

EXTRACTS FROM AUDIT REPORTS WITH MODERATE OR LOW LEVEL OF ASSURANCE ISSUED QUARTER 2 2011/12

Benefit Fraud Investigation - 25 August 2011

1. INTRODUCTION / BACKGROUND

- 1.1 Annual audits are undertaken on the various aspects of administering housing and council tax benefits. However, the Benefit Fraud Investigation audit has always been a standalone audit.
- 1.2 The Benefits Fraud Team has undergone some significant changes since the last audit was undertaken in 2007, with the previous manager of the service having left, periods when there was only one Benefit Fraud Investigator in post and line management being moved between Finance, Customer and Information Services and now back to Finance, albeit within the Revenues section.
- 1.3 During 2010/11 there were 947 cases referred to the Benefit Fraud Team. In the same period, there were 84 cases where fraud had been proven of which 34 administrative penalties were applied, 36 cautions were accepted and 14 cases were prosecuted.

2. SCOPE AND OBJECTIVES OF THE AUDIT

- 2.1 An extensive examination has been undertaken using the CIPFA systems-based control evaluation models. This entailed completion of an Internal Control Questionnaire (ICQ) and testing of controls in accordance with evaluation programmes. Detailed testing was performed to confirm that controls identified have operated, with documentary evidence being obtained where possible, although some reliance has had to be placed on verbal discussions with relevant staff, including the Benefit Fraud Investigator and the Benefits & Fraud Manager.
- 2.2 The objectives that have been considered as part of this audit include:
- Staff are appropriately trained to identify cases that should be referred for investigation.
 - Benefits claimants that have moved without informing the Council are identified via use of the Do Not Redirect scheme.
 - Suspicious cases are appropriately identified by staff and via data matching techniques and these are referred to the Benefit Fraud Team for investigation.
 - Investigations are undertaken and managed appropriately, with sanctions being applied where considered applicable.

- Data is held securely.

2.3 The audit approach used extracts from the Fraud Prevention and Detection module of the CIPFA Matrices for Housing & Council Tax Benefits. The expected controls under these Matrices are categorised into the following areas:

- (1) Policies and procedures
- (2) Vetting and training of employees
- (3) Do not redirect scheme
- (4) Fraud referrals
- (5) Data matching
- (6) Undertaking investigations
- (7) Managing investigations
- (8) Use of sanctions
- (9) Security of data

2.4 The audit approach was to evaluate the controls by completion of an Internal Control Questionnaire and undertake compliance tests applying the CIPFA Matrices model. This was performed through:

- Consultation and discussion with relevant staff
- Inspection of relevant documentation.

2.5 Some specific tests were not performed as they were either considered not relevant to the operations at the Council or are covered under separate audits (e.g. the vetting of employees is a HR function and data security is covered under a specific IT audit of the Civica Open Revenues system).

3. FINDINGS

3.1 Training of Employees

3.1.1 The Benefit Fraud Investigator (BFI) advised that there were no formal training programmes as such in relation to benefit fraud investigation, although staff would be given training as and when it became available.

3.1.2 At the time of the audit, a circular had been received from the Department of Work and Pensions (DWP) setting out a number of training courses that were available, including specific training for investigation staff. The Benefits and Fraud Manager (BFM) produced evidence to confirm that she had booked a number of places on the training for Benefits assessment staff and had also booked a place on the PINS (Professionalism in Security) Managers course for the BFI.

3.1.3 It was identified that assessment staff may not have received any recent training on benefit fraud , although the BFI advised that those who had been appointed more recently had undertaken some work shadowing with the Benefit Fraud Team to get an understanding of the work that they performed.

- 3.1.4 Training on referrals has also been provided to staff at the One Stop Shops and Frontline but has not recently been provided for assessment staff. However, feedback is available to all assessment staff on the individual cases that they have referred to the Benefit Fraud Team.

RECOMMENDATION

Refresher 'referrals' training should be provided to all Benefits assessment staff to ensure that they are aware of which cases should be referred to the Benefit Fraud Team for investigation.

3.2 Do Not Redirect Scheme

- 3.2.1 The Benefits section no longer uses the Do Not Redirect Scheme (DNR). The BFM advised that the DWP used to insist that the scheme was used. However, with the increasing number of payments being made by BACS there are fewer cheques sent directly to claimants, which reduces the need for the DNR scheme to be used and the DWP no longer insist on its use.

- 3.2.2 The BFM advised that a review was undertaken on the cost to the Council of using the scheme and it was subsequently decided that we should stop using it.

- 3.2.3 If any benefits or Council Tax related mail is returned to WDC (e.g. the addressee has moved but has not left a forwarding address), the envelope will be scanned by the DMC to show the reason for the return of the mail and it will be placed into the general queue (on Workflow) for processing.

RECOMMENDATION

Consideration should be given to the use of a separate Workflow queue to highlight these cases so that they are flagged for the Benefit Fraud Team's attention.

3.3 Fraud Referrals

- 3.3.1 As highlighted above, staff have not had recent training on the types of cases that they should refer to the Benefit Fraud Team. The BFI also highlighted that there is no specific guidance available to staff to help them identify the types of cases that they should, or should not, be referring.

