number 2, 20 November 2007 and Addendum to ERDF Management Note number 2, May 2008.

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further ERDF 50AP forms will have resulted in a missed opportunity to identify further potential weaknesses in these effective management of grants.

RISK MANAGEMENT AND AUDIT COMMITTEE

- 4.61 The Council's Corporate Risk Management Strategy seeks to identify key risks at both the Directorate level and Corporate level.
- 4.62 Directorate management is responsible for implementing the Council's policies on risk and control, including the development of relevant action plans to monitor and mitigate risks. These risks are identified on the Directorate Risk Register, which assesses the likelihood and impact of the risk together with mitigation and monitoring of that risk.
- 4.63 The more significant risks should be elevated to Corporate Management level for monitoring and assessment on the Corporate Risk Register.
- 4.64 The Audit Committee has the overall responsibility for ensuring the Council risk management arrangements are sound and effective, this includes:
- the role of monitoring the Council's risk management and internal control arrangements; and
 - identifying and prioritising risks facing the Council.
- 4.65 We discussed the extent to which ERDF matters were raised in the Directorate and Corporate risk registers with Ms Ann Johnson, Head of Risk Management.
- 4.66 When a risk is identified it is assessed based on two factors; (i) the likelihood of the risk occurring (ranging from '1 - almost impossible' to '5 - very high') and (ii) the potential impact (ranging from '1 - negligible' to '4 - catastrophic'). The combined scoring being a multiple of the likelihood and impact scores. Risks with a combined score of 12 or less are deemed to be below the tolerance level and those above 12 are subject to detailed monitoring and action.
- 4.67 The first direct reference to the ERDF Action Plan in the Neighbourhood Services risk register was in July 2008. The risk identified was *"failure to successfully implement EU compliance action plan agreed between the Council and GOWM"*. The consequences of the risk not being addressed included claw back of some or all of grants claimed by the Council and negative impact on GOWM's view of the Council ability to manage such projects and

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adverse effect on projects. The risk assessment was: impact 3 (critical) and likelihood 4 (significant) giving a combined rating of 12.

- 4.68 The risk assessment remained unchanged at October 2008 but as of January 2009 the assessment was revised to 15 (being 'impact 3 - critical' multiplied by 'likelihood 5 - high'). Several management action points were identified as already being in place and that no further actions were required. These actions ranged from the WEPPB monitoring the Compliance Action Plan to additional resources, from finance, and the need for an Internal Audit review.
- 4.69 Further updates of the Neighbourhoods Directorate Risk Register in March, July and October 2009 continued to identify this as an ongoing risk with an assessment score of 15.
- 4.70 As regards the Directorate risk register, throughout this period Ms Julie Gethin was the lead officer and risk owner other than in the very late stage, from July 2009 shortly before the grant claim submissions, when Mr Clive Wright is noted as the risk owner and Ms Julie Gethin as the lead officer.
- 4.71 The Directorate risk registers are reviewed quarterly. Those risks with a score of 15 or more are considered for inclusion in the Corporate Risk Register by the Corporate Management Team ("CMT"). CMT identified from its wider understanding of issues at other Councils and review of the Neighbourhoods Risk Register that there was a risk of *"failure to comply with EU grant regulations and repayments required"* in July 2008 and attributed a risk score of 15. Subsequent updates of the Corporate Risk Register in October 2008, January 2009, April 2009, July 2009 and September 2009 retained this risk at the same score of 15.
- 4.72 As regards the Corporate Risk register, the risk owner was Mr James Walsh and the lead officer Ms Julie Gethin from July 2008. This changed, again very late, in September 2009, when Mr Jamie Morris was the risk owner and Mr Clive Wright the lead officer.
- 4.73 The Audit Committee as part of its review of risks selects certain risks and requests the risk owners to explain how the risks are being addressed. Ms Gethin attended the Audit Committee meeting on 13 January 2009 to explain the nature and mitigation approach to this risk.

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4.74 From the Audit Committee's perspective and that of the Council's statutory officers and political leadership we consider that it looked as if the risk management procedures were operating effectively. In our opinion the non implementation of the Compliance Action Plan, which was not made clear within the Council's key governance arrangements, when reporting programme risk management, was a key feature of the breakdown in internal control.

GOWM INSPECTIONS

4.75 As part of the GOWM monitoring procedures on the Action Plan, it undertook two key forms of inspections: (i) 'Article 4' monitoring visits at the Action Plan level¹⁷ and (ii) 'Article 10' inspections.

4.76 Article 4 monitoring visits are so called as this refers to Article 4 of the Commission Regulation number 438/2001. This regulation lays down detailed rules for the implementation of EC Council Regulation number 1260/1999 as regards the management and control systems for assistance granted under EU funds. Article 4 states that:

"Management and control systems shall include procedures to verify the delivery of the products and services co-financed and the reality of expenditure claimed...."

4.77 Article 10 inspections are so called as this refers to Article 10 of the same Commission Regulation number 438/2001. Article 10 states that:

"Member States shall organise checks on operations on an appropriate sampling basis, designed in particular to:

(a) verify the effectiveness of the management and control systems in place;

(b) verify selectively, on the basis of risk analysis, expenditure declarations made at the various levels concerned."

ARTICLE 4 MONITORING VISIT FINDINGS

4.78 GOWM undertook the first Article 4 monitoring visit of the Action Plan in May 2006 and a further visit in February 2008 (which also included a follow-up visit in August 2008).

4.79 The first visit report states that the purpose of the visit was to ensure compliance with EC regulation, assist the applicant (WMBC) in administering EU funding within the rules and regulations, check progress of the plan and provide advice and support. However, the

¹⁷ This is distinct from the Article 4 monitoring that should be undertaken by the programme management team as noted at paragraph 3.19.

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report stated (albeit by way of standard disclaimer) that it was not a *"guarantee that issues will not be raised at future audits, and that the Applicant could be subject to an audit by: Government Office Audit Team (as part of the inspection programme) or other auditors, such as the European Commission and the European Court of Auditors."*

- 4.80 This first monitoring visit of May 2006 did not identify any significant issues as regards the processes and procedures put in place by WMBC to manage and monitor the Action Plan. Some process and procedural recommendations were made by the monitoring team. This is in contrast to the qualifications noted by the Audit Commission in its certification of ERDF 50AP, also in May 2006, which did identify several issues regarding the audit trail (paragraph 4.58 above).
- 4.81 The second Article 4 monitoring visit was undertaken in February 2008, with a follow up visit in August 2008. Ongoing issues were identified with the lack of audit trails and the lack of progress with the work being undertaken by the programme management team on the Compliance Action Plan. The team noted that there was considerable work being undertaken in order to bring projects into compliance and that at the time of visit in February 2008, the implementation of the Compliance Action Plan had commenced and that during August 2008 progress was being made but work was ongoing. The overall findings noted that:

"Clearly a lot of work has already gone into working through the reconciliation of sub-project activity. Applicant is aware of the need to complete this and confirm to GOWM any contract variation that needs to be agreed. The latest Compliance Action Plan needs to be updated to reflect actual current progress and include realistic revised deadlines for the work that has still to be concluded."

ARTICLE 10 INSPECTION FINDINGS

- 4.82 GOWM officers explained to us that the WMBC Action Plan was chosen at random for inclusion in their sample of Action Plan projects for review and that the Article 10 inspection team is independent of the Article 4 team.
- 4.83 An Article 10 inspection was carried out on the measure 3.4, the ESF element of the Action Plan (paragraph 3.8s and 3.9). The inspection took place on 27 October 2005 but the report findings and recommendation were not reported to WMBC until 17 March 2009, after the closure of the programme (on 31 December 2008) and over three years after the inspection took place. The recommendation included items relating to the audit trail and quality of supporting documentation. A more timely reporting of the findings and recommendations would have been useful for the programme management team in

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ensuring the recommendations were put in place during the life of the project and identifying issues relevant to other funding streams.

