

MINUTE of MEETING of the AUDIT COMMITTEE of WEST LoTHIAN COUNCIL held within CONFERENCE ROOM 1, WEST LoTHIAN CIVIC CENTRE, on TUESDAY, 16 MARCH 2010.

Present – Councillors Frank Anderson (Vice Chair), Willie Boyle (substituting for Gordon Beurskens), Jim Dixon and John McGinty.

Apologies – Councillor Gordon Beurskens (Chair).

In Attendance – Alex Linkston (Chief Executive), Gordon Blair (Chief Legal Officer), Jim McCafferty (Revenues Manager), Ann Gee (Head of Housing and Building Services), Jill Derby (Contracts Officer, Social Policy), Patricia Fraser and Neil Robb (Audit Scotland).

1. MINUTE

The Committee approved the Minute of its meeting held on 15 December 2009, subject to Councillors Dixon and McGinty being added to the list of those present.

2. INTERNAL AUDIT PLAN 2010/2011

The Committee considered a report by the Internal Audit Manager (which had been circulated) informing the Committee of the Internal Audit Plan for 2010/2011 and seeking approval from the Committee to depart from the previously agreed Strategic Plan.

The Internal Audit Manager explained that a Strategic Plan had been agreed in March 2008 for a three-year period. However, there had been a change of approach by Audit Scotland, which now required the testing of all key controls within the main financial systems on an annual basis. That had previously been scheduled to be done over a three-year period. The intention was now for Internal Audit/Audit Scotland to work together on testing those key controls on an annual basis, resulting in a more effective and focused approach. The Internal Audit Plan for the coming year, which was in the Appendix to the report, reflected this change of work pattern.

The plan for the year, which was contained in the Appendix to the report, had been prepared by focusing on areas of greatest perceived risk, under reference to the risk assessment maintained by the Internal Audit Unit and to the Council's Corporate Risk Register. The report also included a list of suggestions, which had been received from members of the Committee and Senior Council Officers about additional topics to be included in the plan.

Finally, the report explained that the CIPFA Code of Practice no longer required that a strategic internal audit plan be prepared, but that the Internal Audit Manager intended to maintain a strategic overview of the risks facing the Council by a regular review of the risk register and liaison

with Senior Council Officers.

Decision

1. To note the terms of the Internal Audit Plan for 2010/2011 and to approve the plan;
2. To agree to the proposed departure from the Strategic Audit Plan approved in March 2008; and
3. In relation to the options for additions to the plan, as set out at the end of the Appendix to the report, to agree that the plan should include Council-wide Sickness Absence Monitoring and the Additional Learning Needs Transport Service in Development and Regulatory Services.

3. INTERNAL AUDIT OF BUILDING SERVICES CONTRACT TENDERING

The Committee considered a report by the Internal Audit Manager informing the Committee of the results of the Internal Audit Unit's follow-up audit of Building Services Contract Tendering. The findings of the audit were contained in the Appendix to the report.

The report advised of the background to the follow-up audit, resulting from a previous report to the Committee in September 2009. Some shortcomings had been identified in the service arrangements and a breach of the Council's Standing Orders was identified together with resulting difficulties in demonstration of Best Value. The recommendations from that audit had been agreed by Building Services and Committee had requested a report in progress against the action plans. The purpose of the report was to bring that report to the attention of the Committee.

The audit had established that both critical recommendations in relation to the procurement arrangements had been fully implemented and that eight out of eleven recommendations had been fully implemented in relation to other contract tendering arrangements. Two of the remaining five had been partially implemented and the other three outstanding recommendations were not graded as "critical".

The report concluded by advising that good progress had been made in implementing the earlier recommendations, that formal contracts for replacement doors and windows were now in place and that contract tendering controls within Building Services had improved.

In response to a question, the Internal Audit Manager explained that he did expect that the remaining outstanding items would be completed in accordance with the action plans.

Decision

To note the terms of the report and the follow up audit of Building Services Contract Tendering and the progress, which had been made, in implementing the recommendations previously made.