RECOMMENDATION

Guidance should be produced to advise Benefits assessment staff of the types of cases that they should, or should not, be referring to the Benefit Fraud Team.

- 3.3.2 Feedback is provided to individual staff on the results of individual cases that they have referred to the Benefit Fraud Team if they ask for it. However, there is no regular, scheduled feedback from the Benefit Fraud Team to other

Benefits staff advising them of their activities and successes. The BFI advised that, on an ad-hoc basis, information may be passed on regarding new types of fraud being encountered, although nothing formal is produced.

- 3.3.3 Upon discussion with the BFM it was suggested that a summary report would be useful so that any themes emerging from the feedback provided on individual cases could be highlighted to all staff.

RECOMMENDATION

A summary report should be produced for Benefits assessment staff on a regular basis highlighting any emerging themes from cases referred to the Benefit Fraud Team.

- 3.3.4 Referrals from members of the public can be received via a dedicated phone number or via the internet, with the WDC website including a specific form that can be completed to report suspected benefit frauds.
- 3.3.5 At the time of the audit testing, the BFM produced evidence to confirm that the phone line was being 'promoted' in the next issue of the Council's Focus magazine.
- 3.3.6 The aim of the Benefit Fraud Team is to investigate all cases that are referred to them although, due to the staffing issues mentioned above, this has not always been possible.
- 3.3.7 However, in some cases, the referrals are not investigated as the information provided does not indicate a fraud, but suggests that Benefits need to be made aware of changes that should have already been flagged to them.
- 3.3.8 It was also highlighted that some cases that should possibly have been referred to the Benefit Fraud Team had not been. This related to cases where the Council was made aware of tax credit changes.
- 3.3.9 If the cases had been flagged internally, the cases were assessed back to a certain point in time directly on Civica whereas, if the cases were flagged via HBMS (discussed further under Data Matching below), the cases are investigated.
- 3.3.10 Upon discussion with the BFM it was established that a specific decision had been taken in these cases as to whether or not they actually constituted fraud. In some cases, due to the amounts of the increases identified, it could be argued that people had not knowingly received increases in Tax Credits and they were not knowingly withholding information about changes in circumstances. A decision was therefore taken to deal with these directly rather than referring them for the Benefit Fraud Team to review.

3.4 Data Matching

- 3.4.1 Results from data matching exercises are received as part of the National Fraud Initiative (NFI) and also on a monthly basis from the DWP from the Housing Benefit Matching Service (HBMS). As Internal Audit are heavily

involved in the NFI exercises, this audit concentrated on HBMS referrals.

- 3.4.2 The Systems Officer undertakes downloads from the HBMS system on a monthly basis for the data matches to be obtained. These downloads are unencrypted and are then passed to the BFI for the cases to be investigated as appropriate.
- 3.4.3 The returns, detailing the findings from the investigations have to be submitted within eight weeks of the month-end and will be chased up by the DWP if they are not received. However, no evidence has been retained to confirm that the returns had been sent off within the timescales.
- 3.4.4 Whilst it would be considered good practice to keep a record of when the returns are submitted, it was not felt necessary to include a formal recommendation as no problems have been flagged by DWP.
- 3.4.5 HBMS matches are investigated in the same way as any other referrals when fraud is suspected, so no separate testing was considered necessary. HBMS matches were included within the main sample taken for the undertaking and management of investigations (see below).
- 3.4.6 Where HBMS matches identify a change to benefit, a HBMS Statistical Return Report is completed with the details then being fed back to the DWP as appropriate. These reports were found to be in place during testing on the relevant sampled cases.

3.5 Undertaking Investigations

- 3.5.1 A code of conduct for Benefit Fraud Investigators was found to be in place at the time of the previous audit which was included as part of the Benefit Fraud Strategy that was in place at the time.
- 3.5.2 The Housing & Council Tax Benefit Anti-Fraud Policy and Strategy documents have subsequently been updated and the Strategy now only includes reference to the Police & Criminal Evidence Act Codes of Conduct being observed when investigations are being performed. The BFM advised that the code located within the previous strategy would still, therefore, be in force.
- 3.5.3 During review of the documents, it was noted that, the 'latest' version of the policy and strategy documents seen by Internal Audit were out of date, specifically regarding reference to the Social Scrutiny Committee.

RECOMMENDATION

The Benefit Fraud Strategy and associated Code of Conduct documents should be updated to reflect current arrangements.

- 3.5.4 A spreadsheet is maintained that shows all cases referred to the Benefit

Fraud team. This shows when the case was received, whether (and when) the case is closed, whether a fraud was proven etc. The details relating to each case are then included on specific files, depending on the level of investigation performed.