- 4.84 The initial Article 10 inspection on the ERDF element of the Action Plan was originally scheduled for June 2007. However, this was deferred due to staff changes in the WMBC programme management team and issues identified from project level Article 4 visits. The inspection report notes that GOWM staff maintained contact with the programme management team, as regards the visit and proposed dates of November 2007 and May 2008 were postponed until February 2009. Following an initial visit in November 2008 and a scheduled visit by GOWM inspectors in February 2009 the inspectors withdrew on the basis that meaningful expenditure figures had not been prepared and would need to be revisited.
- 4.85 The detailed inspection finally took place during 18 - 22 May and 1 - 5 June 2009. The detailed findings were set out in GOWM's inspection report provided to WMBC on 19 August 2009.
- 4.86 The inspection report executive summary concluded that *"overall, this is a wholly unsatisfactory position and reflects very poorly on the Council's management & control systems which were found to be inadequate for the complexity of such a programme."*¹⁸
- 4.87 The inspection comprised sample check of four projects in the Action Plan but cast doubt on the eligibility of other projects noting that *"apart from this sample, the GOWM Inspection Team can offer little or no assurances in terms of compliance given the extent of the problems identified and the content of the qualified audits. These are likely to result in further significant losses or considerable reductions in some schemes and, more generally, the application of a financial correction to be established by the GOWM European Team to reflect on the inadequate management and control systems"*¹⁹
- 4.88 The Article 10 inspection findings had a significant impact on the assessment of the extent to which the audit trail and supporting documents ensured compliance with funding requirements. Had this inspection taken place earlier it might have identified issues at an earlier stage for redress by WMBC. However, it is clear from the Article 10 inspection report that some of the findings were not entirely new in that they reflected matters which were the subject of the Compliance Action Plan; which was never fully implemented.

¹⁸ GOWM Article 10 inspection report, page 5.

¹⁹ GOWN Article 10 inspection report, page 5.

5 KEY LESSONS LEARNT

OVERVIEW

- 5.1 As already noted, the Council had undergone significant upheaval during the time the Action Plan was being devised and during the early period of the implementation.
- 5.2 The implications for lessons learnt is that this sets a back-drop against which some of the earlier issues with the Action Plan should be considered. During this earlier period the Council was subject to 'special measures' by Government to improve its arrangements and performance and there was a high level of interim senior managers and changes in composition of the programme management team.

LESSONS LEARNT

- 5.3 Based on detailed information set out in the earlier sections, we have set out here our assessment and opinions as to the key lessons learnt. The lessons learnt are grouped around key themes identified from our work.

RISK MANAGEMENT

- 5.4 The overarching issue identified during our work has been the effectiveness of the Council's risk management procedures and in particular the effectiveness of monitoring and ensuring mitigation action is taken.
- 5.5 The risk of non compliance with EU grant funding requirements was first highlighted on the Council's risk registers in July 2008 and assessed as being of tolerable level (i.e. a score of 12 or less). However, by January 2009 the risk rating was elevated to a score of 15 which required detailed monitoring of mitigation actions. The main plank of the mitigation action, in 2008, was the successful implementation of the Compliance Action Plan. However, the Compliance Action Plan was never fully implemented and by 2009 it was too late to undertake detailed work in order for the Compliance Action Plan to be fully implemented, or to assess, whether or not, sufficient compliance had actually been achieved.
- 5.6 The risk of non compliance with EU funding regulations, in our opinion, should have been identified at much earlier stage and certainly prior to July 2008. The risk should have been identified at any one of the following earlier stages:

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- Around September 2005, when the WEP group was replaced by WEPPB (paragraph 4.18). The failure of the WEP (and proposed Walsall Economic Forum and European Technical Panel) to provide coherent oversight, guidance and assistance to the programme management team should have raised concerns that there was a risk that EU funding criteria may not be met;
- Following qualification of the 2004/05 ERDF 50AP in May 2006 which identified several weaknesses in the audit trail supporting claims and the fact that subsequent ERDF50AP's were not completed (paragraphs 4.58 and 4.59);
- The Compliance Action Plan was a direct result of concerns with the adequacy of audit trails and lack of Article 4 monitoring by the programme teams. The Compliance Action Plan was compiled between August 2007 and November 2007, with a final Compliance Action Plan being provided to GOWM in December 2007. This risk should therefore have been identified on the risk register at least during December 2007 and, arguably, as early as August 2007 (paragraphs 3.21 to 3.28).

5.7 It is imperative that if the Council's Corporate Risk Management Strategy is to be effective its risk management procedures must be applied effectively in all cases. The Council's Risk Management Strategy is not in question, rather it is the application in practice. Risks should be identified at the appropriate stage and risk owners should ensure mitigation measures are in place which are capable of effectively mitigating the risk and mitigating actions actively monitored.

5.8 A critical aspect of any successful risk management process is the need for a mature approach to communication to ensure that risks are appropriately discussed in a trusted environment where the potential impact of the risk can be openly assessed and mitigation measures put into place.

ACCOUNTABLE BODY

5.9 The role of Accountable Body as regards ERDF was new for WMBC. Our review of documents, such as the Action Plan, and discussions with GOWM confirmed that the Council was aware of the more onerous demands that comes with such a role at the time. However, even with policies and procedures in place the role of the Accountable Body was never fully met, for example this is demonstrated by the following:

- there were failings in effective monitoring of projects in the early period of the Action Plan;

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- the programme management team was under resourced;
- the programme management team failed to maintain adequate and detailed records to demonstrate formal approval of projects and subsequent changes;
- there was a lack of a complete audit trail and supporting documentation and a lack of effective Article 4 monitoring by the programme team, which required the Compliance Action Plan to be implemented;
- there was a failure to check and monitor the eligibility of expenditure; and
- the Compliance Action Plan was not implemented and, consequently, the Council did not have the opportunity to try and achieve compliance, or test, at an earlier stage, whether the Compliance Action Plan would have achieved full compliance.

ROLE OF LOCAL PARTNERSHIP

- 5.10 The successful implementation of the Action Plan relied upon the role of the local partnership, WBSP and the WEP/WEPPB sub-groups. The Council authorised these sub-groups to provide strategic oversight and to appraise, approve and monitor projects. However, WMBC had not previously been an Accountable Body under ERDF terms and placed too much reliance on the WEP and WEPPB Board.
- 5.11 The first sub-group, WEP, was not effective and was not able to drive the process forward. The support groups (Walsall Economic Forum and European Technical Partnership) were never fully developed, which resulted in a significant lack of strategic input, in our view, in the formative period of the Action Plan (paragraph 4.16).
- 5.12 The replacement sub-group, WEPPB, was set up in September 2005 and chaired by Mr Tim Johnson, Executive Director of Regeneration. Mr Tim Johnson has explained that the WEPPB Board did not have the full skills to address issues and information provided by the Programme Team, was complex and was not always sufficiently clear to allow WEPPB to be effective (paragraphs 4.24 and 4.25).
- 5.13 The key lesson learnt is that the WEPPB Board should have had the requisite skills to be able to perform its role and request clear and concise detailed information in order to make its decisions. Further, the level of monitoring of the Compliance Action Plan by WEPPB was limited (paragraph 4.24). The failure to have an effective strategic partnership vehicle should also, in our view, have been raised formally by the Council's representative officers on the WEPPB at the WBSP Executive Committee and Council, either via CMT reports or to Members.

PROGRAMME MANAGEMENT TEAM

- 5.14 The programme management team was set up in January 2004 during a period of considerable change at the Council. The programme team would have benefited from the greater stability of staffing.
- 5.15 Further, it is accepted that the programme management team was under resourced and it was only in the latter stages of the ERDF grant claim closure process that additional resources were made available.
- 5.16 We note that the programme management team is located within the Neighbourhoods Directorate reporting to Ms Julie Gethin (until recently) rather than Regeneration. It would appear to us that the Action Plan might better be located in the Regeneration Directorate rather than the Neighbourhoods Directorate, due to the regenerative nature of the projects contained in the Action Plan. A proposal to move the management of EU funded programmes into the Regeneration Directorate was considered but rejected by the Regeneration Directorate, once the issues with ERDF programmes were identified in the period leading up to the set up of the Compliance Action Plan.
- 5.17 Officers have explained that the early changes in the programme management team and changes elsewhere in the Council resulted in the programme team becoming insular in terms of not bringing in other part of Council (e.g. Finance, Internal Audit) when this would have been routine practice at other councils. We understand that there were significantly strained working relationships between senior officers at the Council culminating in proceedings at Employment Tribunals. For example, the suspension of Mr Peter Francis and his subsequent departure. As noted previously, Mr Peter Francis was the first Head of Programme Management from 1 January 2004. Such factors contributed to the insularity of the programme management team, in some officers opinion. There was a perception that the programme team had developed its own 'clique' and that there was little/no detailed expertise outside the programme management team that could effectively challenge its work and ensure more effective controls were put in place.
- 5.18 Based on our review and discussions with officers, the programme management team failed to implement proper and adequate procedures from the outset of the implementation of the Action Plan. These include for example:
- poor project appraisal and due diligence processes;
 - failure to fully document project approvals;

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- approval of projects submitted by weak organisations with inadequate track record and insufficiently robust financial systems;
- tolerance of and acceptance of poor quality claims by third sector organisations with insufficient supporting evidence;
- inadequate monitoring of projects in the required format; and
- failure to secure adequate documentation from third sector organisations in administration.

