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AUDIT AND RISK MANAGEMENT COMMITTEE

Wednesday, 19 September 2012

<u>Present:</u>	Councillor	J Crabtree (Chair)	
	Councillors	D Dodd A Brighthouse RL Abbey	S Foulkes P Hayes D McCubbin
<u>Deputies:</u>	Councillors	M Sullivan (In place of J Walsh) L Fraser (In place of JE Green)	
<u>Cabinet Member:</u>	Councillor	G Davies	

13 MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST

Members were asked to consider whether they had any disclosable pecuniary interests and/or any other relevant interest in connection with any item(s) on this agenda and, if so, to declare them and state what they were.

No such declarations were made.

14 MINUTES

Resolved – That the minutes of the meeting held on 14 June 2012, be approved.

15 INTERNAL AUDIT UPDATE

The Chief Internal Auditor presented a report, which identified and evaluated the performance of the Internal Audit Section and included details of the actual work undertaken during the period 1 June to 31 August 2012. He commented also that delivery of the audit plan was largely on target, due in part to the utilisation of a number of temporary members of staff being deployed until a new structure was implemented.

During the monitoring period, 35 audits had been undertaken and he provided details of 48 high priority recommendations that had been identified to address risks and improve systems in operation across the Council. Management had agreed to implement all of the recommendations made within a satisfactory timescale and follow up audits were scheduled to monitor progress. Following previous discussions with Members, a colour coded RAG rating and more detailed key had been incorporated into the monitoring of high priority recommendations. However, Members commented that colours used in reports needed to be clearly indicated to ensure that they were identifiable when copied in black and white.

The Chief Internal Auditor provided a narrative in relation to the following items of note that had arisen from the audit work and which contained high priority recommendations –

- CYPD Metro Catering Income
- DASS: Personal Budgets
- CYPD: Bidston Village CE Primary School
- BIG and ISUS
- Information and Communication Technology

The Deputy Chief Executive referred to a number of areas of concern, particularly in relation to the Council's investigation and response to serious allegations that had been made in relation to the BIG and ISUS schemes. He confirmed that the final report would be subject to external review to ensure that all aspects of the allegations had been addressed. In response to comments from Members in relation to the DASS Personal Budgets audit, the Principal Manager, Access and Assessment Branch apologised for the slippage from the original dates planned for compliance. He confirmed that measures were being put in place to ensure that in future, all audit recommendations would be acted upon. He indicated that consultation was taking place with carers on a number of issues prior to the submission of a full timetable.

Members also expressed a view that, when issues were brought to the attention of the Committee as a high priority, an action plan, with named responsible officers, should be presented and that there should also be an automatic referral to appropriate Overview and Scrutiny Committees. Comments were made also that, if improvements were not brought about, such matters could be referred to the Improvement Board, which could also hold Chief Officers to account.

Resolved –

- (1) That the report be noted.**
- (2) That officers be instructed to implement outstanding recommendations in relation to DASS: Personal Budgets, in line with the revised target dates and provide a progress report of actions taken to the next meeting of both the Audit and Risk Management Committee and the Health and Well Being Overview and Scrutiny Committee.**
- (3) That the officers be requested to provide a progress report of actions taken to address the issues identified in relation to CYPD: Metro Catering Income, to the next meeting of both the Audit and Risk Management Committee and the Children and Young People Overview and Scrutiny Committee.**
- (4) That the issues identified in relation to CYPD: Bidston Village CE Primary School; BIG and ISUS; and Information and Communications Technology, be noted.**
- (5) That the officers be requested to ensure that where colours are used in reports, particularly in RAG ratings, they are clearly identified, where they are copied to Members in black and white agenda packs.**
- (6) That when issues are brought to the attention of the Committee as high priority recommendations, they should be accompanied by an action plan, with appropriate timescales and a named responsible officer, to ensure compliance. In addition, such issues should be referred automatically to appropriate Overview and Scrutiny Committees.**

16 ITEMS OF NOTE ARISING FROM JUNE 2012 UPDATE

At the meeting of the Committee held on 14 June 2012 (minute 4 refers), the Chief Internal Auditor had reported that, as part of the Internal Audit Plan 2012/2013, audits had been conducted to evaluate the effectiveness of controls in three important Council systems –

- DASS Court of Protection
- DASS Procurement of Commissioned Care
- CYPD Children in Need Emergency Payments

Members had requested a further update report and the Chief Internal Auditor provided details of the client response to the recommendations together with a timescale for implementation. He commented that feedback from Chief Officers was positive and a commitment had been provided to address all of the issues within the agreed timescale. Follow up work was being undertaken and would be reported upon in due course.