- 3.5.5 A sample of cases referred to the Benefit Fraud Team was examined to ensure that, amongst other things, the files had been appropriately maintained with details of the work performed, that they contained adequate evidence to support the conclusions reached and that the cases had been dealt with in a timely manner following the referral.
- 3.5.6 One of the files could not be located at the time of the audit, although this was thought to have been a case of it having been misfiled. Some of the other cases were filed together where the 'referral' was due to a HBMS match and no fraud was found, and two of the sampled cases had not been investigated due to the workload encountered during the period of reduced staffing.
- 3.5.7 Where individual files were maintained, case review notes had been maintained and documentation containing the evidence to either support or disprove the claim was held. However, there was no referencing or indexing of the files that made it clear what each document was and how it supported the decisions reached.

RECOMMENDATION

Investigation files should be indexed and documentation contained within the files should be referenced to provide a clear trail to the reader of the file.

- 3.5.8 It was generally not possible to identify how long it had taken for a case to be opened, as the referral forms from staff were not generally dated and, where the investigations related to HBMS referrals where no fraud had been found, there were generally no case notes to suggest when the investigation had commenced.

RECOMMENDATION

All documentation should be clearly dated to ensure that the timeliness of investigations can be ascertained.

- 3.5.9 During the investigations, there is often a need to interview the claimant. These interviews are undertaken under caution under the Police and Criminal Evidence (PACE) Act. Evidence of the interviews performed was generally held on file, although the BFI advised that the interviews may not be transcribed in the future.
- 3.5.10 The interviews are held in the PACE room which contains a panic alarm. If this is pressed, staff in the Frontline office are meant to respond. The interviews should also, now that staffing permits, be conducted with another officer present.

3.6 Managing Investigations

3.6.1 The BFI advised that she checks and signs off the work of other staff although during the periods examined for this audit, she had often been the only staff member conducting the investigations and there had been no direct review of her work.

3.6.2 However, the BFM advised that, where a fraud had been proven and a sanction was recommended, either herself or the Head of Finance would review the file to confirm that the correct decision had been reached. However, where no sanction was proposed, there would be no review of the BFI's work. The BFM suggested that she would find it useful to receive a report of the 'no sanction' cases which had been formally investigated (i.e. not the HBMS referrals that did not lead to a full investigation).

RECOMMENDATION

A report should be prepared for the Benefits & Fraud Manager to enable her to review cases investigated by the Benefit Fraud Investigator that have not led to a sanction being recommended.

3.6.3 During the reviews performed of the sampled cases, it was clear in the majority of cases that the BFI had performed the work and had signed off the cases. However, in the two cases where no work had been performed, the reports had been signed off by the Administration Officer and in a further case the working paper had been signed off by a new member of staff without the BFI reviewing the file to confirm that no further avenues should be investigated.

RECOMMENDATION

All files should be signed off by the Benefit Fraud Investigator or another relevant senior officer to confirm that the case has been reviewed and it can be formally closed.

3.6.4 As highlighted previously, some referrals were not investigated due to the workload of the reduced number of staff. The BFI advised that, now new staff were in place, she will generally monitor their workload. The BFM also highlighted that one-to-one meetings are now being held with the members of the Benefit Fraud Team and any concerns over workload could be raised during these meetings.

3.7 Use of Sanctions

3.7.1 A Sanctions Policy is included within the (old) Benefit Fraud Strategy document. This sets out the different types of sanctions that are available, i.e. either an administrative penalty, the issuing of a caution or prosecution and details the circumstances under which each type of sanction would be relevant where a fraud has been proven.

3.7.2 At the end the cases where a fraud has been proven, the BFI will make a recommendation as to which course of action should be taken and these will

be passed to either the BFM or the Head of Finance to authorise the sanction.

- 3.7.3 One of the things that should be taken into account when recommending the different types of sanctions is whether or not the claimant had received previous convictions relating to benefit fraud. The BFI advises that, where the Council has investigated the case with no input from the DWP, she will contact the Police to ascertain whether there have been previous offences.
- 3.7.4 However, upon review of the files relating to the sampled cases where sanctions had been applied, there was only one instance where a note had been made on the case notes to evidence that this had taken place and, even in this case, the actual results of this enquiry were not recorded.

RECOMMENDATION

Details of previous conviction enquiries should be recorded on the working papers for each case to ensure that the authorising officers have sufficient evidence to enable them to reach an informed conclusion when authorising the appropriate sanctions.

- 3.7.5 The sample testing covered all of the different types of sanctions available and the testing confirmed that the cases had been dealt with and authorised appropriately. The only minor issue highlighted was that, where administrative penalties were being issued, there was no checking of the calculations performed to arrive at the penalties. However, this was due to the staffing issues previously highlighted.
- 3.7.6 When the case is prosecuted jointly with the DWP, their legal teams are used. However, when the case is being solely prosecuted by the Council, WDC uses the shared legal services hosted by Warwickshire County Council. However, this comes at a cost, whereas the DWP legal services can be used free of charge.
- 3.7.7 The BFM advised that we use the shared WCC Legal Services as we are 'contracted' to offer work to them, and the previous Head of Members' Services had advised that we would breach that contract if we used DWP Legal. However, the BFM also advised that the Head of Finance believes that we can use DWP as long as we offer 'our' Legal Services a certain amount of work through various sources which does not necessarily have to include benefit fraud. This position needs to be clarified but, as it has already been raised by the BFM, no formal recommendation is included within this report.
- 3.8 Security of Data
- 3.8.1 As highlighted above, the security of computer data was not considered as part of this audit.
- 3.8.2 The files for each case are held in filing cabinets which are locked when the Benefit Fraud Team are out of the office. The team used to have their own office, but are now located within the main, open-plan Revenues office. However, this is not thought to pose an issue.

