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AUDIT AND RISK MANAGEMENT COMMITTEE

Wednesday, 25 November 2009

<u>Present:</u>	Councillor	P Southwood (Chair)	
	Councillors	P Reisdorf RL Abbey	J Crabtree C Povall
<u>Deputies:</u>	Councillors	S Mountney (In place of L Fraser)	
<u>Cabinet Member:</u>	Councillor	S Holbrook	

45 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had personal or prejudicial interests in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

Councillor Abbey declared his personal interest in agenda item 12 – Merseyside Pension Fund Risk Register (see minute 56 post) by virtue of him being a recipient of a pension from the Merseyside Pension Fund.

46 MINUTES

The Director of Law, HR and Asset Management presented the minutes of the meetings held on 23 September and 3 November 2009.

Resolved – That the minutes of the Special Meeting held on 23 September, and the ordinary meetings held on 23 September and 3 November 2009 be approved.

47 ADULT SOCIAL SERVICES - CHARGING POLICY

A. Report of the Chief Internal Auditor
Adult Social Services – Charging Policy – Service Users Residing at “In-House” Supported Living Units during the period 1997 – 2003

Further to minutes 23 (23 September 2009) and 42 (3 November 2009), the Chief Internal Auditor presented an update to his report in relation to the ‘Special Charging Policy’ applied to service users residing at ‘in-house’ Supported Living Units during the period 1997 to 2003, which had been deferred at the last meeting of the Committee in order for it to be considered in conjunction with a final statement to be provided to the Committee by Mr Morton. However, that statement had not been received within time for it to be considered for inclusion in his report.

He commented also that following the last meeting a Member had submitted a request for auditors to seek the views of the Directors of Adult Social Services of the North West Authorities to specific questions, set out in an appendix to his report, in

relation to whether those authorities had a separate charging policy for people with learning disabilities. He provided an analysis of the responses and indicated that due to the limited number of replies it had not been possible to draw a conclusion on whether the approach applied by Wirral was 'unreasonable'. He confirmed that an analysis of the documentary evidence indicated that in October 2000, some officers were aware that the charges were not in accordance with best practice. In addition, there had been a failure to submit a further report to Members on service users in Supported Living accommodation, contrary to the statement in paragraph 4.24 of the report of the Director of Social Services to the Special Social Services Committee held on 26 July 2000 (minute 43 refers).

A Member expressed the view that residents of Bermuda Road, Curlew Way and Edgehill Road had been financially disadvantaged from 1999 onwards and that the Council should reimburse those residents from that point onwards. Other Members commented that although there were clear anomalies from July 2000, the position before that time was unclear. The Director of Law, HR and Asset Management offered a personal opinion, as a lawyer and shared by the Director of Adult Social Services that the decision taken by Members in 1997 was one that a court would not have considered to be unreasonable and, the failure to implement the 'special charging policy' elsewhere did not necessarily mean that the charges levied at the three establishments in Moreton were unlawful. The Chief Internal Auditor reported that, had the charging policy for Supported Living been reviewed, Members may have implemented the wider charging policy to "in-house" Supported Living, albeit the intention was unknown. However, if this had been decided, then the reimbursement for the 16 service users who were affected for the period 4 December 2000 to 31 March 2003 would total £127,700. This was calculated by reference to records of the amounts service users paid during the period, which were in excess of the charge that would have been levied had the recommendation of the wider departmental charging policy been applied to Supported Living.

B. Statement from Mr M Morton

The Director of Law, HR and Asset Management presented a statement that had been received from Mr M Morton in relation to the 'Special Charging Policy'. The Director had redacted the statement to remove all names of present and former officers except for current Chief Officers and the Chief Internal Auditor. This had been done so as not to prejudice an ongoing independent investigation into other allegations by Mr Morton. In addition, a small number of other potentially defamatory comments had also been redacted. However, the Director confirmed that the complete document would be forwarded to the independent investigator.

In response to questions from a Member, Mr Morton provided clarification of matters contained within his statement in relation to the application of the 'special charging policy' and also, the amount of income retained by service users for their own use.

C. Report of the Director of Adult Social Services
Charging Arrangements for Supported Living in Wirral 1997 – 2003

Further to minute 43 (3 November 2009), the Director of Adult Social Services presented a report which had been deferred at the last meeting of the Committee, which set out his professional comments and views on the policies and practices with regard to Supported Living that were in place in Wirral during the period 1997 – 2003.

It was moved by Councillor Southwood and seconded by Councillor Reisdorf –

“(1) That the issues contained within the report of the Chief Internal Auditor be noted.