5.19 A direct consequence of this is that the subsequent measures to remedy the shortfall in the required documentation was hampered by the passage of time and the need to reconstruct evidence trails, making compliance with grant terms difficult.

5.20 Greater liaison with GOWM would also have been beneficial from the perspective of lessons learnt. A closer working relationship with GOWM might have identified the problems at a much earlier stage than was the case and ensured greater compliance levels were achieved, or where not achievable remedial actions taken. GOWM has commented that a greater level of interaction at a more senior level would have been indicative of a more knowledgeable and proactive senior management team. However, effective communication relies on proactive liaison from both GOWM and WMBC.

FINANCE SUPPORT

5.21 The Chief Finance Officer has Section 151 responsibilities. This post has been occupied by two post holders over the life of the ERDF programme. The Section 151 officer relies on the effective application of procedures and processes upon which they place reliance.

5.22 The programme management team appears to have requested little or no assistance from the finance team until very late in the Action Plan life cycle, nor have they sought advice at an appropriate stage in the earlier stages of the Action Plan.

5.23 Officers in the programme management team should have had a better working understanding of the evidential requirement in terms of the audit trail required (both financial and non-financial) in support of the claims throughout the Action Plan life cycle. Whilst the primary burden lay with the programme management team, in our view, best practice would suggest that some independent checks and reviews by the finance officer of the programme management team would have provided the potential to identify the gaps in the audit trails.

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AUDIT

- 5.24 The roles of internal and external audit are broadly similar in that they seek to challenge and check that adequate audit trails exist and that compliance with the grant offer letter terms can be met. Albeit, the external audit role would be more specific compared to a much wider role for internal audit.
- 5.25 Internal Audit's early review of systems and controls was requested by Mr Peter Francis in early 2004 (the first year of Action Plan implementation) but, for several reasons, not least due to the suspension of Mr Peter Francis and the requirement to allocate resources on other issues such as the NRF, and the belief that external audit was signing off European funding claims without exception, the audit of systems did not take place (paragraph 4.43).
- 5.26 Subsequently, this was not on the Internal Audit work plan. Issues which were identified through irregularity reviews were reported to management together with action plans containing agreed recommendations to ensure controls issues identified would be addressed. As noted at paragraph 5.6 above, the annual grant audit certifications were not actually being undertaken. Internal Audit officers have explained to us that they were not aware of, and had not been informed of this matter. Had this issue been identified on the Council's risk registers, Cabinet, Council, Corporate Management Team minutes, or via Internal Audit's wider discussion of the audit plan with Executive Directors, senior managers, the Corporate Management Team or S151 Officer, or had Internal Audit been advised of this by the then external auditors, Internal Audit explained that European funding could have been subjected to earlier and regular internal audit testing.
- 5.27 Internal Audit did, however, undertake a number of unplanned reviews at the request of the programme management team, which identified some audit trail weaknesses and for which their normal follow up procedures were applied. For example, in the Enhancing to Learning audit report managers confirmed to Internal Audit that they had successfully implemented all of the actions detailed in the agreed action plan. However, there does not appear to be any further follow-up from Internal Audit to ensure that measures taken to address the weaknesses had in fact taken place.
- 5.28 Internal Audit officers explained that although their audit plan is a comprehensive document compiled from a number of sources, they are, to a great extent, reliant on each Directorate commenting upon the proposed coverage and identifying potential omissions or new areas of activity. However, in our view this should not detract from the need for

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an independent assessment by Internal Audit of the potential new areas of involvement by WMBC that may warrant systems reviews (such as EU grant claims in general).

- 5.29 As regards External Audit, which had identified weaknesses in the audit trail in its certification of the 2004/05 ERDF 50AP form in May 2006. Following the temporary embargo, the programme management team did not submit any further annual statement of grant expenditure (ERDF 50AP) forms until the final claims in August 2009. The qualifications in May 2006 should have triggered a risk at an earlier stage. Albeit, we recognise that these audits are a 'long stop' in that they take place during the year after expenditure had been incurred.
- 5.30 In addition, Internal Audit should not seek to rely on external audit for assurance as to adequacy of systems and procedures for EU funding. It should make its own assessment of the risks, informed by other areas of the Council and its own cumulative knowledge and undertake audit work which would be different to that performed by external auditors.

COMPLIANCE ACTION PLAN AND PROGRAMME CLOSURE

- 5.31 As noted above, the earlier potential interventions by Internal Audit and the Council's risk management arrangements might have identified weaknesses and reduced the ultimate level of the de-commitment. However, another pivotal point in the life of the Action Plan was in the requirement to prepare and deliver the Compliance Action Plan.
- 5.32 From GOWM's perspective the Compliance Action Plan was put together with coherency and, if fully implemented, might have identified weaknesses in the Council's arrangements regarding ERDF grants.
- 5.33 According to Ms Julie Gethin and Ms Alison Fisher, the Compliance Action Plan was achievable when prepared in December 2007. In fact, according to Mr Jamie Morris' letter to GOWM in January 2008 compliance was expected by Summer 2008. However, this did not materialise. As at August 2008 the Compliance Action Plan had not been implemented and Ms Fisher had assessed the potential risk and liability at around £1.9m. However, the slow progress in implementing the Compliance Action Plan and extent of the potential liability assessment should have resulted in the matter being elevated to ensure it was addressed at an earlier stage.

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- 5.34 Mr Steve Morris was appointed in October 2008 and his initial focus was on closure of the Co-finance Plan (another Council grant funded programme). Only after January 2009 did he fully consider the Compliance Action Plan and the need to close the programme. However, there was a divergence away from the actions in the Compliance Action Plan and a need to focus on project closure recognising the limitation that the Compliance Action Plan had not been implemented. Further evidence trails were unlikely to be available and there was a need to minimise financial exposure. During February 2009, Mr Steve Morris assessed the risk and financial liability, based on his experience, of around £800,000.
- 5.35 The key lesson learnt is that the Compliance Action Plan was not implemented sufficiently early and with sufficient resources. It has been alleged that compliance could never have been fully achieved due to historical problems on audit trails for closed projects and due to the failure to address weaknesses along the way (on both live and closed projects). The failure to implement the Compliance Action Plan earlier denied the Council the opportunity to assess whether or not compliance was being achieved. The fact that it took significantly longer throughout 2008 to implement the Compliance Action Plan should of itself have triggered an internal assessment of whether alternative remedial action was required.
- 5.36 Our discussions with officers, in particular Ms Vicky Buckley, identified that the nature of the work undertaken in September 2009 was based around collating and presenting evidence. In the short time available to re-submit the final claim on 29 September 2009 a pragmatic decision was taken to only include those claim items which could be fully supported by evidence readily available at the time, given the severity of risking further ineligible claims. Had this approach been adopted earlier, or more time been available, the extent of grant excluded from the final claim on 29 September 2009 could have been reduced from the final amount of £2.5 million.
- 5.37 In our view, the requirement for a Compliance Action Plan and the length of time it took to attempt to implement (and subsequent failure) highlights the inadequacies of the programme management team from the inception of the Action Plan and lack of effective management throughout by line managers.

GOWM

- 5.38 GOWM officers explained that WMBC's Action Plan and Compliance Action Plan were credible documents which demonstrated that, in their opinion, the Council appeared to

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have the necessary skills to understand the requirements of EU funding and to comply with the grant's conditions.

5.39 The ERDF Article 10 inspection was delayed on several occasions (from June 2007 to February 2009) at the request of WMBC (paragraphs 4.84 and 4.85).

5.40 In our view, it is disappointing that GOWM was not able to undertake the Article 10 inspections earlier when first requested by GOWM in June 2007; had this occurred then there would have been an earlier focus on the critical issues. Issues which the Compliance Action Plan was seeking to address but which were taking a considerable time to achieve during 2008 could have been addressed earlier. An earlier ERDF Article 10 inspection would have afforded the opportunity to test the detailed work being undertaken under the Compliance Action Plan, identify the potential flaws in the Compliance Action Plan and identify the true underlying potential liability for de-commitments at an earlier stage.

5.41 As previously noted, greater liaison between GOWM and WMBC, particularly more effective engagement at a senior officer level from the Council, would have been beneficial from the perspective of lessons learnt.