4. SUMMARY & CONCLUSION

4.1 Following our review, we are able to give a MODERATE degree of assurance that the systems and controls in place for benefit fraud investigation are appropriate and are operating effectively.

4.2 Issues were identified relating to:

- Training and guidance given to benefits assessment staff in relation to which cases to refer to the Benefit Fraud Team
- The flagging of returned benefits related mail so that it can be investigated
- The need for the Benefit Fraud Strategy and associated documents to be brought up-to-date
- The level of detail provided within the investigation files to enable authorising officers to reach considered conclusions
- The need for the Benefits and Fraud Manager to review the work of the Benefit Fraud Investigator where no fraud has been found
- Cases being identified that had not been formally signed off by either the Benefit Fraud Investigator or another senior member of staff.

Assurance Opinion: Moderate

Information Governance – 14 September 2011

1. INTRODUCTION / SCOPE AND OBJECTIVES OF AUDIT

1.1 An asset is broadly defined as 'anything, which has value to an organisation, its business operations and its continuity'. If the confidentiality, integrity or availability of an information asset is compromised, then there will be an impact felt by the Council.

1.2 Information is a key resource within the Council. It is at the heart of business processes, shapes decision making, is vital in delivering critical services, and informs performance monitoring. Managed well, information that is of good quality will help management to make sound decisions, deliver evidence-based policy, operate legally and accountably, respond effectively to enquiries, share learning, work collaboratively and support business continuity.

1.3 The scope of Council information governance arrangements covers information that is stored and processed in both manual (e.g. paper filing systems and document stores) and electronic (e.g. Intranet and various business systems) formats. The scope of this review has considered the following individual control objectives:

- governance arrangements have been established to oversee all investment in control over information management;
- strategy has been defined and approved by senior management in relation to the management of information to enable the Council to deliver strategic and operational objectives;
- policy has been defined and formally approved by senior management to support information management throughout the Council;
- processes and procedures have been defined and implemented to support information management; and
- all staff and members have been informed of their duties and responsibilities for complying with policy, processes and procedures to ensure adherence to legislation, regulations and policy.

1.4 The audit comprised a high level review of the control framework in place to manage the risks that could compromise the confidentiality, integrity and availability of information assets owned by the Council. The good practice prescribed by CIPFA Audit Guidelines governing 'Records Management' was used to identify and assess key controls. High level controls have also been assessed in line with the following:

- 8 principles of the Data Protection Act;
- code of practice for implementing the Freedom of Information Act;

	<ul style="list-style-type: none"> • International Standard ISO 15489-1:2000 Information and Documentation – Records Management; and • Government Connection GCSX CoCo version 4.1.
1.5	<p>The audit undertaken through examination of relevant documentation and discussion with:</p> <ul style="list-style-type: none"> • Chris Elliott, Chief Executive • Bill Hunt, Deputy Chief Executive • Andy Jones, Deputy Chief Executive • Ty Walter, ICT Services Manager • Graham Leach, Senior Committee Services Officer • all Heads of Service (individually).
2.	<u>AUDIT FINDINGS</u>
2.2	<u>Information Governance Arrangements</u>
2.2.1	A specific Council forum for the governance of information assets has not been established. The ICT Steering Group is comprised of management and representatives from each business area and is the closest fit to such a forum. The Group convenes on a monthly basis with a remit to consider all matters relating to the adoption and deployment of technology within the Council.
2.2.2	This remit and the absence of a forum dealing with the wider governance aspects for information assets serve to reinforce the impression gained that risks to the security of information assets are perceived as technical rather than business owned.
2.2.3	The leading role played by ICT Services in the implementation of various initiatives on information security, such as the Government Connect programme of work, is seen as another illustration of this perception.
	<u>Risk:</u> Information governance is overly reliant on technical solutions to safeguarding the Council's information assets.
2.2.4	The internal risk management process is designed to identify and manage risk at both the strategic and operation levels. Risks are identified and routinely assessed as part of a documented risk assessment process. Not all managers could confirm during the audit that risks that could compromise the security (confidentiality, integrity and availability) of information assets are considered specifically as part of the risk assessment process. It is acknowledged that the process is designed to allow each service area the flexibility to identify risks that are specific and relevant to that area as not all areas are exposed to the same levels of risk.
2.2.5	However, it is felt that some form of generic guidance to inform the risk management process would promote a better understanding of

information risks among service managers and more effective management of them.

Risk: failure to capture and assess risks that could compromise the security of information assets may result in the following:

- breach of legislation/regulations ¹;
- gaps in control that may expose the Council to unacceptable risk;
- under or over control to manage risk;
- piecemeal approach to managing risk;
- poor use of resources.