Resolved –

- (1) That the report be noted.**
- (2) That when issues are brought to the attention of the Committee as high priority recommendations, they should in future be accompanied by an action plan, with appropriate timescales and a named responsible officer, to ensure compliance. In addition, such issues should be referred automatically to appropriate Overview and Scrutiny Committees.**

17 DEVELOPMENT OF REPORTING OF THE CHIEF INTERNAL AUDITOR

The Chief Internal Auditor reported that to further improve Internal Audit Communications with Members of the Committee, discussions had taken place regarding the format and content of internal audit reports. A number of changes had been discussed with the Chair, which involved –

- The introduction of a monthly Internal Audit Activity Summary to be e-mailed to Members of the Committee to identify audit work undertaken during the period and to include an assurance opinion on the control environment and detail of the high priority actions that were required. The summary would also include comments provided by clients and target implementation dates for actions and would provide Members with the facility to ask questions related to individual audits via a template attached to the Summary document.
- The introduction of a colour coded RAG assessment to identify the outcome of the audit and the status of the actions required.
- Streamlining the routine Internal Audit Update Report to reduce the volume of data reported to Members and avoid any duplication of information.

In addition, the following changes were being made to the Internal Audit report format, following consultation with CIPFA, the CIIA and other public bodies –

- A RAG colour coded rating of assurance for the system audited to replace the formerly provided opinion.
- The introduction of a Corporate Risk Rating.
- The introduction of more rigid detailed guidance for staff and officers regarding the assurance opinions provided, which will confirm that a high level of assurance will only be provided when no high priority recommendations are provided.

Resolved –

- (1) That the proposed changes to the Internal Audit reporting mechanism be approved.**

- (2) That the monthly IA Activity Summary provided to Members of the Committee be sent also to named deputies.**

18 INTERNAL AUDIT COUNTER FRAUD TEAM UPDATE AND PRESENTATION

The Chief Internal Auditor presented an update on the activities of the Internal Audit Counter Fraud Team for the period 2011/2012 and the first half of the 2012/2013 financial year to date. He commented that although the Counter Fraud Team worked closely and collaboratively with the Fraud Investigation Team within Revenues and Benefits, his report did not include the extensive activities of the benefits fraud team which were reported to Members separately. A presentation had been prepared to accompany his report and he introduced Peter Taylor, who managed the Counter Fraud Team, to deliver it.

The remit of the team was to prepare best practice policies and procedures; to change the culture of the organisation by raising awareness amongst the workforce to fraud and corruption and through targeted training; to proactively manage the risk of fraud to the Council through targeted audits in high risk areas; and to investigate alleged fraudulent activity. He provided an overview of the activities undertaken by the Counter Fraud Team and highlighted some outcomes achieved during the monitoring period.

In response to comments from members in relation to the Credit Card review, he indicated that until an ongoing further investigation was completed, it was not possible to confirm whether or not any fraud had taken place. Members requested that the outcome of investigations included within future update reports should indicate the split between identified fraud and genuine error.

Resolved – That the report and accompanying presentation be noted.

19 ANNUAL AUDIT LETTER 2010/2011

The District Auditor presented the Annual Audit Letter 2010/2011, which summarised the work undertaken for the 2010/2011 audit of Wirral Council, including the Merseyside Pension Fund. The Letter had been delayed as a result of additional work that had been undertaken in connection with issues raised by a group of whistleblowers regarding the award and contract management of the Council's Highways and Engineering Services (HES) contract.

