

AUDIT AND RISK MANAGEMENT COMMITTEE

Tuesday, 27 January 2015

Present: Councillor J Crabtree (Chair)

Councillors RL Abbey M Patrick
J Hale A Sykes
S Kelly J Walsh
P Doughty

Deputies: Councillors L Fraser (In place of D Elderton)

41 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.

42 MINUTES

Resolved – That the minutes of the meeting held on 25 November, 2014, be approved.

43 INTERNAL AUDIT UPDATE

The Chief Internal Auditor presented a report which identified and evaluated the performance of the Internal Audit section. It included details of issues that had arisen from the actual work undertaken during the period 1 November to 31 December 2014 and provided specific details of four items of note, which were brought to the attention of the Committee:

- Creditor Payments
- Commissioning
- School Audits
- ICT Business Continuity

The Chief Internal Auditor provided details of outstanding Audit recommendations that had not currently been implemented and he commented that all were RAG rated as 'amber', which indicated that progress was being made to address the issues identified. He also drew the Committee's attention to developments within internal audit.

Responding to comments from Members, the Chief Internal Auditor stated that the Schools Audit was a statutory requirement. Some of the work identified in the appendix was not pre-programmed but rather additional to specific planned internal audits so the information provided might on occasion differ as to outcomes etc. Members should only be concerned if an item remained on the appendix of outstanding audit recommendations indicating that actions had not been taken by officers within agreed timescales.

In respect of 'Data Loss Prevention' he outlined the reasons for the re-scheduling of follow up work which had occurred as a result of significant transformation and high turnover of staff within the service area under review. The Council's Information Governance Board had subsequently assumed responsibility for overseeing a range of actions designed to improve the arrangements in place over data management and was currently raising awareness of this throughout the Authority. Significant improvement had been made on data storage and security including the development of policy and procedure and PSN compliance. All identified outstanding issues had now been included in a specific action plan and its implementation was being overseen by the board. More work was to be done but things were moving in the right direction. A report on this would be brought back to the March Committee including data on instances of data loss.

With regard to 'Commissioning' the Strategic Director of Transformation and Resources outlined the situation in respect of this specific case.

In the absence of the Director of Resources in August 2014 an E111 form (Business case to exceed contract by over 10% threshold) was forwarded to the Chief Executive in respect of a contract extension relating to work being undertaken by V4 Services Limited ('V4'). The Chief Executive aware of the requirement to authorise variations to contracts in advance of expenditure, was not prepared to sign the E111 form and requested further research of this matter.

The Strategic Director, Families and Wellbeing, as responsible officer for this contract, was informed of the Chief Executive's views and requested details of all invoices to gain assurances regarding the payments. The relevant Portfolio Holder was involved in the initial commissioning arrangements under her delegated authority. Following the tender process, she was alerted as soon as it became apparent that the threshold had been breached and then kept informed throughout. Following discussions with the Chief Internal Auditor, the Strategic Director of Transformation and Resources requested Internal Audit to formally undertake a review of payments to V4, covering what was commissioned by Council officers, what was actually spent, and whether officers had followed the Council's relevant rules.

The initial commissioning and subsequent tendering for the Transformation of Leisure Services was undertaken correctly but senior managers did not

comply with elements of the Council's Contract Procedure Rules (CPR) in that expenditure under the contract had exceeded the 10% threshold and this was a breach of the CPRs as prior approval had not been obtained. The approved spend was £97,500 but actual spend was £117,928, 11 per cent above the agreed 10 per cent CPR threshold. It was also incorrectly believed that a continuation of previously procured services from this company, through a national Procurement Framework for a separate programme of work, could be applied in relation to the Business Case for the Development of a Local Authority Trading Company for DASS Day Services. .

Whilst there was no inference of impropriety on behalf of any Council officer, it was crucial the Council's rules were fully complied with to ensure legality, demonstrate transparency, and protect reputation. The audit identified that management controls had not been as robust as they should have been; this included a lack of formal orders or contracts for the additional programme of work.