(2) That the statement received from Mr Morton be noted.

(3) That the Director of Adult Social Services be instructed to seek the approval of the Cabinet for the reimbursement of residents and former residents of Bermuda Road, Curlew Way and Edgehill Road, Moreton for the period dating back from March 2003 to December 2000, based on the difference between the ‘special charging policy’ and the wider review of Social Services charging approved by Members in July 2000; and/or to take any other appropriate restorative action.

(4) That the issues contained within the report of the Director of Adult Social Services be noted.”

It was moved as an amendment by Councillor Mountney and seconded by Councillor Povall –

“That the Director of Adult Social Services be instructed to seek the approval of the Cabinet for the reimbursement of residents and former residents of Bermuda Road, Curlew Way and Edgehill Road, Moreton for the period dating back from March 2003 to September 1999.”

The amendment was put and lost (2:4)

The Motion was put and carried (4:0) (Councillors Mountney and Povall abstaining)

Resolved –

(1) That the issues contained within the report of the Chief Internal Auditor be noted.

(2) That the statement received from Mr Morton be noted.

(3) That the Director of Adult Social Services be instructed to seek the approval of the Cabinet for the reimbursement of residents and former residents of Bermuda Road, Curlew Way and Edgehill Road, Moreton for the period dating back from March 2003 to December 2000, based on the difference between the ‘special charging policy’ and the wider review of Social Services charging approved by Members in July 2000; and/or to take any other appropriate restorative action.

(4) That the issues contained within the report of the Director of Adult Social Services be noted.

48 **AUDIT COMMITTEE - SELF ASSESSMENT ACTION PLAN**

Further to minute 16 (29 June 2009), the Chief Internal Auditor presented a draft action plan that had been produced to identify those actions required to address issues which had arisen from the self assessment exercise to evaluate the role and effectiveness of the Audit and Risk Management Committee. The Chair proposed a

minor amendment to recommendation 5, contained within the action plan, to ensure that a system was in operation to assess the skills and experience mix of all Members of the Audit and Risk Management Committee.

Resolved – That, subject to the minor amendment now agreed, the self assessment action plan be endorsed.

49 **DATA QUALITY ACTION PLAN AND PROGRESS REPORT**

Further to minute 33 (23 September 2009), the Deputy Chief Executive/Director of Corporate Services presented Wirral's Data Quality Action Plan and progress against the actions contained therein. It had been developed to address recommendations of the Audit Commission's assessment of data quality arrangements for 2007/2008 and included also recommendations made by internal audit during 2007/2008 and any outstanding recommendations made by the Audit Commission in 2006/2007 where appropriate.

Resolved –

- (1) That the progress against the Data Quality Action Plan be noted.**
- (2) That the action plan be amended to indicate both planned and revised completion dates.**

50 **USE OF INFORMATION - AUDIT COMMISSION LOCAL GOVERNMENT NATIONAL REPORT (JULY 2009)**

The Director of Finance reported that the local government national report by the Audit Commission "Is there something I should know? Making the most of your information to improve services", published in July 2009, considered whether Councils were equipped to improve their information. It found that almost 80 per cent of Members reported a lack of in-depth analysis as a major problem and that their analysts (officers/researchers/consultants) spent around twice as much time on producing routine reports as on value-added analysis. Findings showed also that Members complained that they received lengthy reports that lacked the information they needed. Less than five per cent of councils had excellent quality data and 65 per cent faced problems sharing data externally.

The Director highlighted the key details and recommendations from the report and commented that there was a great deal that required further thought and consideration. In the light of the Audit Commission report it would be necessary to review the way the Council worked and he commented that this would be assessed using the tools available from the Audit Commission supporting the report. Officers would work together corporately to understand any information deficits; but ultimately, it was Members and decision-makers in the Council who needed to decide for themselves what information they needed. Accordingly, the Director envisaged that this work would involve workshops with Members and senior officers to ensure Wirral had the right culture, people and standards to produce relevant, quality, well presented information upon which to make decisions.

Resolved –

- (1) That the report be noted.**
- (2) That an update report be presented to the March 2010 meeting of the Committee.**

51 AUDIT COMMISSION REPORTS

Further to minute 35 (23 September 2009), the Chief Internal Auditor presented a summary of reviews undertaken by the Audit Commission since April 2006, including additional detail regarding the nature of individual recommendations and actions taken by the Council to implement them. From 1 April 2006 to date, the Audit Commission had issued 41 final reports in respect of Wirral Council and 8 in respect of the Merseyside Pension Fund. All had been reported to appropriate Committees and assurances had been obtained that recommendations had been implemented or were in the process of being implemented.