The Letter referred also to his unqualified opinion on the 2010/2011 financial statements of Wirral Council and the Merseyside Pension Fund. He commented also on his qualified 2010/2011 value for money conclusion and highlighted work that had been undertaken in relation to certification of grant claims and returns.

The additional work undertaken on the HES contract and difficulties experienced during the financial statements audit had resulted in a significant increase in the audit fee. The Letter had been agreed with the Chief Executive and the Interim Director of Finance and the District Auditor thanked Members and staff for their positive and helpful approach to the audit.

Resolved – That the Annual Audit Letter be noted.

20 AUDIT COMMISSION PROGRESS REPORT

The District Auditor presented the Audit Update report, the purpose of which was to provide Members with a report on progress of work undertaken in Wirral by the Audit Commission. He outlined the key messages contained within the report and provided

an update on outsourcing the work of the Audit Practice and the residual Audit Commission to the new provider, Grant Thornton.

He commented that the proposed audit fees for 2012/2013 were £211,680 for Wirral Council and £32,558 for the Pension Fund and he highlighted key emerging national issues and developments that were of interest to the Committee. The District Auditor also set out a number of questions for the Committee to consider, in order to assess whether it had obtained sufficient assurance on emerging issues.

Resolved – That the issues highlighted in the Progress Report be noted.

21 **HIGHWAYS AND ENGINEERING SERVICES
CONTRACT AWARD AND MANAGEMENT**

The District Auditor presented his public interest report made under section 8 of the Audit Commission Act 1998, in relation to the Highways and Engineering Services Contract Award and Management. He indicated that the report had been considered by the Council on 16 July 2012 (minute 23 refers), who had accepted the reports findings and recommendations and referred it for further consideration to the Cabinet and to the Improvement Board.

Members expressed their support of the conclusions and recommendations contained within the document and requested that the action plan in response to the recommendations be presented to the next meeting of the Committee. Members commented also that it was essential for the authority to recognise the difficulties faced by whistleblowers. It was incumbent on both Members and officers to ensure that all whistleblowing was taken seriously and investigated thoroughly and to ensure that the Council's whistleblowing arrangements provided protection for those who raised issues in good faith.

The Deputy Chief Executive reported that, prior to the appointment of the Interim Directors of Finance and Technical Services, there had been progress made in relation to the action plan. However, since their appointments, those officers had been requested to re-work the action plan and the draft would be considered by the Improvement Board on 21 September 2012, prior to being presented to the Cabinet on 18 October 2012.

Resolved –

- (1) That the report be noted and its recommendations be supported.**
- (2) That the action plan in response to the recommendations be presented to the next meeting of the Committee.**

22 **ANNUAL GOVERNANCE REPORT - MERSEYSIDE PENSION FUND**

The District Auditor presented the Annual Governance Report, which summarised the findings from the 2011/2012 audit of the Merseyside Pension Fund financial statements. The audit was now substantially complete and he indicated that, subject to the satisfactory completion of a small number of outstanding issues, he intended to issue an unqualified opinion on the Pension Fund's Annual Accounts for 2011/2012 and the Pension Fund's Annual Report. There had been a number of non-material errors that had all been amended by the Fund, none of which had a significant impact to the reported performance of the Fund.

The report had been considered by the Pensions Committee (minute 24 (18 September 2012) refers) who had been requested to note the adjustments to the accounts, recommend to this Committee the letter of representation and, confirm a

response to the action plan. The Council's response to the Annual Governance Report was contained within a report of the Interim Director of Finance (see minute 23 post).

Resolved – That the report be noted.

23 **MERSEYSIDE PENSION FUND - STATEMENT OF ACCOUNTS 2011/2012**

The Interim Director of Finance presented an audited Statement of Accounts of the Merseyside Pension Fund (MPF) for 2011/2012 and provided a response to the Annual Governance Report (AGR) (minute 22 ante) from the Audit Commission. The Accounts and the Action Plan within the AGR had been approved by the Pensions Committee (minute 23 (18 September 2012) refers), who had also requested to be informed of progress with its implementation.

Resolved –

(1) That the report be noted.