4. AUDIT OF DIRECT PAYMENTS

The Committee considered a report by the Internal Audit Manager (which had been circulated) informing the Committee of the results of the work carried out by the Internal Audit Unit on direct payments administered by Social Policy. That work had been carried out as part of the Internal Audit Plan for 2009/2010 and full details of the remit, recommendations and action plan were included in the Appendix to the report.

The conclusion of the audit was that the controls in the service over direct payments did require improvements and there were three critical areas identified, but that there were other controls already in place. The action plan had been completed and had been accepted by the service.

The critical recommendations were as follows: -

- The existing operational procedures provided little guidance on the frequency and extent to which financial monitoring and review should be carried out, nor on the records and receipts that should be used as part of financial monitoring and review; and
- A review of 15 client files found that only 8 had signed Direct Payments Agreements on file as evidence of the formal arrangements entered into.

Members of the Committee expressed concern at the length of time, which had been allocated for completion of recommendations in the Action Plan and questioned whether these should be addressed more quickly. The Internal Audit Manager accepted that some of those timescales could be seen to be lengthy and that there may be some value in the service attempting to implement these improvements, especially the critical ones, before these set dates.

The Committee was advised that there had been other work undertaken in the service, for example, in relation to a CIPFA recommendation on guidance and there was expected to be significant work involved in reconciling and implementing that guidance with the action plan which had been agreed. It was however accepted that the critical ones could be advanced.

Decision

1. To note the report and the outcome of the Internal Audit of the direct payment system administered by Social Policy.

2. To agree that consideration should be given to bringing the deadlines for implementation of the “critical” recommendations forward and that officers should report back to the Committee on progress towards completion of the Action Plan.

5. AUDIT SCOTLAND AUDIT OF HOUSING AND COUNCIL TAX BENEFIT - RISK ASSESSMENT REPORT

The Committee considered a report by the Internal Audit Manager (which had been circulated) informing the Committee of the outcome of the recent audit by Audit Scotland of Housing and Council Tax Benefit services in the Council. The Committee heard a verbal report by Patricia Fraser of Audit Scotland.

Patricia Fraser explained that Audit Scotland had undertaken a risk assessment of the Council’s Benefits Service, the key objective of which was to determine the extent to which the Benefits Service was meeting its obligations to achieve continuous improvements in all its activities. The full report was attached as an Appendix to the Committee Report and it identified a number of risks to continuous improvement under the following headings: -

- Meeting the needs of customer and community;
- Delivering outcomes; and
- Providing value for money.

Included, as part of the report was the Council’s Action Plan in response to those identified risks. The conclusion of the report was that the Council demonstrated an awareness of what constituted an effective and secure benefit service and had much in place to support local and national objectives.

In response to questions by the members of the Committee, officers did express some concern about the accuracy and robustness of the recording of information by other services, such as the Department of Work and Pensions. An enquiry was made about the possibility of publicising cases where prosecutions resulted from false claims and it was agreed that members would be provided with the guidance, if any, by Audit Scotland on that point.

In relation to the Council’s target to measure performance against the DWP national performance indicators, members questioned why the targets set by the Council did not appear to be “challenging”. It was explained that there was a need to be realistic in setting targets, which had to take into account events outwith the control of the Council, such as the overall economic and financial climate, although the need to set challenging targets was accepted.

The Chief Executive expressed the view that the report did not contain an accurate balance between the good points in the service and the criticisms, which might be made. Patricia Fraser of Audit Scotland undertook to note that comment and would take that back for consideration, but explained that the report was set out in a format which was different to the one previously used.

Concern was expressed that the call handling service provided by the Call Centre was well below the required standard and the Revenues Manager explained that this had been caused in part by the service's dedicated calls service being incorporated within the Call Centre. He advised that steps were being taken to address the problem in conjunction with the Call Centre.

Overall, the Committee recognised the report as being a sound report and a good report in the national context.