TRANSPARENCY AND COMMUNICATION

5.42 We have set out at Appendix 3 a chronology of key communications from around May 2005 through to September 2009.

5.43 We have already referred to certain communications in the earlier sections of this report. The chronology also highlights those key communications during the period from around January 2009 through to September 2009 revolving around the communication of the potential financial impact of the de-commitments made on final grant claim forms submitted by the Council in 7 August 2009.

5.44 We have set out below a summary of the key communications (more details of the specific communication are set out in Appendix 3) during this period as follows:

- at a WEPPB meeting on 5 August 2008, Ms Alison Fisher reported that the work on the Compliance Action Plan was ongoing and the potential risk and liability assessment, at that time, was around £1.9 million;
- at the Audit Committee meeting on 13 January 2009, Ms Julie Gethin delivered a presentation as regards the risk of "failure to comply with EU grant regulations and

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repayments required". The presentation does not provide an assessment of the potential financial impact of the detailed Compliance Action Plan work being undertaken as mitigating this risk factor;

- a paper dated 13 January 2009, prepared by Mr Steve Morris, was provided to the Deputy Leader of the Council, Councillor Andrew. The paper set out the problems experienced with the Compliance Action Plan and lessons learnt;
- at a WEPPB meeting on 3 February 2009 Mr Steve Morris reported that reconciliation work on the Compliance Action Plan was difficult but ongoing and identified a potential liability of £600,000²⁰ (on projects that had ceased) and £207,000 in respect of issues on the Enhancing Access to Learning project;
- on 2 March 2009, GOWM wrote to Mr Paul Sheehan expressing concern with the deferral of the Article 10 inspection and that the ERDF grants of more than £3 million could not be confirmed as secure until the Council had completed its review and Article 10 inspection successfully completed;
- a briefing note, dated 15 March 2009, to the Chief Executive from the programme management team identified a total potential risk of claw-back on Enhancing Access to Learning of £206,000, projects in liquidation of £325,000 and ineligible expenditure following reconciliation work of £600,000 (amounting to a total of £1.1 million);
- a report, dated 3 June 2009, prepared by Mr Steve Morris for the Cabinet meeting of 24 June 2009 refers to the need to de-commit up to £1.23 million, although there is a caveat in that if there was 'systemic error' the entire grant funding could be at risk;
- a consultation report, also dated 3 June 2009, prepared by Mr Steve Morris, referred to the amount at risk as the "irreducible minimum" amount of £1 million. This is in contrast to the Cabinet report noted above which stated that the de-commitment level was up to £1.23 million. Mr Steve Morris could not explain the anomaly but stated that, in his view, the potential liability was around £1.23 million.
- the Cabinet, on 3 June 2009, approved £1 million as the minimum de-commitment figure;
- the final grant claim forms were submitted on 7 August 2009 with some £700,000 de-committed in respect of the project reconciliations;

²⁰ Albeit this figure is a cash based figure and does not reflect accrual adjustments.

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- the GOWM Article 10 inspection report was received on 19 August 2009 by Mr Jamie Morris and circulated to Mr Clive Wright²¹, Ms Julie Gethin and Mr Steve Morris. The report raised significant concerns with the management and control systems in place. Of the four projects sampled, two had been deemed as ineligible and the inspectors cast doubt over the remaining funding;
- on 2 September 2009 at the Audit Committee attended by Mr Jamie Morris, Ms Julie Gethin, Mr Steve Morris and Mr Charles Barber, the fact that the Article 10 report had been received was mentioned. The level of de-commitment of £700,000 was noted, as was the fact, that £206,000 on Enhancing Access to Learning was being negotiated with GOWM. However, there is no record of the severe criticism contained in the Executive Summary of the Article 10 inspection report and that two projects checked by the Article 10 inspectors were deemed to be ineligible;
- on 3 September 2009, a briefing paper from the programme management team for Mr Paul Sheehan, set out in overview the Article 10 inspection report findings, acknowledging that the Compliance Action Plan had failed because significant work on individual projects was undertaken in a manner that was incorrect. However, it stated that they were confident a positive response would be provided resulting in no further financial penalties;
- on 4 September 2009, Mr Sheehan received a phone call from Ms Trudi Elliott expressing concerns arising from the Article 10 inspection and that there could be a substantial claw back in the order of £1million - £2.4 million and potentially penalties;
- on 4 September 2009, immediately after this phone call, Mr Paul Sheehan informed Leader of the Council, Councillor Bird, of this possible liability.
- on 29 September 2009, the final amended grant claims were submitted. The current estimate is that the total de-commitments amount to £2.5 million.

5.45 The above sets out some of the key communications identified during our work, either by review of documents provided or identified during discussions and interviews. There may well be other communications of which we are unaware. However, based on the above, the details attached at Appendix 3 and our discussions with various officers and members it would appear that there has been a lack of transparency and openness in communications. For example,

²¹ Mr Clive Wright has informed us that prior to this he had little involvement with this matter other than an initial intervention in December 2008 whilst Ms Julie Gethin was on holiday.

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- the presentation to the Audit Committee on 13 January 2009 makes no reference to the extent of any potential financial liability;
- the significant criticisms set out in the Executive Summary of the Article 10 report does not appear to have been communicated during the Audit Committee meeting of 2 September 2009. The Article 10 inspection report expressed significant concerns and deemed two of the four projects sample checked to be ineligible and other projects could not be assumed to be eligible. However, the programme management team and Mr Jamie Morris' view was that the Executive Summary was inconsistent with the detailed recommendations, which could be addressed. In our view, the severe criticisms were sufficiently serious to warrant mention, even if it was caveated that this would need to be clarified with GOWM and that the detailed recommendations would be addressed;
- Officers have on several occasions explained that in communicating the potential liability of the ineligible grant claims they invariably identified that all of the ERDF grant funding could be at risk. Whilst this is the case from review of the various minutes and reports, it is also clear from interviews with members and other officers that whilst the extent of the liability might potentially be all of the grant fund amount, a reasoned judgement was put forward that it was in the order of £1 million;
- Mr Tim Johnson's (paragraph 4.25) comments that there were elements of not wishing to address EU funding issues directly in a wider forum which included organisations from outside the Council.

5.46 It is critical to the effective and efficient management of issues that matters of significance should be communicated throughout the Council in a timely, open, and transparent manner, subject to ensuring appropriate confidentiality were necessary.

6 RECOMMENDATIONS

INTRODUCTION

- 6.1 We have set out in the previous sections details of project management and governance arrangements together with key lessons learnt. This section of our report sets out recommendations for consideration by WMBC in order to mitigate similar issues in future grant claims.
- 6.2 It should also be noted that these recommendations are particularly important as regards existing grant claims. The recommendation noted below should be used to ensure similar issues are not manifest in existing grant claims, which might result in further potential financial and reputation risk to the Council.

RECOMMENDATIONS

- 6.3 The recommendations are summarised by key themes as follows:

Issue	Recommendation
1. Risk management - implementation (paragraphs 5.7 and 5.8)	The application of risk management procedures should be reinforced for all staff.
2. Risk management - identification (paragraph 5.6)	Staff should be made aware of the need to properly identify risks at an appropriate stage.
3. Partnership arrangements (paragraphs 5.12 and 5.13)	The role of any sub-groups supporting the grant process should be clearly defined. They should also be provided with adequate resources and skills to ensure its remit can be effectively fulfilled.
4. Programme management - resources (paragraph 5.15)	The Council should ensure that the programme management team is adequately resourced and that staff are trained so that they are fully conversant with the funding requirements. Where there are significant changes in staffing a risk assessment should be undertaken to ensure policies and procedures are not compromised.
5. Programme management - procedures (paragraphs 5.9 and 5.18)	The following areas should be addressed for any grant claims: - Robust appraisals should be undertaken of all third sector providers, including the financial stability and capability to deliver outcomes and provide relevant supporting documents.