Moreover, commissioning a Review and Challenge Report via the company who had performed the work being subject to review had been accepted as the incorrect process to have followed. A review by a wholly independent body was in the process of being commissioned.

The breaches of the CPRs detailed in the Audit report had to be reported to this Committee under the terms of CPR E123.

The total gross payments to V4 were £193,620 in relation to Leisure Services and £91,912 in relation to DASS, an overall total of £285,532. It was the opinion of the relevant service areas involved that the company had enabled Leisure Services to reduce its costs and in relation to DASS, had helped realise the savings required as well as providing the necessary knowledge to design the implementation plan. The Strategic Director for Families and Wellbeing was satisfied with the results and conclusions of their work. Therefore there was no suggestion of any need for claw back of any funds from them.

However, there had been breaches of the Council's CPRs in the process of awarding and monitoring work with V4. There was no inference of impropriety against any Council officer but there had been examples of poor control which needed to be corrected.

The outcomes of this audit reinforced the need for the Council to give serious priority to the centralisation of payments processes and this was being taken forward through the development of the Transaction Centre. Appropriate training would be initiated for senior managers across the organisation as a result of the lack of awareness of the Council's CPRs.

In all, 11 recommendations had been made and they had all been accepted and agreed. These recommendations had been shaped into an appropriate action plan. Formal progress against this action plan would be monitored via the Council's internal Corporate Governance Group which reported into the Portfolio Holder for Governance, Commissioning and Improvement and SLT. Internal Audit would also continue to monitor and an update would be brought back to this Committee in the future.

The CPRs were currently under review to ensure they complied with the (draft) Public Contract Regulations 2015 that were anticipated to be laid before Parliament on or before 30 March 2015. Officers in Procurement and Legal Services would take the opportunity to review, improve and clarify procedures and practices to help ensure all reasonable steps were taken to mitigate a recurrence. Members would have the opportunity to review the revised CPRs before they were recommended to Council for approval.

Responding to comments from Members the Strategic Director restated that officers had been found to have breached the Contract Procedure Rules but no impropriety had been found. These officers had been reminded of their responsibilities and had received training. The end date of the contract extension was not tied down tightly enough and this had been acknowledged by Internal Audit. A central database of all contracts was held and when there were genuine reasons for a contract extension these needed to be explicit.

Resolved – That the report be noted.

44 **AUDIT COMMITTEE UPDATE**

Robin Baker, from (Grant Thornton UK LLP) introduced himself to the Committee, having taken over from Mike Thomas and outlined his role. He then introduced Chris Whittingham, Manager with Grant Thornton who presented the Audit Committee Update for the year ended March 2015. This provided a report on progress at January 2015 in the delivery of external auditor responsibilities. The report also included a summary of emerging national issues and developments that might be relevant to the Council and posed a number of challenge questions in respect of the emerging issues for the Committee's consideration.

Resolved – That the report be noted.

45 **INSURANCE FUND BUDGET 2015/16**

The Risk and Insurance Officer presented the report of the Head of Financial Services on the Insurance Fund Budget 2015/16. Under the provisions of the Local Government and Housing Act 1989, local authorities were allowed to set aside financial provisions to cover self-insured losses. By self-insuring, an authority avoided paying insurers' administration profit margins and Insurance

Premium Tax on predictable levels of claims and furthermore, only rarely did external insurers return any proportion of premium, irrespective of the profits generated by a policy. The Council had operated an Insurance Fund since its formation and was one of the first local authorities to adopt a high degree of self-insurance when large excesses on liability and material damage insurance were negotiated in the 1980s. Self-funding was a fundamental element of the Council's approach to managing risk and provided a greater incentive to deal with risk more effectively, as the Council benefited directly from any reduction in claims.

