

## **MINUTE EXTRACT**

### **AUDIT AND RISK MANAGEMENT COMMITTEE**

**24 APRIL 2019**

73 **INTERNAL AUDIT REVIEWS: VERIFICATION OF VALIDITY OF SUPPLIER VAT REGISTRATION NUMBERS; APPOINTMENT OF AGENCY WORKERS**

Mark Niblock, Chief Internal Auditor introduced his report that provided Members of the Committee with the outcome from two Internal Audit reviews undertaken into the effectiveness of systems in operation at the Council for the 'Verification of the Validity Supplier VAT Registration Numbers' and the 'Appointment / Employment of Agency Workers'.

The Audit and Risk Management Committee was apprised that in February 2019 the Director of Governance and Assurance had commissioned Internal Audit to undertake detailed reviews, to provide management with assurances regarding the efficiency and effectiveness of the systems in operation at the Council in the area detailed in the Chief Internal Auditors report.

The Chief Internal Auditor informed that the review relating to the verification of the validity of supplier VAT registration numbers had been completed and the key findings were that:

- The Council had a system in place for inputting VAT registration numbers that satisfied the requirements of HMRC;
- The system in operation at the Council was consistent with the approach adopted by the majority of Councils across the North West of England and advice and guidance provided by professional bodies and organisations;
- Testing undertaken during the audit review identified a number of potentially incorrect VAT Registration Numbers that required further investigation by the Council and possible reporting to HMRC, pending the outcome; and
- A number of actions for consideration by senior managers had been identified that would further strengthen arrangements in this area for the future.

The Chief Internal Auditor further informed that the review relating to appointment/employment of agency staff had been completed and the key findings were that the Council should undertake the following:

- Ensure that a more robust procedure/process was in place when considering and appointing agency staff;
- Strengthen controls for monitoring and managing agency / interim workers;

- Improve Contract Procedure Rules compliance when appointing agency/interim workers outside of the corporate contract;
- Ensure that an agreement (in the form of a contract or service level agreement) was always in place when appointing an agency / interim worker outside of the corporate contract;
- Strengthen controls over determining and communicating IR35 status when the corporate contract had not been utilised; and
- Improve the process of raising purchase orders and subsequent payment of invoices, for agency workers appointed outside of the corporate contract.

Members noted that the Chief Internal Auditor's report had resulted in recommendations to improve and develop systems of control currently in operation.

Members stated that this matter continued to be of extreme public interest and questioned the Director of Finance and Investment and the Head of Human Resources on concerns regarding issues raised in the Chief Internal Auditors report, namely:

- Issues of confusion arising from combining discussion on the employment of key people i.e. consultants, and the use of agency workers – these elements needed to be disentangled to allow clarity.
- Extreme concern over the use of consultants paid in excess of £500 per day, Members expressed a wish that before such appointments were made there should be Member oversight either via a Cabinet Member Decision or the Employment and Appointments Committee, and such decisions should not be taken by Council Officers only.
- Concern that it appeared that general experience of IR35 (fundamentally introduced to ensure consultants pay the relevant tax, identified via a series of tests / questions) had led to the establishment of 'Umbrella Companies' to circumvent this. As a public body, the Council should not employ people in such a way – it was inappropriate.
- Ideally, the Council should operate on the basis of no IR35 arrangements and pay all people via the payroll. A Member stated that he had been assured (in the past) that all people brought in were on the payroll, and how at the previous meeting of the Audit and Risk Management Committee when this had been suggested as an option, there appeared some hostility to this idea.

The Director of Finance and Investment responded to a number of the points raised, informing that when using agency workers – all of whom were employed via 'Matrix' (an umbrella organisation for a collective of temporary worker employment agencies) - the payroll function was administered by Matrix who deducted all the relevant tax and NI contributions. She added that use of Council payroll was not feasible, given that agency staff were used when, for example, there had been a failure to appoint to a post via direct recruitment.

The Director of Finance further informed that consultants had been used when it was not possible to recruit and/or use agency staff.

The Head of Human Resources then provided additional information to the Committee on how the introduction of Matrix assisted by acting as a single point of contact, in a similar fashion to the role of an Insurance Broker, and that the Council paid Matrix (umbrella co) who then paid the workers. He added that for each arrangement an IR35 test was undertaken. This was the 'default position', and further review work had been undertaken by Human Resources on the use of IR35.

A Member thanked the Officers and welcomed the assurance that Tax and NI deductions were managed effectively under the Matrix arrangements, and that for 'general' recruitment to fill vacant positions Matrix arrangements appeared to be working well. However, where it hadn't, the Member requested that the Audit and Risk Management Committee be provided with some oversight and information as to why certain positions could not be filled - particularly when it had resulted in individuals being employed on >£500 per day.

The Head of Human Resources assured Members that in all cases there was still a requirement to make an assessment under IR35 and it was fairly exceptional for any arrangements to be made outside of Matrix and IR35.

A Member expressed concern on a particular employee of 2 years 2 months having received payments totalling £400k. Another Member questioned who decided such contract levels payments and who was responsible for the authorisations.

The Head of Human Resources informed that agency / interim workers generally tended to be employed for 12 week 'blocks' with the aim to appoint to a vacant post in 3 to 4 months (through continued advertisement, or conversion of the agency worker to permanent employee). After the initial 12 weeks period for project based, maternity or sickness cover, the line Manager would make a decision regarding extension of the period of contracted employment.

The Head of Human Resources added that the Internal Audit Action Plans contained in the Chief Internal Auditor's report had highlighted the need for review of controls for monitoring and managing agency / interim workers.

He further informed that in terms of executive interim arrangements – these varied and employment / rates were matched to the roles required.

Following a short discussion, and on a motion moved by Councillor Jeff Green and seconded by Councillor Ron Abbey, with the addition of a further recommendation on the matter of intellectual property rights, it was -

**Resolved (7:0) One abstention (Chair)**

**That the Internal Audit Reports 'Verification of the Validity Supplier VAT Registration Numbers' and the 'Appointment / Employment of Agency Workers' be noted; and**

**it be recommended to Cabinet, that:**

- 1) any Company / Contractor recruited at a rate in excess of £250 per day should be reported to the relevant Cabinet Member for political oversight prior to employment;**
- 2) in the case of employment at a rate of in excess of £250 per day, verification is also sought via Internal Audit to ensure that the IR35 assessment by the relevant service manager has been undertaken and is accurate;**
- 3) where a situation exists that a Contractor has been taken on for over 2 years (or 2 contract extensions / continuations) there should be a formal review led by Human Resources Department; and**
- 4) clarity be sought regarding contractual arrangements regarding ownership of intellectual property rights of the Council and Contractors working for the Council.**