Resolved –

- (1) That the report be noted.**
- (2) That an update report be presented to the Committee on an annual basis.**

52 COMPARISON OF AUDIT FEES

Further to minute 12 (29 June 2009), the Director of Finance reported that Audit Commission fees were based on a risk based approach to audit planning as set out in the Code of Audit Practice and reflected the audit element of the work, excluding any inspection and assessment fees. Wirral's fees for 2009/2010 were 13% above the scale fee, due to factors that placed the Council towards 'high risk' in audit terms. The Director presented a comparison with other Merseyside authorities in relation to fee levels and charges made in respect of the certification of grant claims, which had been provided in a letter, appended to his report, from the District Auditor.

The District Auditor outlined the key messages and confirmed that although the fee levels for Wirral were above the scale fee, the direction of travel was downward and the Audit Commission continued to work with the authority to further reduce fees.

Resolved –

- (1) That the findings of the comparison be noted.**
- (2) That a report be presented to the next meeting of the Committee upon action to be taken to further reduce fees.**

53 PROTECTING THE PUBLIC PURSE

The Chief Internal Auditor reported upon a review undertaken by Internal Audit of the governance and counter fraud arrangements in operation across the Council to ensure that they were working as intended and were in compliance with the 'Audit

Commission National Report: *Protecting the Public Purse: Local Government Fighting Fraud* launched in September 2009. The report considered key fraud risks and pressures faced by local authorities and related bodies and it identified good practice for fighting fraud.

He commented that the Council was fully compliant in many areas and operated some systems that were regarded as best practice. He reported also that although a number of procedures and practices had been identified as being in need of improvement, they had already been considered following a review to evaluate the effectiveness of the Council's counter fraud arrangements. A report on the exercise would be presented to the next meeting of the Committee and would include a timetable for the implementation of actions required to improve existing systems and reduce risks.

Resolved –

- (1) That the report be noted.**
- (2) That the 'Managing Fraud' report to be presented to the next meeting of the Committee be referred also to the Council Excellence Overview and Scrutiny Committee for consideration.**

54 **RISK MANAGEMENT STRATEGY**

The Director of Finance presented the annual update of the Risk Management Strategy which was agreed by the Cabinet on 24 September 2009 (minute 119 refers). He commented that there had been only minor revisions to the Strategy from that agreed by the Cabinet on 23 July 2008 and he reported that effective management of risk was recognised as an essential feature of a well-run organisation. It was particularly important at a time when the Authority was making substantial changes in the drive to improve services.

He commented that as part of the annual review the Risk and Insurance Team had referred to the Annual Governance Statement, the Audit Commission Use of Resources assessment and Action Plan and the Risk Management Strategy recently published by NHS Wirral. The risk management arrangements were rated as 3 star (performing well) by the Audit Commission as part of the Use of Resources assessment 2008 and he reported that the approach adopted in identifying, managing and reporting risks to the priorities of the Wirral Local Strategic Partnership devised by the Risk and Insurance Team and the Partnership Performance Officers had placed Wirral ahead of other areas in the region.

He set out the amendments proposed to bring the Strategy up to date and he provided details of actions planned over the next twelve months. He reported that in order to ensure that the Wirral approach strived towards best practice and, more importantly, to ensure that arrangements added value to the Authority and the wider community, a more fundamental review of the entire approach was needed in the longer term. Delivering substantial improvements was likely to require cultural change and possibly additional resources and he proposed that initially, the Risk and Insurance Team would produce a gap analysis and put forward comprehensive recommendations for consideration by Chief Officers and Members. However, it was unlikely that this exercise would be concluded before Summer 2010.

Resolved –

- (1) That the revised Risk Management Strategy be noted.**
- (2) That a report upon bringing about the cultural changes necessary to improve the effective management of risk be presented to the next meeting of the Committee.**
- (3) That, in relation to the annual exercise undertaken by Chief Officers and key Members to identify the key risks to achievement of the Council's corporate aims and the Priorities for Improvement, the Cabinet be requested to include as key members, Chairs of Overview and Scrutiny, and other Committees, as considered necessary.**

55 CORPORATE RISK AND INSURANCE MANAGEMENT

The Director of Finance reported upon recent progress made against the existing objectives for Corporate Risk and Insurance Management and the anticipated developments in the coming months.

Resolved – That the report be noted.