Decision

1. To note the report and the outcome of Audit Scotland's recent audit of Housing and Council Tax Benefit Services in the Council.
2. To thank staff for their hard work in achieving the standards set out in the report.
3. To note that Audit Scotland would provide information to members of the Committee on any guidance by Audit Scotland in relation to publicising prosecutions as a result of false claims.

6. OVERVIEW OF LOCAL AUTHORITY AUDITS 2009 - AUDIT SCOTLAND REPORT

The Committee considered a report by the Head of Finance providing information on the report by Audit Scotland on the 2008/2009 audits of all Scottish Local Authorities' accounts. The report explained that the Controller of Audit was required to provide such an annual overview report, which was a separate matter to the auditor's report on the Council's accounts. The report provided an overview of the main issues identified from the audit work carried out in relation to Local Government in 2009, covering audits of Councils, Joint Boards and Joint Committees and the first phase of Best Value Audits.

The report was contained in the Appendix to the Committee report.

Overall, the Accounts Commission welcomed evidence of improving local authority services across a range of areas and the substantial commitment to achieving Best Value. However, there were areas which require particular attention and focus by Councils in the future, in relation to the future budget provision, service design, performance management and reporting, effective workforce planning and management, shared

services and standardising and streamlining common processes.

The Controller of Audit had noted that Local Government faced significant challenges in relation to the difficult financial outlook and the increase in demands on Council services from higher expectations, an ageing population, national policy priorities and new legislation. He emphasised that elected members had a key role to play in making difficult choices and that they needed to provide leadership and direction and establish clear policy priorities.

The report suggested that there was room to improve how each Council's year end position was reported to elected members and expressed concern about the overall drop in the level of reserves for local authorities. The report went on to state that Councils needed to do more to demonstrate cost effectiveness, efficiency and competitiveness, that there was an outstanding need for all Councils to fully implement single status agreements, that more than half of Councils had still to adopt a corporate strategy for asset management and that there was a recurring issue in relation to slippage in delivering capital programmes. It was noted that procurement practices had improved, but that there was further scope for improvement including the development of procurement strategies and making more use of established contracts.

The report went on to consider outcomes for communities and concluded that Councils work well with local partners in delivering specific projects, but that there was a need for better co-ordination in Community Planning Partnerships. Since the Single Outcome Agreements had been concluded there was a need for improvements in performance management and reporting on those outcomes and there was a need identified to do more to understand local views and engage more effectively with communities.

The report identified that expenditure on care services was a substantial and growing burden for Councils, in particular in relation to mental health problems and drug and alcohol-related issues, with the key message being that Councils required to get better at assessing and monitoring the extent to which they are contributing to outcomes in these areas.

The report also made recommendations in relation to protecting communities, enhancing local neighbourhoods and in relation to the economic recession, before going on to highlight the key role that Councils require to play in improving the environment.

The report concluded by listing the Accounts Commission findings and their implications for West Lothian Council. The overall conclusion was that the Council was well placed to meet the challenges highlighted in the overview report, but had to take account of increasing demands on services, the costs of meeting the needs of an ageing population, the difficult decisions that would be required in allocating resources.

The report noted that the Council's accounts had been submitted and signed off by the date specified and that the Council had received a clean

Audit Certificate and was working in line with its policy on its reserve levels. It acknowledged the work done in planning the Council's Contingency Strategy and that the Council's Performance Management Framework was comprehensive and integrated with service planning and delivery with staff having a "customer first" culture. It was suggested that the Public Performance Reporting facility could be usefully extended to community planning partners.

An Appendix to the Audit Scotland set out questions for elected members to address to help identify how their Councils were dealing with issues raised in the report. The Controller of Audit emphasised that elected members should consider those questions in detail.

The report concluded by expressing the view that taking account of the issues raised in the overview report by the Accounts Commission and Audit Scotland, the Council was well placed to meet the challenges ahead.