2.3 Strategy - Information Management

2.3.1 Strategy for the management of information assets has not been formally defined. It is acknowledged that processes and procedures in relation to the management of information are mature and have been in place for several years.

2.3.2 Ever-increasing pressures are being placed on the resources required to deliver Council services as a result of the global economic downturn and the austerity measures that are being imposed by central government to reduce public spending. If the Council is to successfully negotiate a clear path through any technological and organisational upheaval, and maintain service delivery at the same time, a route map may be required – a plan for the future that identifies where the organisation intends to go and how to get there.

2.3.3 It can be reasonably argued that information management has a part to play in achieving the aims of the Fit for the Future Programme and, therefore, a case for factoring this in as a key organisational resource presents itself.

Risk: lack of a clear strategy for information management could result in the uncoordinated use of resources to manage information assets continuing to prevail to the detriment of efficiency and assurance of legal compliance.

2.4 Policy - Information Management

2.4.1 Several policy documents have been developed and endorsed by senior management that define policy in relation to the management of information within the Council. Such policy documents include the following:

- Data Protection and Freedom of Information Policy;
- Information Security and Conduct Policy; and
- Data Handling Policy.

¹ Several local authorities have recently been issued with fines, the most recent being £120k, from the Information Commissioner for breach of the Data Protection Act 1998.

2.4.2 The policy framework does not, however, encompass management of the complete lifecycle of information in both manual and electronic format – that would be the expected role of a ‘records management’ policy. While some attention was found to be paid to information lifecycle in practice, this varied between service areas and a gap in control emerged relating to the retention and disposal of information.

Risk: lack of a complete corporate policy in relation to records management, specifically around records retention and disposal, could result in the inefficient use of resources (e.g. implementation of several document imaging systems and increasing costs associated with electronic storage and management of complex IT systems).

2.5 Processes and Procedures - Information Management

2.5.1 From discussions with the Heads of Service, there was a general confidence that appropriate procedures covering the creation, processing and maintenance of records are in place. These tend not to be formally documented, relying instead on training and supervision to keep staff aware of them as deemed necessary.

2.5.2 As already stated, inconsistencies have been noted across the Council and within different sections over procedures for the retention and disposal of records. All Heads of Service acknowledged during the audit the need for such procedures in order to ensure compliance with legislation, regulations and policy. It was noted that work has been undertaken within some service areas to implement such procedures, including the scanning and archiving of historical records. All managers confirmed however that there is no corporate policy in place to focus and drive such efforts (see risk reported under section 2.4 above).

2.5.3 It also emerged that personal data may be retained on certain long standing business applications way beyond justifiable periods due to lack of knowledge of available archiving and data deletion functions.

2.5.4 Sharing information with other external bodies, such as the Police and DWP, has long been a vital process for effective delivery of certain key services, complying with legal obligations and other purposes such as counter-fraud. This area is felt to be appropriately regulated for the Council’s more sensitive information through relevant multi-agency protocols.

2.5.5 The sharing of information internally within the Council, however, emerged as an issue from the discussions. Outside routine business processing, a silo approach to information protection is perceived with instances of Data Protection Act provisions being misrepresented to justify an obstructive stance when there is a valid need and lawful purpose to the information being requested (such as crime prevention, protection from harm, etc.).

Risk: lack of internal information sharing processes and procedures

could result in lost opportunities to deliver a more efficient and valued service to customers.

2.6 Training and Awareness - Information Management

2.6.1 Training and awareness of the risks associated with a breach of legislation has been undertaken through as part of corporate training delivered both through workshops and via electronic media ('Moodle' open-source software).

2.6.2 Sections that store and process person identifiable data of a sensitive nature, such as Benefits, have taken additional steps to educate staff as to the risks that could compromise the security of such data. The Government Connect programme has proved to be a key driver in implementing such requirements within the Council.

3. CONCLUSIONS

3.1 The findings from this audit can give MODERATE management assurance on the key controls in place to manage the risks that could compromise the confidentiality, integrity and availability of Council information assets.

3.2 The framework of control and effectiveness of controls in relation to the governance of information assets was found to be adequate. However, the following aspects of risk have been noted resulting in audit recommendations to improve control:

- governance of information assets is seen as technical rather than business owned resulting in over-reliance on technical solutions;
- failure to fully capture and assess risks that could compromise the security of information assets;
- absence of a formal information management strategy;
- lack of defined corporate policy in relation to records management, specifically around records retention and disposal; and
- unclear boundaries for internal information sharing outside routine business processes.

4. RECOMMENDATIONS

4.1 Responsibility for the governance of information assets should be clarified and formally assigned to a named officer or group of officers.

4.2 Consideration should be given to establishing an 'Information Management Steering Group' with a remit to focus on the governance of all information assets.