(2) That the audited MPF Statement of Accounts, the Action Plan within the AGR and the MPF letter of management representation be endorsed.

24 **STATEMENT OF ACCOUNTS 2011/2012**

The Interim Director of Finance reported that the Statement of Accounts for 2011/2012 presented the overall financial position of the Council as at 31 March 2012. They incorporated the Merseyside Pension Fund accounts as Wirral Council was the administering authority and were published on 29 June 2012. The accounts had then been subject to audit and the findings of the District Auditor were contained within his Annual Governance Report (AGR) (see minute 25 post). The Director requested the Committee to consider whether it agreed with amendments to the financial statements contained within the AGR that had been requested by the District Auditor and, which resulted in an increase in the General Fund balance of £0.3m and a corresponding reduction in the level of provisions at 31 March 2012, compared to that reported to the Cabinet on 21 June 2012.

The Director outlined the comments made by the District Auditor and indicated that the Audit Opinion would be issued following the Committee's consideration of the Annual Governance Report, approval of any amendments to the Statement of Accounts and agreement of the Letter of Representation. The District Auditor would issue his opinion before 30 September 2012 and state whether the accounts were a true and fair view of the financial position of the Council at 31 March 2012.

The Director informed the Committee of the position reported in September 2011 and the actions taken to address the concerns raised by the District Auditor in the AGR for 2010/2011. At that time issues were raised about the timeliness of the accounts and the supporting documentation with particular reference to weaknesses in quality assurance with concerns over the capacity within the Financial Services Division. An update was presented to the Committee on 1 February 2012 (minute 51 refers). Through the improved management of the available resources and improvements to the year-end procedures, the completion of the 2011/2012 Accounts was achieved without the need for additional resources. The progress made was recognised by the District Auditor in the AGR (see minute 25 post). The Director acknowledged that capacity within the Division was limited but, aware of the financial pressures facing the Council, would seek to deliver services within the resources available.

Resolved –

- (1) That the amendments to the Statement of Accounts be approved and consideration be given to the Annual Governance Report presented by the District Auditor.**
- (2) That the Letter of Representation on behalf of the Council be approved.**
- (3) That the updated action plan to the recommendations contained within the Annual Governance Report be approved and regular progress reports be presented to future meetings of the Committee.**
- (4) That the Statement of Accounts for 2011/2012 be approved and the thanks of the Committee be accorded both to Council officers and officers of the Audit Commission for the accounts being completed to an improved standard than in previous years.**

25 ANNUAL GOVERNANCE REPORT - WIRRAL COUNCIL

The District Auditor presented the Annual Governance Report for Wirral Council, which summarised the findings from the 2011/2012 audit which was substantially complete. The report included the key messages that had arisen from the audit and the results of the work that had been undertaken to assess the Council's arrangements to secure value for money in the use of resources.

The District Auditor confirmed that outstanding issues had been completed and that he proposed to issue an unqualified opinion on the financial statements. Good quality statements had been received in advance of the statutory deadline, which showed evidence of quality assurance and significantly improved closedown arrangements. His report indicated that issues remained and, as at 3 September 2012, he had planned to report on two weaknesses in systems of internal control. However, those matters had now been addressed –

- That the Annual Governance Statement presented for audit did not reflect compliance with 'Delivering Good Governance in Local Government: A Framework' published by CIPFA/SOLACE in June 2007 (see minute 26 post).
- That, on 8 June 2012, he had issued a report in the public interest in respect of the award and contract management of the Highways and Engineering Services contract under section 8 of the Audit Commission Act 1998 (see minute 21 ante).

The report also highlighted issues that had contributed to an adverse Value for Money conclusion. Those issues had been acknowledged by the Council in its reports to the Wirral/LGA Improvement Board, in the Improvement Plan and in the latest financial monitoring reports to the Cabinet.

Resolved – That the report, and the improvements achieved in the current year, be noted.