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	<ul style="list-style-type: none"> - Assistance should be provided by the Finance Department to properly assess the financial stability of third sector organisations. - Approvals of projects should be formally recorded in relevant minutes and documented in all cases. - Effective guidance and training should be provided to all third sector organisations to ensure they deliver required supporting documentation. - Claims from third sector organisation should only be accepted after careful scrutiny to ensure compliance with grant terms. Claims should only be accepted at pre-determined dates. If incomplete or insufficient claims should be returned for re-submission. - Early and then regular monitoring of third sector organisations in line with grant requirements. EU funding requirements can be complicated and this is an essential control mechanism. - All annual statements of grant expenditure and supporting forms should be prepared on a timely basis and subject to relevant external audit within the required timescale. - The Council should ensure that it retains copies of, or has access to, all documentation in support of claims, to evidence an adequate audit trail. This should be reviewed whenever it is identified that a third sector organisation is about to enter administration. - We understand from discussions with officers that the Action plan could be subject to inspection in the future by EU auditors. The Council should ensure that the requirements for retention of documents and audit trails satisfy requirements for any future inspections.
Finance support (paragraphs 5.22 and 5.23)	<p>The programme team should be encouraged to seek assistance from finance colleagues at an early stage.</p> <p>The level of support and assistance requested and provided by the Finance Department on all claims and supporting documents should be reviewed. Greater level of checking and scrutiny by Finance would be beneficial.</p>
Internal Audit (paragraph 5.28)	<p>There should be an Internal Audit review of the procedures and systems for all significant grant funding streams at the inception stage of the grant and subsequently during ongoing programmes.</p>

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Liaison with GOWM (paragraphs 5.35 and 5.40)	The programme team and senior management should actively engage with GOWM to ensure relevant inspections are not deferred and feedback is obtained promptly.
Transparency (paragraphs 5.45 and 5.46)	The Council should re-iterate to all officers the need to approach communication with other parts of the Council with transparency and openness (subject, of course, to appropriate confidentiality issues).

6.4 **The above recommendations derive from our review of the ERDF grant claim. However, as noted, the issues are equally applicable to other grant funding streams. The Council should undertake a review of all other major grant funding streams in light of the findings and recommendations in this report.**

6.5 The Council should also consider the extent to which it is possible and desirable to recover the ineligible grant funding, excluded from the final grant claim, from the third sector organisations.

Grant Thornton UK LLP

**Grant Thornton UK LLP
 Birmingham**

16 March 2010

1 LIST OF INTERVIEWEES

INTERVIEWEES

During the course of our work we have interviewed the following individuals:

WMBC and WBSP Councillors and staff (current and former):

- Councillor Adrian Andrew
- Councillor Mohammed Arif
- Councillor Mike Bird
- Councillor Rose Martin
- Councillor Tim Oliver
- Councillor Ian Robertson
- Councillor Ian Shires
- Mr Charles Barber, Internal Auditor
- Mr David Blacker, Chief Internal Auditor
- Ms Vicky Buckley, Head of Corporate and Strategic Finance
- Mr Bhupinder Gill, Assistant Director for Law & Constitutional Services
- Ms Alison Fisher, former European Programmes Manager
- Mr Peter Francis, former Head of Service
- Ms Julie Gethin, former Head of Neighbourhood Partnerships and Programmes
- Ms Ann Johnson, Head of Risk Management
- Mr Tim Johnson, Executive Director of Regeneration and Chair of the WEPPB Board
- Ms Dorcas Marshall, former European Programmes Manager
- Mr Jamie Morris, Executive Director of Neighbourhood Services
- Mr Steve Morris, current European Programmes Manager
- Ms Rebecca Neill, Internal Auditor
- Mr Paul Sheehan, Chief Executive
- Mr James Walsh, Chief Finance Officer
- Mr Clive Wright, Director of the WBSP

Others:

- Detective Chief Inspector Jo Chiltern, West Midlands Police
- Mr John Gregory, Audit Commission
- Ms Trudi Elliott, Mr Steve Darling, Ms Liz Charlton, GOWM

2 GLOSSARY OF KEY TERMS

GLOSSARY

The following terms and abbreviations have been applied in this report.

"Action Plan"	The document setting out the WMBC objectives and plans for the implementation of ERDF and ESF Objective 2 funding. The Action Plan is entitled 'Community Regeneration in Walsall'.
"Accountable Body"	The legal entity nominated to take responsibility for the receipt and use of grant monies and the realisation of the Action Plan. The Council was the Accountable Body as regards the Action Plan.
"CAP"	Compliance Action Plan. The plan put into place around December 2007 to address the shortfall in audit trails and supporting documentation for projects identified as necessary for EU funding compliance.
"Claw back" or "De-commitment"	Term used to represent the monies potentially at risk when assessing the potential impact of the failure to comply with EU funding regulations.
"Project Delivery Body"	The individual organisations in receipt of grant funds and responsible for the delivery of the project and desired outcomes.
"ERDF"	European Regional Development Fund.
"ERDF Objective 2"	European Regional Development Fund round for the period 2000 to 2006 (extended to 31 December 2008)

"ESF"	European Social Fund.
"EU"	European Union.
"Managing Authority"	The organisation administering the grant programme. In this case, GOWM.
"GOWM"	Government Office for the West Midlands.
"Outcome"	Changes in the local circumstances that the grant scheme is seeking to influence, e.g. reducing unemployment.
"Project"	The individual component of the programme being delivered by the Delivery Body.
"WBSP" or "Walsall Partnership"	Walsall Borough Strategic Partnership, a Council led partnership bringing together key stakeholders (public agencies, private and voluntary sector organisations in the community) in Walsall with the aim of transforming the economic, social and environmental well being of Walsall.
"WEP"	Walsall European Partnership a sub-group of WBSP with responsibility for providing guidance, expertise, advise and information to the programme management team. It was replaced by WEPPB in September 2005.
"WEPPB"	Walsall European Programmes and Performance Board. A sub-group of the WBSP and successor to WEP with responsibility for overseeing the performance of the European funds.
"WMBC" or "Council"	Walsall Metropolitan Borough Council

3 CHRONOLOGY OF KEY COMMUNICATIONS

KEY COMMUNICATIONS

Date	Document description	Notes
1/5/05	Briefing Note - European Funding in Walsall Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> • Role of Walsall European Partnership ("WEP") - <i>"informal body, previously had input to appraisal and approval processes. Formal link to WBSP needs to be established."</i> • As regards performance monitoring - <i>"need to decide who will report what to where. Previously no performance monitoring reports have been submitted to Council. Minimum requirements of accountable body function mean regular reports to EMT (or nominated body) are needed."</i>
May '06	ERS Mid-Term Review Final Report: "Walsall Building Ownership Through Partnership, An Action Plan for Community Regeneration in Walsall", May 2006.	<p>This report sets out findings of the mid-term review performed by consultants, ERS. Some of the pertinent points include the following:</p> <ul style="list-style-type: none"> • paragraph 4.4 - WEP was a 'partnership' or technical group and therefore lacked the authority to drive the process forward. There is a lack of overarching partnership. • paragraph 4.5 - initial stages of Action Plan lacked definitive structure with the Walsall Economic Forum detailed in the Action Plan not having been established. The European Technical Panel also failed to develop fully with Walsall MBC actually undertaking the bulk of that role and supporting delivery. • paragraph 4.10 - transitional changes (at WMBC) and WEP/WBSP caused a number of problems in

		<p>receiving approvals for projects</p> <ul style="list-style-type: none"> • paragraph 4.36 - Programme management team not benefited from the stability and growth in experience below Programme Manager level. • paragraph 4.39 - WMBC finance officers pooled across all programmes in 2004 which caused some problems as tasks had to be reallocated between individuals and programmes • paragraph 4.78 - WEP did not meet in 2005
13/9/07	Letter from WMBC to GOWM: From Mr Jamie Morris to Ms Trudi Elliott (Regional Director)	<ul style="list-style-type: none"> • Acknowledged concerns re compliance issues • Since June 2007 new interim programme manager in post reviewing all systems and processes and an action plan is currently being drawn up (i.e. the Compliance Action Plan)
5/11/07	Letter from WMBC to GOWM From Mr Jamie Morris to Mr John Curtis (Deputy Regional Director)	<ul style="list-style-type: none"> • Requesting meeting to discuss the Compliance Action Plan and not delaying the meeting until January 2008 to wait for start of new Chief Executive (Paul Sheehan)
12/12/07	Compliance Action Plan finalised	<ul style="list-style-type: none"> • Sets out very detailed action points for ensuring compliance on EU funding - this was issued to GOWM during the meeting of 12 December.
18/1/08	Letter from WMBC to GOWM From Mr Jamie Morris to Mr John Curtis	<p>This letter follows on from the meeting between GOWM and WMBC re the Compliance Action Plan. The letter stated that:</p> <ul style="list-style-type: none"> • Requested feedback from GOWM on the Compliance Action Plan; and • WMBC continuing to progress the implementation of the Compliance Action Plan and are "<i>confident of full compliance by the Summer</i>" (i.e.