He provided details of the principal risks which the Council currently self-insured, together with the probable maximum sum the Council might have to pay for losses in any given financial year. Details were also given of the premiums charged in respect of the three principal risks covered by the Insurance Fund, which were, combined liability, material damage and business interruption and comprehensive motor.

He also set out relevant risks and provided details of the cost of the Risk and Insurance Section, which was charged to the Insurance Fund. The 2015/16 Budget of £3,080,000 represented an increase of £10,000 (0.3%) compared with the Budget 2013/2014.

In response to comments from Members the Risk and Insurance Officer stated that he would bring some more detailed information to a future meeting on the reduction in the amount paid out in claims.

Members also congratulated the officers on all their work on this report.

Resolved – That the Insurance Fund Budget 2015/16 be agreed.

46 **MANAGEMENT OF INSURANCE AND CORPORATE RISK**

Further to minute 39 (25 November 2014), the Risk and Insurance Officer presented the report of the Head of Financial Services which updated the Committee on the key actions to be taken in relation to corporate risk and insurance management during 2014/15. Risk and insurance management comprised two significant areas of activity –

- The provision of advice and support to Members and officers in developing the corporate risk management framework and processes.
- Risk financing, which incorporated insurance procurement, management of the Council's Insurance Fund and claims management.

The key actions to be implemented were included in the report to Committee on 18 March 2014 (minute 47 refers) and he provided a summary of progress since the last meeting in relation to –

- Tender for Litigation Services
- Risk management arrangements for programmes and projects
- Review of Corporate Risk Register
- Service Planning 2015/16
- Develop training and guidance for Members and officers
- Annual renewals of existing insurance contracts (April 2015)
- Future administration of liability claims
- Refresh of the Corporate Risk Management Policy
- Insurance Fund Budget 2015/16

Responding to comments from Members, the Risk and Insurance Officer stated that the contract extension in respect of litigation services was for two months until 31 May, 2015, on current rates. With regard to future administration of liability claims a business case would be made once any changes in responsibilities had been explored and whether or not they would lead to any change in remuneration.

The Strategic Director responding to comments on the reasons for contract extensions stated that there could be capacity issues either in the service department, legal services or procurement and he would tabulate this so that Members had a clear understanding of these issues.

Resolved – That the report be noted.

47 **CORPORATE RISK REGISTER**

The Risk and Insurance Officer presented the report of the Chief Executive, which advised that under the terms of the Council's Constitution, one of the functions of the Audit and Risk Management Committee was to provide independent assurance that the Council's Risk Management Framework was effective. He commented that a key output from the framework was the Corporate Risk Register and to support this Committee's work in considering the effectiveness of the framework, a report was now presented on a regular basis detailing the key risks facing the authority and how they were being managed.

Details were given of the existing 31 risks in an appendix to the report and of an additional risk which, following consideration by the Chief Executive Strategy Group (CESG), had been added to the register concerning the processing of 'Deprivation of Liberty Safeguarding Assessments'.

Councillor McLachlan had agreed that the Risk Register should be a standing agenda item for future Portfolio Holder Briefings and that a small number of the most critical risks would be examined in detail on each occasion.

He also reported upon consideration of the Risk Register by the Corporate Governance Group and that the CESHG would shortly be conducting the quarter three review of the register.

Responding to comments from Members the Risk and Insurance Officer stated that he would bring a more detailed action plan to the next meeting on the IT Disaster Recovery Plan. New servers had been introduced at Cheshire Lines and the Strategic Director reassured Members that the Corporate Governance Board who ensured overall governance received regular updates on progress. Plans were being put in place with asset management for the two main server areas to be separated by the end of the calendar year.

The Risk and Insurance Officer stated that he would circulate an update on the processing of Deprivation of Liberty Safeguarding (DoLS) assessments with additional resources being brought in to the DoLS team.

Resolved –

(1) That the summary of progress made in relation to the management of the existing corporate risks be noted.

(2) That further reports on the Corporate Risk Register be brought to future meetings of this Committee.