4.3 The following action points to address issues and potential

areas of risk identified from this audit should be considered by the responsible officer or group of officers as designated:

- **the corporate risk assessment process, both strategic and operational, should identify and assess all aspects of risk that could compromise the security of information assets. This could be achieved by issuing risk owners within all service areas guidance on how to identify such risks;**
- **the need for an information management strategy should be assessed, with particular reference to the 'Fit for the Future' Programme;**
- **corporate policy should be defined and formally adopted by all service areas in relation to the retention and disposal of information assets. Consideration should be given to integrating all aspects of the information lifecycle, including retention and destruction, into a single document entitled 'Records Management Policy' in line with good practice; and**
- **protocols should be agreed to facilitate internal information sharing across service areas, especially outside normal business operations where this can be shown to be lawful and in the interest of community safety or other desirable outcomes for customers**

Assurance Opinion: Moderate

Leaseholder Service Charges – 23 September 2011

1. INTRODUCTION / BACKGROUND

- 1.1 The management of Leaseholder Service Charges (LSCs) is undertaken by the Technical Administration Section in Housing and Property Services.
- 1.2 The estimated income in 2011/2012 is approximately £122,000 and is derived from 526 leaseholder properties, with payment of these charges being made on either a monthly, quarterly or annual basis.
- 1.3 Charges range from around £25 to over £1,000 depending on the level and types of services provided.

2. SCOPE AND OBJECTIVES OF THE AUDIT

- 2.1 The audit was undertaken to test the management and financial controls in place.
- 2.2 In terms of scope, the audit covered the following areas:
- Identifying properties and liable persons
 - Identifying costs
 - Raising invoices
 - Leaseholder information
- 2.3 The audit programme identified the expected controls. The control objectives examined were:
- All properties that are liable to service charges and recharges for major works are identified
 - All applicable costs are identified
 - All applicable costs are recovered
 - Costs are appropriately apportioned
 - Challenges by 'customers' to charges levied are dealt with appropriately and in a timely manner
 - Leaseholders are aware of what they are actually paying for
 - Leaseholders are made aware of, and have the opportunity to influence, major costs that they will be liable for.

3. FINDINGS

3.1 Identifying Properties & Liable Persons

- 3.1.1 At the time of the previous audit it was highlighted that changes had been made to the computer systems in use and options were being

considered for maintaining the database of LSCs, and the associated billing processes, such as packages that would be compatible with the Active H system that is used to record housing repairs (amongst other things).

- 3.1.2 However, JOBS, which was the previous housing repairs system, is still being used as a database for leasehold properties although it now needs to be supplemented by information from other systems.
- 3.1.3 Reconciliations and manual update exercises have to be performed between JOBS, the Active H system and an extract from TOTAL (finance system) to ensure that all properties and liable persons are identified.
- 3.1.4 It was highlighted at the time of the previous audit that this arrangement could not be viewed as a permanent solution. However, this is still the case nearly three years later.
- 3.1.5 The Senior Technical Administration Officer (STAO) advised that the Business Analyst had informed her that JOBS is to definitely be switched off in the not too distant future and alternative arrangements need to be put in place.

Risk

Accurate details of leasehold properties and liable persons are not maintained, leading to a potential loss of income or inaccurate charges being calculated.

RECOMMENDATION

Concerted efforts should be made to ensure that a new Leaseholder Management System is put in place.

- 3.1.6 Staff in Housing Finance provide the STAO with details of any properties that have been sold under the Right To Buy scheme so that LSCs can be levied as appropriate. The STAO advised that, as part of process of raising the annual bills, she would check that all properties that had been sold during the year had been included. However, there have not been any relevant properties sold recently.
- 3.1.7 Another issue raised during the previous audit was that a number of repair jobs that were the responsibility of the leaseholders were being carried out by the Council. Whilst the monies were generally being recovered, it was causing an unnecessary administrative burden.
- 3.1.8 The problems arose because the system was not highlighting the properties that had been disposed of and it was allowing Customer Service Centre operatives to raise jobs against these properties. However, upon review of the system it was confirmed that this issue has been resolved, as the relevant repair request options can no longer be accessed for the properties that have been disposed of.

3.2 Identifying Costs

- 3.2.1 The LSCs include all of the costs that relate to the maintenance of the site and they will vary considerably between flats depending on what services are provided. Charges will naturally be greater where there is an Estates Supervisor on site or if the block has a lift.
- 3.2.2 The costs are identified and are collated from information received from various sources.
- 3.2.3 The relevant Principal Accountant provides an extract from TOTAL showing all estimated cleaning and grounds maintenance costs for the forthcoming year, which are reviewed annually to help ensure that all estimated costs are covered.
- 3.2.4 Other costs are based on actuals from the year before. Staff within Housing and Property Services supply details of costs such as electricity charges for communal areas (supplied by the Energy Management team) and lift repairs and decorations (supplied by Building Surveyors).
- 3.2.5 A manual exercise is also required to obtain costs from Active H regarding the costs for door entry works. Crystal reports are also run which pick up all relevant repair works from Active H and these are transferred into Excel, with a separate report for each street, split between the different blocks of properties.
- 3.2.6 However, whilst the 'regular' costs and minor repair works are identified, issues are being encountered with respect to 'major works'.
- 3.2.7 Information regarding major works is required as leaseholders have to be consulted on the projects in order for the Council to be able to recharge them. To ensure that these major works are appropriately identified there needs to be a proper mechanism in place to deal with the consultation processes, with communication required between the Technical Administration section and Surveyors 'responsible' for the relevant major works.
- 3.2.8 However, whilst steps to formalise the communication between relevant parties were undertaken during the course of the audit, it has generally not operated effectively in recent times and, as a result, consultation was generally not happening.