Decision

To note the report and the findings of Audit Scotland on the 2008/2009 audits of all Scottish Local Authorities.

7. AUDIT SCOTLAND ANNUAL AUDIT PLAN 2009/2010

The Committee considered a report by the Internal Audit Manager (which had been circulated) informing the Committee of Audit Scotland's 2009/2010 Annual Audit Plan. The plan set out the work that Audit Scotland propose to undertake in relation to their audit for the year, which would go beyond providing assurance on financial statements and the internal control environment to provide a view on performance and the Council's use of the resources.

The plan was contained in the Appendix to the report and set out the following matters: -

- Audit Scotland's responsibilities and approach to the audit of the accounts;
- The Council's responsibilities for the preparation of the accounts and format of the accounts;
- Audit issues and risks;
- Materiality, reporting arrangements and quality control;
- Planned outputs and target delivery dates;
- The audit fee and the work covered by it;

- Details of the audit timetable and Audit Scotland team members;
- Comments on independence and objectivity; and
- Details of planned national studies relevant to the Council.

The report concluded by explaining the way that the fee charged by Audit Scotland was calculated.

Decision

To note the terms of the report and the detail of the annual audit plan for Audit Scotland 2009/2010.

8. LOCAL GOVERNMENT (SCOTLAND) ACT 1973

The Committee resolved in terms of Paragraphs 1, 6 and 12 of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973 that the remaining item of business be taken in private.

9. INVESTIGATION OF LEASE ASSIGNATION, COWHILL, WHITBURN

The Committee considered a report by the Internal Audit Manager (which had been circulated) on the outcome of an investigation of the assignation of a lease at Cowhill, Whitburn. The investigation had been carried out at the request of the Head of Finance and the remit of the exercise was set out in Part B of the report, which was attached to the Committee Report as an Appendix. The investigation related to the assignation of a lease by a tenant of the Council to a wholly owned Council company.

The report set out the background to the issue in factual terms; the investigations which had been carried out by the Internal Audit Manager; the legal advice which had been sought and obtained in relation to the assignation of the lease; the information that had been established in relation to the role of the wholly-owned limited company; the capacity to contract on the part of the former tenant of the land; and the financial reporting which had taken place in relation to the limited company's accounts.

The Internal Audit Manager had concluded that there was no evidence of any unlawful or unethical conduct by Council Officers. He had identified a technical breach of the law in relation to dormant company legislation, but had concluded that Council Officers had acted ethically at all times. In his report he had identified some weaknesses in Council processes and the audit recommendations were attached to the Appendix to the Committee Report.

Members of the Committee raised the issue of a proper minute of a meeting of the wholly owned limited company where the decision was

taken in relation to the assignation of the lease. The Internal Audit Manager confirmed that none had been provided to him. Officers explained that although no minute was available, there was some evidence in the form of e-mail correspondence and a report prepared for the Board about the meeting.

Members were provided with advice by the Clerk to the Committee about the legislation which applied to the accounting requirements for dormant companies and that if there had been any breach of those requirements then it should be possible to rectify that through correspondence with the Registrar of Companies.

Members expressed concern about some aspects of the issuing and cancellation of invoices, actions taken in relation to service of a Notice to Quit and its further enforcement and some failures to record information property in Council systems in relation to the lease of the land.

In response to further questions, Officers explained the basis upon which the partnership arrangements had been made with third parties by the Council for the availability and use of the land and the proportion of the value of those partnership arrangements, which had been contributed by the Council. Members enquired if full information was available as to the value of the land and the Council's interest in the land and officers confirmed that although the information was not to hand, it had been part of a public report to Committee in 2005.

Decision

1. To note the terms of the report and the outcome of the Internal Audit Unit's investigation of the assignation of a lease at Cowhill, Whitburn;
2. To note in particular the terms of the Final Recommendations and agreed actions included in that report; and
3. To agree that officers should provide to members of the Committee, information from the Committee Report in 2005 as to the value of the land and the value of the Council's interest in the land and the partnership for its development.