		summer 2008)
28/1/08	Programme Management Team report to WEPPB meeting:	<ul style="list-style-type: none"> Commented that <i>"The plan is ambitious but needs to be to minimise the risk of the Council being fined. The work in the action plan will ensure that by the end of March there is a definitive picture of compliance, whether projects have incurred ineligible expenditure and whether there are ongoing risks."</i>
14/3/08	Report to the WBSP Executive Committee: Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> The report sets out the current position and matters leading to the Compliance Action Plan. paragraph 3.5, makes reference to letter of 28 August 2007 from GOWM to WMBC expressing concerns about number of irregularities identified in the Summer of 2007 and potential to face fines of at least £1 million.
06/6/08	Report to the WBSP Executive Committee: Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> An update report. paragraph 3.3 states <i>"The programme team from the Council met with representatives from GOWM in early February to review the position of the Compliance Action Plan. They were satisfied with progress made and the method by which the remaining actions were planned to be implemented."</i> paragraph 3.4 - all of the additional support staff highlighted as needed in the Compliance Action Plan have been recruited. paragraph 3.5 - until the reconciliation of all live and closed projects has been completed it is difficult to quantify what, if any claw back, may be required. A definitive picture will be available by July. (i.e. July 2008).
18/7/08	Report to the WBSP Executive Committee: Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> An update report. paragraph 3.3 states <i>"work is well underway on the reconciliation"</i>

		<p><i>of closed projects. Organisations affected have co-operated in a positive manner in this exercise with very few exceptions. The level of financial risk to the Council as the accountable body continues to be monitored closely and reported regularly to the Head of Finance."</i></p>
July '08	<p>Briefing Note for the Chief Executive - queries regarding EU Funding for Walsall Voluntary Action Author: Julie Gethin (nee Ball)</p>	<ul style="list-style-type: none"> • GOWM have suspended payments to Council but Council continued to pay grant after confirming eligibility and compliance with revised local procedures and processes. • Non-compliance issues are national and not unique to Walsall. • Confirming compliance has required Council to go back and check projects that have already ended. • Sufficient rigour in checking the application of these rules by the organisation receiving EU funds had not previously been applied by GOWM or the Council. • <i>"rules and criteria have not changed since the two programmes began. What has changed is the monitoring of organisation's compliance with these rules."</i> • Challenges and detailed scrutiny by the Council are necessary in order to avoid any claw back by the EU commission. • If irregularities identified are not resolved, <i>"the Council may be requested to repay in the region of £15,000 to the Commission."</i> <p>Note: there is no specific reference to the Compliance Action Plan.</p>
5/8/08	<p>WEPPB meeting (note: previous meeting was on 28/1/08)</p>	<p>Minutes records that: <i>"The Risk and Liability Assessment was estimated at £2 million due to projects' failure to evidence claims but this was now reduced to £1.9 million and could be reduced further once</i></p>

		<i>reconciliations and claw-backs have been effected"</i>
5/9/08	Report to the WBSP Executive Committee: Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> • An update report. • paragraph 6.1 continues to state that until the reconciliation of all live and closed projects has been completed it was difficult to quantify what if any clawback would be required.
19/11/08	WEPPB meeting	<p>The minutes record that:</p> <ul style="list-style-type: none"> • Programme Manager Ms Alison Fisher left in September and new Programme Manager, Mr Steve Morris, joined 27 October 2008; • Head of Finance, Ms Alison Jarrett had left and her role as 'claim approver' would be fall to Ms Vicky Buckley. • <i>"Whilst there is time, therefore, the team will continue to work with the community to maximise the evidence of eligible costs and minimise the number of irregularities and claw back requests."</i> <p>However, there is no value attributed to the potential financial risk.</p>
28/11/08	Report to the WBSP Executive Committee: Author: Ms Julie Gethin (nee Ball)	<ul style="list-style-type: none"> • An update report. <p>paragraph 3.3 states - a number of organisations (including The Vine and Aaina) have signalled their concerns about their available capacity in order to complete the final reconciliations required. ..The team are continuing to work with the community to maximise the evidence of eligible costs and minimise the number of irregularities and clawback requests.</p>
18/12/08	Extracts from CMT minutes	<i>"European funding programme - it was noted that the programme finished in December and work was being undertaken to conclude projects accordingly"</i>
13/01/09	Briefing Paper for the Deputy Leader of	The purpose of this document

	<p>the Council (i.e. Councillor Adrian Andrew) Author: Mr Steve Morris</p>	<p>is to update portfolio holder on risks and liabilities. The paper notes that:</p> <ul style="list-style-type: none"> • <i>"Where projects fail or where the audit trail is unavailable for whatever reason, Walsall Council may be required to repay grant as it is the 'Accountable Body'"</i> (page 1); • <i>"It is always difficult to quantify risk in European programmes - in theory any deviation from the regulations could result in demand for repayment up to and including the entirety of the Programme."</i> (page 2); • <i>"GOWM could still declare the entire action plan to be irregular if they come to believe that there are 'systemic irregularities' that make the process fundamentally flawed, however there is not now a strong likelihood that this might happen. It is more likely that GOWM will make additional checks against closed projects in the time available - this in turn will almost certainly result in the discovery of more problems, and lead to more 'clawbacks'."</i> (page 3) • <i>"Walsall has also been poor at communicating the bureaucratic requirements of the Programmes to funded projects, and poor at supporting funded projects to ensure that they create and maintain a sufficient audit trail."</i> (page 5) • Several learning points noted on page 6 of the paper.
3/2/09	WEPPB meeting	<ul style="list-style-type: none"> • <i>"SM explained the difficulty with the closure process due to the claw back and responsibility of the liability. He added that issues with the projects that had been dissolved posing arguments on who will be liable for a total amount of at least £600,000"</i> • SM requested that the panel approve that he makes decisions that require urgent responses in particular by GOWM and other operational issues. This was

		<p>approved subject to liaison with panel members by email where necessary.</p> <p>The Programme Manager report (prepared by Mr Steve Morris) also noted that:</p> <ul style="list-style-type: none"> • Annual ERDF expenditure audits were being completed but audits from 2006/7 and 2007/8 were also outstanding due to unclear guidance from DCLG and significant problems with local financial records making reconciliation to payments to projects difficult. • The Enhancing Access to Learning programme may have a maximum liability of £207,000. <p>Note: the total potential exposure reported at this stage was, therefore, £807,000.</p>
16/2/09	Regular Monthly meeting between WMBC Chief Executive (Mr Paul Sheehan) and GOWM Deputy Regional Director (Mr John Curtis)	<ul style="list-style-type: none"> • Mr John Curtis expressed concern regarding the abortive Article 10 inspections and would set out details in writing
2/3/09	Letter from GOWM (Mr John Curtis, Deputy Regional Director for Community Safety) to WMBC Chief Executive (Paul Sheehan)	<ul style="list-style-type: none"> • Concerns were expressed re the deferral of A10 inspection by WMBC and noted that <i>"To date, more than £3 million in ERDF grant has been paid and none of this can be confirmed as secured until the Council has completed its review, reconciliation and reconstruction of all the claims and we have successfully undertaken our Article 10 inspection."</i>
5/3/09	Briefing Note for the Deputy Leader - European Programmes Update Author: Mr Steve Morris Note: paper is headed 5/3/09 but signed off on 18/2/09	<p>The following points of note were identified:</p> <ul style="list-style-type: none"> • Enhancing Access to Learning has significant problems that are proving more difficult than expected to resolve. • <i>"We have known that this project was a potential liability for some</i>

		<p><i>time. Retaining the majority, or even sizeable minority, of grant already paid depends on finding additional, very detailed evidence, including evidence of tendering and procurement perhaps held by the Council. This is proving resource intensive due to the time lapse, poor archiving and record keeping, and the fact that many organisations did not follow SRB 5 rules let alone ERDF ones. We have to consider the entire £206,000 paid on this project 'at risk'. It is unlikely that GOWM will seek to reclaim all of the grant, but it is highly likely that some repayment will be required."</i> (page 3)</p> <ul style="list-style-type: none"> • The ERDF Action Plan also has significant historic problems in management, control, contracting, partnerships and project delivery. • Contractors in liquidation with a potential loss of £325,000. • Reconciliation exercise on other project designed to prepare robust final claims free of ineligible expenditure, properly evidenced etc has taken longer than anticipated in the Compliance Action Plan. This has made the audit trail very complicated. The task of compiling the annual audits and final claims is therefore proving challenging. • The timetable refers to completed audited claims by 30 April 2009.
12/3/09	Extracts from CMT minutes	Notes that EU finding activity close down was underway and that Mr Jamie Morris to provide a briefing note to the Chief Executive for meeting with Mr John Curtis of GOWM.
13/3/09	Briefing Note for the Chief Executive - European Programmes Update Author: unknown (per Word file: Ms	<ul style="list-style-type: none"> • Update on potential claw backs: • Enhancing Access to