26 ANNUAL GOVERNANCE STATEMENT

The Interim Director of Finance reported that the preparation and publication of an Annual Governance Statement (AGS) was necessary to meet the statutory requirement set out in the Accounts and Audit Regulations 2003 (amended in 2006 and 2011). He explained the requirement for the Authority to produce the AGS and commented upon the degree to which it met the CIPFA/SOLACE 'Delivering Good Governance in Local Government' Framework. He outlined the process for the review of the control system and preparation of the AGS, which was agreed by the

Committee on 13 March 2012 (minute 66 refers) and endorsed by the Improvement Board.

Subsequently, the Cabinet (minute 18 (21 June 2012) refers) considered the AGS and, with an amendment to the conclusion, agreed to it being appended to the Statement of Accounts.

Since that time, the AGS had been revised to take account of additional information, to better reflect the position at September 2012, which was the time of producing the Statement of Accounts 2011/2012. This included updating the AGS based upon the issues raised by further external reviews including the Grants Claims and Returns Report 2010/2011 received in June 2012, the Highways and Engineering Services Public Interest Report received in June 2012 and the outcomes of the Peer Challenge/Peer Review into Adult Social Services undertaken in May/June 2012. The AGS was also updated to incorporate the measures taken since March to address the governance issues identified and led to the Wirral Improvement Plan, which was agreed by the Cabinet (minute 77 (6 September 2012) refers).

Resolved –

- (1) That the revised Annual Governance Statement for 2011/2012 be approved.**
- (2) That updates on progress against the Action Plan be presented to future meetings of the Committee.**

27 INSURANCE FUND ANNUAL REPORT 2011/2012

The Interim Director of Finance provided a review of the Risk and Insurance activity during 2011/2012 and the plans for 2012/2013 and beyond. The review detailed the underwriting arrangements and recent loss histories for the principal areas of insured risk and described the impact of measures taken to improve their management. The provisions and reserves within the Insurance Fund at the end of 2011/2012 were confirmed, which included the release of resources to the General Fund. He indicated that his report had been considered by the Cabinet, who had agreed (minute 12 (21 June 2012) refers) –

- to a sum of £166,352 being released from the Insurance Fund to the General Fund balances; and
- to the Risk Management reserve being restored to a balance of £150,000.

Resolved – That the report be noted.

28 CORPORATE RISK AND INSURANCE MANAGEMENT

The Interim Director of Finance reported upon progress in relation to the objectives for corporate risk and insurance management and highlighted the anticipated developments that had been identified for the coming months.

Resolved –

- (1) That the report be noted.**
- (2) That the thanks of the Committee be accorded to the Risk and Insurance Team for their continued effective and pro-active approach to managing insured risk, and for the collaborative work and assistance provided to neighbouring authorities.**

REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)

The Acting Director of Law, HR and Asset Management presented a summary of the use of covert surveillance by the Council between 11 June 2012 and 1 September 2012, in accordance with the Regulation of Investigatory Powers Act 2000 (RIPA). He outlined the key issues associated with RIPA and indicated that during the monitoring period, four authorisations had been granted, one to obtain evidence of a possible arson attack and three to obtain evidence of alleged anti-social behaviour.

The Protection of Freedoms Act 2012 had now been enacted and training had been provided to officers on the new legislation by one of the leading authorities on RIPA. He indicated that when it came into force on 1 November 2012, the following changes in the law would affect local authorities –

- Magistrate's approval would be required for a local authority's use of RIPA and would be in addition to the authorisation needed from a senior officer and the more general oversight by elected councillors.
- Use of RIPA to authorise directed surveillance would be confined to cases where the offence under investigation carried a maximum custodial sentence of six months or more, except in relation to underage sales of alcohol and tobacco, where the threshold would not apply.

The Acting Director also provided a summary of the outcome of an inspection of the Council's use of covert surveillance, carried out on 8 June 2012 by Sir David Clarke, Assistant Surveillance Commissioner. The inspection had found that the authorisations granted to detect anti-social behaviour were "well articulated by the applicant and the authorising officer and were a model of their kind". The Council's training programme was commended; the central record of authorisations was accurate and up to date and the Inspector was satisfied that proper arrangements were in place and being implemented to ensure that there was no unauthorised use of the Council's covert CCTV equipment.