56 MERSEYSIDE PENSION FUND RISK REGISTER

The Director of Finance presented the Merseyside Pension Fund (MPF) risk register, which was approved by the Pensions Committee on 22 September 2009 (minute 42 refers). The Director commented that concern had been expressed nationally in relation to the risks to administering authorities associated with the administration of Pension Funds and he referred to the need to demonstrate that the Council had a process in place to ensure the management of risks was being undertaken.

Resolved – That the Merseyside Pension Fund risk register be noted.

57 INTERNAL AUDIT WORK: SEPTEMBER - OCTOBER 2009

The Director of Finance reported that in order to assist in effective corporate governance and fulfil statutory requirements, the Internal Audit Section of the Finance Department reviewed management and service delivery arrangements within the Council as well as financial control systems. Work areas were selected for review on the basis of risks identified on the Corporate Risk Register and as assessed by Internal Audit in consultation with Chief Officers and Managers. He presented a report, which identified and evaluated the performance of the Internal Audit Section and included details of the actual work undertaken during September and October 2009. He indicated that 51 audit reports were produced during the period with 49 high and 25 medium priority recommendations identified in the reports issued. Management had agreed to implement all of the recommendations made within a satisfactory timescale and there were no items of significance identified during the audit process that required action by Members.

Resolved – That the report be noted.

58 **REPORTS SUBMITTED AFTER DEADLINES - UPDATE**

Further to minute 39 (23 September 2009), which deferred consideration of this matter, the Director of Law, HR and Asset Management presented an updated monitoring report in relation to the receipt of reports by Committee Services after specified deadlines. He referred to the legal requirement for agendas and reports to be on deposit and available for inspection five clear days before a meeting, the so called 'five day rule' and he indicated that the deadlines imposed by Committee Services were intended to ensure that the rule would be adhered to. Failure to submit reports in accordance with the deadlines ran the risk that publication would be less than the statutory period laid down and could result in a decision in question being open to challenge in the courts.

He provided details of late reports, by Committee, received by Committee Services and indicated also the number of reports approved as items of 'any other urgent business'. The Committee cycle that ended with the meeting of the Council on 2 November 2009 had been used to provide the information and figures from earlier meetings were included for comparison purposes. Overall, there had been a marked decrease in the number of late reports compared to the last monitoring report.

Resolved – That the report be noted and a further monitoring report be presented to a future meeting of the Committee.

59 **TRAINING PROGRAMME FOR OFFICERS ON THE REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

Further to minute 31 (23 September 2009), the Director of Law, HR and Asset Management provided a summary of the training programme for staff who may be applicants or Authorising Officers for authorisation for covert surveillance granted under the Regulation of Investigatory Powers Act 2000 (RIPA). He commented that one of the Surveillance Commissioner's recommendations was that training events for officers should focus more on the practical applications of the provisions of RIPA including in particular guidance regarding completion of applications and authorisations for covert surveillance. He indicated that the training had hitherto been concentrated on the legal requirements of RIPA with less emphasis on its practical application.

The training programme was a requirement of the Council's Policy and Guidance Document on RIPA that all authorising and applying officers should receive adequate training on the use of the Council's powers under RIPA at least once every 2 years and a training register had been kept which recorded the training received by each officer within the 2 year period. He reported that training had been provided by one of the leading experts in this field, Mr Ibrahim Hasan and included sessions on 7 October 2008, 21 April 2009, 18 May 2009 and 2 July 2009.

The Director provided an illustration of the topics covered by the training and indicated that Mr Hasan had been asked to prepare a training session for officers who were already familiar with RIPA but who would benefit from more practical guidance on how to apply the law and complete correctly the authorisation forms. He had supplied a suggested course outline to be provided early in 2010 subject to the views of the Committee and the aim of the course would be to reduce the likelihood of the recurrence of the deficiencies in the authorisations detected by the

Surveillance Inspector and described in his report of 22 July 2009. The course would also provide commentary on any changes in the Home Office Guidance on RIPA which were imminent.

Resolved – That the modifications to the RIPA training programme be approved.

60 **MEMBERS TRAINING**

The Director of Finance reported that in accordance with best practice, training had been provided to Members of the Audit and Risk Management Committee specific to their role. Initial training had been provided on 29 September 2009 by one of the authors of 'Audit Committees – Practical Guidance for Local Authorities' and he now proposed that a more advanced training session be undertaken.

Resolved – That the Director of Finance be requested to organise a further training course early in 2010 for Members and deputies of the Audit and Risk Management Committee.

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