	Julie Gethin)	<p>Learning, has significant problems and though approved by GOWM it would never be able to comply with EU regulations on procurement. Risk of £206,000.</p> <ul style="list-style-type: none"> • Projects in liquidation amount to £325,000 and discussions continue with GOWM to try and secure a write-off. • Reconciliation exercises to prepare robust final claims free from ineligible expenditure likely to identify ineligible expenditure in the region of £600,000. <p>On this basis, the potential liability would be in the order of £1,131,000.</p>
17/3/09	GOWM Article 10 inspection report on ESF project reference 031094WM2	<ul style="list-style-type: none"> • The work was undertaken in 2005 and copy report provided on 17 March 2009 (after closure of project) - requesting comments by 24 March 2009 <p>Note: This is a significant delay in reporting issues. It would have been beneficial for WMBC to have received this report at an earlier stage given the recommendation on project compliance.</p>
19/3/09	Extracts from CMT minutes	Mr Jamie Morris reported receipt of GOWM inspection report undertaken in 2005 (as noted above) and that recommendations were clearly out of date as activity on the programme ceased 3 years ago.
26/3/09	European Audits - An update Author: Mr Steve Morris (addressed to Mr Jamie Morris and Ms Julie Gethin)	<p>This paper sets out the various aspects of the EU funding audits being undertaken.</p> <p>Points of note are:</p> <ul style="list-style-type: none"> • ERDF 50 (Annual Statement of Grant Usage Audits) were overdue for the years 2005-

		<p>06, 2006-07 and 2007-08.</p> <ul style="list-style-type: none"> • ERDF 60 (Final Claim Audits) deadline of 30 April 2009 would not be met given the onerous remaining inspections and likelihood of finding more problems. • Enhancing Access to Learning - Article 4 monitoring visit by GOWM resulted in significant demand for repayment with a maximum risk of £206,000. • GOWM Article 10 inspectors had attended in February but were unable to complete the inspection due to the historical difficulties, in particular (i) producing coherent financial audit trails and (2) quantifying the ERDF support for organisations in liquidation (amounting to some £325,000) • Problems noted with WMBC Article 4 monitoring visits were not carried out to a sufficient standard and some checks were poor. The reconciliation exercise carried out since 2007 had the potential to double as an Article 4 monitoring visit but was never written up as such. This will entail a major exercise in April to go back through reconciliations and write these up as Article 4 monitoring visits.
30/4/09	Extracts from CMT minutes	Mr Jamie Morris reported that the ERDF and ESF were being closed down. CMT noted that the projects needed to be migrated to new arrangements and a framework to be considered by the WBSP.
7/5/09	Extracts from CMT minutes	Mr Jamie Morris reported on a meeting with GOWM on EU funding. A major inspection would be starting soon and audits were taking place on all

		<p>projects.</p> <p>Note: this would appear to be ERDF and reference to the Article 10 inspection but the note is not clear.</p>
18/5/09	<p>Briefing Note - European Programmes Update Author: Mr Steve Morris (dated 14/5/09)</p>	<ul style="list-style-type: none"> • Enhancing Access to Learning undergoing GOWM A4 monitoring visit and proving more difficult than expected to resolve. The entire £206,000 continues to be at risk. • Other project reconciliation exercises designed to prepare robust final claims free of ineligible expenditure, properly evidenced and with correct financial and out put details have taken much longer than anticipated in the Compliance Action Plan. • GOWM deadlines for final claim of 30 April 2009 revised to 31 July 2009 (last date for payment of claims by GOWM of 7 August 2009).
3/6/09	<p>Briefing Note - European Programmes Update (in support of paper for Cabinet of 24 June 2009) Author: Mr Steve Morris</p>	<ul style="list-style-type: none"> • Recommend that Cabinet approves £1m as minimum de-commitment in order to achieve eligible final claim. • final date for claims 7 August 2009. • Total de-commitments of £1.23 million. • Caveat re entire programme <i>"at significant risk even if these measures are taken; GOWM may still take the view that the delivery of the Action Plan represents a 'systemic error' and may therefore require repayment of the entire amount of ERDF paid to date. ...this would amount to £3.9m"</i> • The paper notes that <i>"it is necessary for Cabinet to acknowledge the problems in the programme and delegate authority for Executive Director and Head of Finance to resolve the issue by removing the irregularities from the programme."</i>

3/6/09	Cabinet Paper: Community Regeneration in Walsall: De-commitment of ERDF Funding (including the covering Consultation Sheet) Author: Mr Steve Morris (This is for the meeting on 24 June 2009)	<p><u>Consultation Paper:</u></p> <ul style="list-style-type: none"> • Changes involve the withdrawal of a number of projects...unless withdrawn GOWM could declare a 'systemic irregularity' and remove all funding of £3.9m. • <i>"Work is continuing to try and ensure that the overall limit of liability to Walsall is minimised, however the irreducible minimum at present amount to £1m made up of repayments and accruals."</i> <p><u>Cabinet Report:</u></p> <ul style="list-style-type: none"> • Explains above in more detail and stated that <i>"Cabinet should be aware of the following specific problems leading to the de-commitment of up to £1.23m"</i>. <p>Note: the wording of the Cabinet paper is in contrast to the briefing sheet. The briefing sheet refers to an "irreducible" amount of £1.0m whereas the Cabinet report states that the Council will be required to repay or forgo up to £1.23 million.</p>
5/6/09	ERDF Action Plan - Briefing for Deputy Leader and Portfolio Holder for Finance and Personnel Author: Mr Steve Morris	<p>This is a briefing paper in support of Cabinet Paper of 24 June 2006.</p> <ul style="list-style-type: none"> • para 2.3 - £1.23m needs to be de-committed. <i>"However this figure may well fluctuate over coming weeks as we work to conclude the final claim. It should be noted that the EU funding programmes 2000-2006 in total remain at risk."</i> • Also states the entire £3.9m may be at risk.
24/6/09	Extracts from CMT minutes	<p>Communicating the resolutions as regards ERDF (attached was report by Deputy Leader, Councillor Andrew)</p> <p>(1) progress being made to minimise the financial exposure of the Council, by ensuring that the final claim to GOWM for</p>

		<p>Community Regeneration in Walsall ERDF Action Plan contains only eligible expenditure.</p> <p>(2) Course of action at paragraph 3.5 be agreed.</p> <p>(3) The authority be delegated to the Executive Director of Neighbourhoods Services, in consultation with the portfolio holder for Regeneration and portfolio holder for Finance and Personnel, and that the CFO take such reasonable steps to de-commit from the programme sums as are necessary to ensure only eligible expenditure is included in the final claim.</p>
30/6/09	RHCS Final Evaluation Report "Final Evaluation of Walsall's Objective 2 European Action Plan - Building Ownership through Partnership", June 2009	<p>The Executive Summary set out the following key matters:</p> <ul style="list-style-type: none"> • <i>"That the Action Plan has been blighted with problems with in its overall management cannot be denied."</i> • <i>"There have been ongoing issues with regard to the Programme Management in terms of a seeming lack of organisation, inadequate rigour in respect of monitoring and changes to guidance issued."</i> • <i>"restructuring of the Programme Management Team with new members being recruited in 2007... whilst this led to a difference in approach, hence the emphasis being placed on identifying eligible spend and the need to produce suitable evidence which in turn led to closer scrutiny, it undoubtedly led to difficulties for applicant organisation."</i> • <i>"It has also been a consistent theme of interviews that the Programme Management Team was subject to ongoing upheaval over the period of the Action Plan and this may have contributed to differences in interpretation of rules governing the Plan."</i> • Several organisation stated

		<p>despite problems it has brought many benefits. But, arguably, missed opportunity to develop the third sector.</p> <ul style="list-style-type: none"> • Lessons learnt include: <ul style="list-style-type: none"> – Programme management team lacked essential division of roles and responsibilities – useful to have staff responsible for financial oversight and control separate from those "building" a delivery partnership – day to day involvement from finance staff would have benefited early stages and establishing audit trail – <i>"Whilst senior finance officers appear to have provided an appropriate level of support, the relationships at working level have not been strong enough."</i> – the relationship with GOWM should be revisited. GOWM did not see themselves as part of the solution but GOWM arguably guardian of public funds and acted in accordance with its duties. <i>"The obvious need here is to ensure a good working relationship is established and maintained with Government Office."</i> <p>Note: Finance officers have explained that they were not consulted on the scope of this report nor had the opportunity to comment on the findings.</p>
7/8/09	WMBC submitted its final claims to GOWM	
19/8/09	<p>Receipt of the GOWM Article 10 report - report contained in an email from Mr Paul Johnson at GOWM to Mr Jamie Morris.</p> <p>- this was forwarded on same day by Mr Jamie Morris to Mr Clive Wright, Ms</p>	<p>Mr Jamie Morris' email stated:</p> <ul style="list-style-type: none"> • <i>"hi all, see attached. this looks gloomy reading. We need to understand how this is reflecting the level of de-commitment in our final claim or</i>