There were some criticisms of the content of the Council's Policy and Procedure on the use of covert surveillance and a number of non-controversial amendments were proposed to ensure compliance with recommendations. In response to a comment from a Member, he also confirmed that sufficient designated authorising officers had been trained and been given delegated authority to ensure adequate coverage for absence.

The Acting Director also referred to concerns that had been expressed about the authorisation of directed covert surveillance granted in the Trading Standards Section for the detection of under aged sales of alcohol, tobacco and fireworks. Consequently, future authorisations would be required to address issues of necessity and proportionality and, in addition, from 1 November 2012, the requirement for magistrate's approval before any covert surveillance could be authorised by the Council. In response to a request from a Member for information in respect of the use of children making test purchases, the Acting Director agreed to request the Council's Trading Standards Strategic Manager to respond direct to all Members of the Committee.

Risks identified related to the less effective prosecution of instances of anti social behaviour when the use of covert surveillance by local authorities was curtailed by the new legislation. From 1 November 2012, persistent anti-social behaviour may only be detected by the use of covert surveillance if it had the prior approval of a magistrate and if it consisted of criminal offences attracting a maximum term of imprisonment of 6 months or more. Shouting, swearing, playing loud music, banging on walls and doors, and intimidating behaviour would no longer be capable of being

detected by covert surveillance unless they formed part of a campaign of harassment targeted at a particular individual, which amounted to an offence under the Protection from Harassment Act 1997. Consequently, the perpetrators of such persistent behaviour may go unpunished through the Courts and malicious complaints of such behaviour could also go undetected.

Some Members expressed their concern that some anti-social behaviour could go unpunished as a result of the new legislation, which was seen as a retrograde step for Wirral, where RIPA had always been used responsibly. Members commented also that the powers conferred by RIPA may have been used inappropriately in some areas.

Resolved –

- (1) That the report be noted.**
- (2) That the amendments and additions to the Council's Policy and Procedure on RIPA as advised by the OSC be approved.**
- (3) That the OSC's recommendations on the use of RIPA to detect under age sales of alcohol and tobacco be approved.**
- (4) That the Cabinet be recommend to adopt on behalf of the Council the recommendations in (2) and (3) above.**

30 GIFTS HOSPITALITY AND CONFLICTS OF INTEREST

The Chair advised the Committee that he had approved consideration of this matter as an item of urgent business in view of the need for its consideration prior to the next scheduled meeting.

The District Auditor reported that as part of the assessment of the Council's arrangements to ensure value for money, a review had been undertaken of work carried out by Internal Audit in relation to gifts and hospitality and conflicts of interest. He set out the audit approach, which included a review of internal audit reports and testing of 13 personal files (including a sample of Chief Officer's files) for compliance with procedures. He indicated that although the Council's procedures were found to be generally adequate, testing had identified a high instance of non-compliance, with poor or incomplete recording of both gifts and hospitality and declarations of conflicts of interest. His report highlighted the key issues from the review and contained a number of recommendations that challenged the Council to address the weaknesses in compliance with its procedures.

The Deputy Chief Executive commented that, whilst Acting Chief Executive, he had worked diligently with the Audit Commission to conclude the review and had issued an instruction to all staff to ensure compliance. This had secured improvements and had highlighted areas where the Council's procedures could be improved upon, particularly with regard to differences between the arrangements within the Council and the Merseyside Pension Fund. It was acknowledged that the arrangements for the Fund were agreed by the Pensions Committee but there was a need to ensure that the Council procedures did also incorporate the Fund. An action plan had been agreed to address all of the recommendations contained within the report.

Members referred to the potential for damage to the Council's reputation and highlighted the need for clarity in the guidance issued to officers. In response to questions as to whether any instances merited disciplinary action, the Deputy Chief Executive stated that an investigation was ongoing in relation to the matters highlighted within the District Auditor's report.

Resolved –

- (1) That the report be noted and the action plan to address the audit recommendations, be endorsed.**
 - (2) That the outcome of the investigation into matters contained within the report be presented to the next meeting of the Committee.**
 - (3) That the proposal for a single policy for the whole of the organisation be supported.**
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