Risk

Income that should be obtained for recharging leaseholders in relation to major works projects is lost due to the lack of appropriate consultation.

RECOMMENDATION

Discussions should be held on a regular basis between Technical Administration staff and Surveyors (and other relevant staff) to

ensure that Technical Administration are aware of any major works projects that are forthcoming for which leaseholders need to be recharged.

3.2.9 At the time of the audit, the STAO advised that she had been unable to ascertain whether any specific losses had been made as a result of the lack of relevant consultation. Subsequently, however, discussions between relevant staff within Housing & Property Services highlighted that the amount of losses was minimal. Internal Audit were advised that there had been a couple of blocks of flats where new doors had been fitted without consultation as there was no door replacement contract in place and the works were classed as essential because the security of the blocks was compromised.

3.3 Raising Invoices

3.3.1 The STAO advised that as the relevant costs were identified the details would be entered onto JOBS for the total costs to be calculated for each property. A spreadsheet, containing these total costs, would then be sent to the Senior Income Officer for the invoices to be raised.

3.3.2 A sample of invoices raised was checked to the figures on the spreadsheet provided to ensure that they had been accurately raised. It was confirmed that the invoices were being raised accurately, based on the figures provided.

3.3.3 Extracts were also obtained from JOBS in relation to these properties (and another property chosen to ensure that all relevant sources of information were covered) to ascertain how the total figures for each invoice had been arrived at. These figures were then agreed back to the figures on the various cost spreadsheets provided (as per 4.2.3 – 4.2.5 above). This testing proved satisfactory with only a minor discrepancy highlighted for one property.

3.3.4 The costs of repairs and maintenance should be split evenly between each property within the same block. The STAO advised that JOBS groups the relevant properties together so it would be obvious if there was any discrepancy between charges raised for properties within the same block. Testing performed confirmed that all leasehold properties within a sample of blocks had been charged the same amount as appropriate.

3.3.5 During the checks performed between the invoice charges and the supporting cost spreadsheets it was also noted that the costs were being appropriately apportioned across the total number of properties within the blocks, i.e. both leasehold and Council-owned properties.

3.3.6 The STAO advised that if leaseholders wished to enquire about the charges set or wanted to challenge them they can contact the Technical Administration Section directly. The invoices that are sent out contain the contact details for Technical Administration staff and details are also included within the Home News publications that are issued.

- 3.3.7 The Leaseholder Action Group (LAG) can also be used as a channel of communication and, if the leaseholder was still not satisfied, the corporate complaints procedure can be used if required.
- 3.3.8 A lot of the enquiries can be resolved by sending a breakdown out, showing how the charges have been arrived at, as these are not provided unless the leaseholder specifically asks for one. It is hoped (by the STAO) that the leaseholder handbook (covered in more detail in 4.4 below) can be improved to help remove some of the queries received and to advise leaseholders on how they can raise issues concerning their charges. The STAO also expects that the new Leasehold Management system will be able to produce standard breakdowns so that these can be issued routinely.
- 3.3.9 The Business Manager advised that there are currently two 'stage one' complaints by leaseholders. However, neither of these relates to issues with the costs they have to pay, although one complainant has asked for a refund of his maintenance charges due to ongoing issues at his property.

3.4 Leaseholder Information

- 3.4.1 The STAO advised that a very old Leaseholder Handbook is in place, setting out the rights and responsibilities of both parties as well as general details about services charges etc. However, as this is out of date, it is not routinely sent out anymore.
- 3.4.2 However, she also advised that an updated version is being discussed with the LAG and that a questionnaire will be issued shortly asking leaseholders if they want to be involved in producing an update, via the setting up of a working party.
- 3.4.3 It was noted, however, that discussions were said to be taking place to update the handbook at the time of the previous audit as well.

Risk

New leaseholders are not appropriately informed of their rights and responsibilities.

RECOMMENDATION

The leaseholder handbook should be updated and reissued as soon as possible.

- 3.4.4 The STAO believes that most leaseholders would know their basic rights and responsibilities, as they are included within their leases, and they would know how to report a repair. A specific form is available on the WDC website to enable leaseholders to report a repair that is required within the communal areas of the property.
- 3.4.5 The (current) handbook also sets out the consultation requirement if

major works are to be undertaken at any of the properties. However, due to the abovementioned issues regarding the lack of information being passed to the STAO, she advised that no relevant consultation has been performed recently.

3.4.6 The handbook also highlights the requirements for the Council to notify any Right to Buy purchasers of any major works that are due to be undertaken within the first five years of their ownership. However, no relevant Right to Buy sales have taken place recently, although there is one current enquiry.