	Julie Gethin and Mr Steve Morris.	<i>whether (and how far) this might increase our liability. Please have a look through and we'll meet next week to review."</i>
21/8/09	Audit Committee Report (for the meeting on 2/9/09) Authors: Mr Jamie Morris (signed 21/8/09) and Ms Julie Gethin	<p>The report sets out the historic issues that impacted on the closure process for the Action Plan and also measures taken to minimise any financial loss to WMBC and lessons learnt.</p> <p>Recommendations include:</p> <ul style="list-style-type: none"> <i>"To note de-commitment of just over £700,000 from the ERDF and ESF programmes, as set out in paragraph 4.2 and the potential of up to a further £206,000 clawback on a separate project which is subject to an on-going negotiation with GOWM."</i> <i>"To note that there may be need to be further adjustments to the final claim following receipt of the Article 10 inspection report from Government office, which is expected imminently."</i> <p>Note: the GOWM Article 10 report was received on 19 August 2009. This point was noted during the Audit Committee meeting.</p>
2/9/09	Audit Committee	<ul style="list-style-type: none"> This was attended by Mr Jamie Morris, Ms Julie Gethin, Mr Steve Morris, and Mr Charles Barber. The fact that the Article 10 inspection report had been received was noted by Ms Julie Gethin. <p>However, the minutes do not reflect any discussion as to the potential impact of the findings of the Article 10 report.</p>
3/9/09	Extracts from CMT minutes	Report submitted by Ms Julie Gethin. Mr Jamie Morris noted that the report had been submitted and approved by

		<p>Audit Committee on 2/9/09.</p> <p>The report is that noted above (and dated 21/8/09).</p>
3/9/09	<p>Briefing Note for Chief Executive - European Programmes Update, Progress of Closure Process</p>	<p>The paper notes that:</p> <ul style="list-style-type: none"> • Final claims were submitted on 7 August 2009 subject to technical issue with electronic claims (which was later resolved). • The ERDF Action Plan was subject of an Article 10 inspection. the inspection was delayed from June 2007 to May 2009. • <i>"Whilst it is true that the Council's systems were inadequate to the task, Walsall MBC believes that it could have been better supported and advised by the Managing Authority (GOWM). The delay in the inspection meant that the findings of the inspectors could not have been used to improve Walsall's systems for reconciling and improving the audit trail"</i> • <i>"GOWM had identified potential flaws in Walsall's systems as early as May 2006, but even though a 'compliance action plan' was agreed with GOWM designed to rectify errors in the programme, it is clear that significant amounts of work on individual projects ..was wasted because it was not done in the correct form."</i> • <i>"Walsall is confident that we can provide a positive response to the nine Action Points in the report, and that we can demonstrate that there should be no further financial penalties on the Action Plan."</i>
4/9/09	<p>Mr Paul Sheehan received a call from Ms Trudi Elliott (Regional Director, GOWM).</p> <p>Note: Council leader was present at time but left room during the call.</p>	<p>Mr Sheehan explained that:</p> <ul style="list-style-type: none"> • Ms Trudi Elliott expressed concern following the Article 10 Inspection and that Mr Paul Sheehan should be aware that there was a potential risk that the claw back could be in the order of £1.0m to £2.4m as a result of issues identified by the Article 10 inspection.

		<ul style="list-style-type: none"> • Prospect of fines was also mentioned. <p>Mr Sheehan explained that he then informed the Council Leader.</p>
8/9/09	Meeting between WMBC (Mr Clive Wright, Ms Vicky Buckley and Mr Steve Morris) and GOWM	<ul style="list-style-type: none"> • Key points being that WMBC should: <ul style="list-style-type: none"> – consider reconstructing the programme to clean up issues – projects (or parts) be eliminated from the final claim – re-issued ERDF 50 required (by 29 September 2009).
8/9/09	Meeting convened by Rory Borealis to discuss ERDF funding matters. Present: Mr Dave Martin (acting Chief Executive), Mr James Walsh, Mr Clive Wright and Ms Vicky Buckley.	<ul style="list-style-type: none"> • Note records that Paul Sheehan and Jamie Morris were on holiday. • Clive Wright and Vicky Buckley reported back following meeting with GOWM on 8/9/09. • Both the GOWM Article 10 inspection and Grant Thornton audit certificates identified major concerns with the August 2009 grant claim. • Unless appropriate action was taken to address these concerns the Council could potentially receive nothing against the programme total of £3.4 million. • GOWM gave the Council two weeks to re-submit the claim for independent audit and further one week for completion of the audit. • The note comments that following lengthy deliberation several actions were agreed including confirming the understanding of the severity of the issue with GOWM, arrange for the detailed work and keep the Chief Executive, the Leader and Councillor Towe informed of developments.

10/9/09	Extracts from CMT minutes	<ul style="list-style-type: none"> • Mr Clive Wright also attended. • Mr Jamie Morris reported on the current position following submission of the grant claim on 7 August 2009. • The Article 10 inspection report from GOWM and audit opinions from Grant Thornton received. Feedback from GOWM indicated a potentially substantial liability to the Council. • Council had been given three weeks to re-submit a final claim with clean audit certificates. Failure to do so could result in fines. • The priority was to maximise the quality of any re-submission to meet the threshold required by GOWM. • Agreed that Mr Jamie Morris to co-ordinate briefings with the Council Leader and Chief Executive.
10/09/09	CMT briefing: Present - Mr Dave Martin, Mr Jamie Morris, Mr Rory Borealis, Mr Tim Johnson, Mr James Walsh, Ms Vicky Buckley and Mr Bhupinder Gill.	<ul style="list-style-type: none"> • De-brief re meeting with GOWM of 8/9/09. • Confirmed potential ERDF exposure of £3.2 million (all at risk).
11/09/09	Meeting to brief Leader Councillor Bird. Present: Councillor Bird, Mr Jamie Morris and Mr Clive Wright	<ul style="list-style-type: none"> • Discussed: <ul style="list-style-type: none"> – meeting with GOWM on 14/09/109. – approach of taking out all projects or parts contaminating the programme – approach could result in some good expenditure not being included as focus was on auditing high value projects with clean audit trails.
11/09/09	Briefing Mr Clive Wright to Mr Rory Borealis and then Mr Clive Wright to Ms Vicky Buckley and Mr James Walsh	<ul style="list-style-type: none"> • First draft of prospective projects to be included in the re-submission.
14/09/09	Meeting with GOWM: Present: WMBC - Mr Clive Wright, Ms	<ul style="list-style-type: none"> • Confirmed prospective project list.

	Vicky Buckley, Mr Steve Morris. GOWM - Ms Sue Rawlings.	<ul style="list-style-type: none"> • Agreed revised list. • Agreed Grant Thornton to be briefed 17/09/09.
17/09/09	Briefing meeting Present: Mr Clive Wright, Mr Jamie Morris, Ms Vicky Buckley, Mr Steve Morris.	<ul style="list-style-type: none"> • Progress discussed. • Grant Thornton to commence audit 21/09/09. • GOWM guidance requested re Enhancing Access to Learning.
17/09/09	Briefing Grant Thornton. Present: WMBC - Mr Clive Wright, Ms Vicky Buckley. Grant Thornton - Ms Kyla Bellingall and Ms Kate Taylor.	<ul style="list-style-type: none"> • Discussed scope of work and agreed approach.
17/9/09	Extracts from CMT minutes	Noted that Mr Clive Wright, Ms Vicky Buckley and Mr Steve Morris were preparing a resubmission. Ms Vicky Buckley updated CMT on the current position with regard to the approvals process, outputs and evidence trails. Priority A projects were being reviewed.
21/09/09	Grant Thornton audit commences.	<ul style="list-style-type: none"> • Some 10 auditors. • WMBC team requested and received assistance from other sources to aid process.
24/9/09	Extracts from CMT minutes	Lengthy discussion took place on the current position. Work was ongoing and a follow-up meeting with the Chief Executive had been arranged for following week. The application of fines still need to be 'bottomed out'.
29/09/09	Final revised submissions made to GOWM.	



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