48 **REGULATION OF INVESTIGATORY POWERS ACT 2000 (RIPA)**

The Head of Legal and Member Services presented a summary of the use of covert surveillance by the Council, to detect evidence of criminal behaviour, between 1 September, 2014 and 9 January, 2015. During this period, an authorisation was approved by a magistrate to detect suspected criminal damage and harassment of Council staff at a public toilet.

Responding to comments from Members, the Head of Legal and Member Services stated that although he didn't have the exact figures to hand, approximately six service managers had authority to use covert surveillance, with these authorisations then requiring the further approval of a magistrate.

The authorisation was not now current as it had had to be cancelled because of an event which had made the toilets inoperable.

Resolved – That the report be noted.

49 **SUPPORTING PEOPLE CONTRACT EXTENSIONS - EFFICIENCY SAVING FROM SUPPORTING PEOPLE BUDGET 2014/15**

The Supporting Housing and Homelessness Manager presented a report from the Strategic Director: Regeneration and Environment which gave details

regarding the negotiation of all Supporting People contracts in order to deliver £2 million per year savings from 2014/15 and a further reduction of £150,000 from 2015/16. It identified a number of contracts that had been extended, under the Contract Procedure Rules and provided details of the revised Supporting People funding arrangements.

The savings had been realised whilst the Council and Providers continued to ensure that vulnerable clients received support which was tailored to meet their assessed need. Due to the contractual relationship between the Council and providers it was necessary to enter into new agreements during 2013/14 and 2014/15. All contracts were negotiated on the basis of a one year extension with an option to extend for a further year and in accord with CPRs these were approved by the Strategic Director: Regeneration & Environment and Director of Resources.

During the next 12/18 months officers would conduct a further strategic review of Supporting People services. Due to the timing of the original negotiations many contracts were now set to lapse and therefore further extensions had been approved by the Strategic Director Regeneration & Environment and Director of Resources based on the renegotiated values.

The report contained exempt information in an appendix as defined in Schedule 12A of the Local Government Act 1972. It was in the public interest to exclude the press and public under paragraph 3 'Information relating to the financial or business affairs of any particular person (including the authority holding the information)'. The information contained in the appendix was commercially sensitive.

Prior to agreeing a resolution on this matter, the Committee felt that it should have regard to the detailed information provided in the exempt appendix to the report (see minute 51 ante).

50 **EXEMPT INFORMATION - EXCLUSION OF MEMBERS OF THE PUBLIC**

Resolved - That, in accordance with section 100 (A) (4) of the Local Government Act 1972, the public be excluded from the meeting during consideration of the following item of business on the grounds that it involves the likely disclosure of exempt information as defined by paragraph 3 of Part I of Schedule 12A (as amended) to that Act. The Public Interest test had been applied and favoured exclusion.

51 **EXEMPT APPENDIX - SUPPORTING PEOPLE CONTRACT EXTENSIONS SCHEDULE**

In considering the exempt Appendix to Item No. 9 on the agenda – Supporting People Contract Extensions – Efficiency Saving from Supporting People Budget 2014/15 (minute No. 49 refers), Councillors Abbey and Doughty

declared personal interests by virtue of their membership of the Leasowe Community Homes Management Board and the Beechwood and Ballantyne Community Housing Association respectively.

The Supporting Housing and Homelessness Manager responded to questions from Members on some of the details within the exempt appendix.

The Head of Legal and Member Services confirmed the role of the Committee and that the Contract Procedure Rules required that where contract extensions had been awarded these should be reported to the members of this Committee.

The Head of Financial Services confirmed that the decision had been taken by the Strategic Director and that under the CPRs this had to be reported to this Committee.

Resolved – That this Committee endorses the decisions of the Strategic Director: Regeneration and Environment and Director of Resources to award contract extensions as detailed in Appendix 1 to the report whilst achieving the required £2.15 million savings for 2014/15 and 2015/16.