3.4.7 Upon review of the paperwork held by the Finance Assistant, it was identified that the enquiry form received from the Technical Administration section did not contain any details of the projected five year programme of major works.

3.4.8 The STAO advised that, in this case, the questions had been asked and that no programmed works were identified. She suggested that, in future, the Technical Administration staff would state on the paperwork, where relevant that there are no projected works to formally confirm that this was the case.

4. SUMMARY & CONCLUSION

4.1 Following our review, we are able to give a MODERATE degree of assurance that the systems and controls in place for the management of Leaseholder Service Charges are appropriate and are working effectively.

4.2 Issues were identified relating to the systems used for the maintenance of the leaseholder property database, the lack of information being received by the Technical Administration section in relation to major works and the need for the Leaseholder Handbook to be updated.

Assurance Opinion: Moderate

Shared Legal Services – 23 September 2011

1. SCOPE AND OBJECTIVES OF THE AUDIT

1.1 The audit was undertaken in order to establish and test the controls in place over the management of Shared Legal Services (SLS).

1.2 The control objectives examined were as follows:

- a) The agreement for SLS is on a formal footing.
- b) There are procedures in place for ensuring that the service is provided in accordance with the specification.
- c) Adequate provision is made for the possibility that the service is not provided to agreed standards.
- d) Systems are in place to ensure that documents and information are exchanged securely.
- e) Legal work can only be commissioned by authorised staff.
- f) Systems are in place to ensure that payments are valid, accurate, processed in accordance with the terms of the agreement and recharged correctly.

2. BACKGROUND

2.1 The agreement for the provision of a Shared Legal Service between Warwick District Council and Warwickshire County Council came into effect on 1 March 2010.

2.2 The purpose of the arrangement was to benefit both parties by having one in house team that would improve the resilience of the service, enabling it to withstand peaks and troughs in demand and to reduce the reliance on external legal providers and agency staff.

3. FINDINGS

3.1 In broad terms the audit concluded that the arrangement works well with general satisfaction from service areas with the standard of legal work undertaken. There is, however, one area where the arrangement falls down quite seriously and that is in the overall costing/billing processes. This will be expanded on later.

3.2 In respect of the control objectives examined, the findings are as follows:

3.3 The agreement for SLS is on a formal footing

3.3.1 The decision to embark upon a shared service was taken by the Executive on 2 December 2009. For WCC's part, the decision was made by the Strategic Director of Customers, Workforce and Governance under delegated powers contained in the WCC constitution.

- 3.3.2 The terms and conditions of the agreement are contained in a document dated 26 February 2010, signed by the WDC Chief Executive and the WCC Head of Law and Governance.
- 3.3.3 Efforts to obtain the formal WDC copy of the agreement proved fruitless. A scanned version of the signed copy of the agreement was supplied by WCC.
- 3.4 The service is provided in accordance with the specification
- 3.4.1 The detailed conditions for the provision of the service are contained in the agreement and the supporting schedules and there are various client/contractor arrangements in place to monitor compliance.
- 3.4.2 The WDC Client Officer is the Deputy Chief Executive (AJ) and he meets regularly with the Shared Services Manager to discuss progress, performance, budgets etc. Senior staff from WCC also meet regularly with WDC senior managers.
- 3.4.3 A customer feedback form is issued at the completion of every job and copies are returned to WCC. The agreement states that the Shared Services Manager receives and evaluates this information. There is no provision for this information to be provided to the WDC Client Manager. A summary of the responses would be useful for client side management and monitoring and it would be worthwhile asking for a copy.
- 3.4.4 An email survey of 17 WDC senior managers produced 12 responses. In overall terms, there was a high level of satisfaction with the shared service arrangement. Most respondents mourned the absence of face to face contact and not being able to call into Legal Services anytime they liked.
- 3.5 Provision for poor performance/disputes
- 3.5.1 The agreement provides for the resolution of any complaints or disputes on an escalating basis, aimed at avoiding legal proceedings and maintaining a healthy working relationship.
- 3.5.2 An attempt will be made to resolve any issues at the lowest possible level and failure to agree an outcome will be referred upwards to the Shared Services Manager, then the Head of Law and Governance and finally the WDC Chief Executive and the WCC Strategic Director (WC&G). Failure to agree at the final stage will result in a referral to mediation.
- 3.6 Documents and information are exchanged securely
- 3.6.1 Most documents that are necessary for any work ordered are sent to WCC by email and there are no reported problems with this.

- 3.6.2 On occasion files are delivered personally to Shire Hall or taken there by a member of the WCC legal team if they happen to be in Riverside House.
- 3.7 Authority to commission legal work
- 3.7.1 Under the heading of WDC's obligations in the agreement it states that the proper provision of the service depends on "the ability of WCC to identify recognised and authorised channels of communication within WDC from whom instructions can be taken" i.e. who can commission work.
- 3.7.2 The agreement is not specific about the compilation of the original list of names and subsequent changes and who the authorising officer is. However, there is a list of names on file of officers authorised to commission legal work. It is dated March 2010 and contains the names of a small number of leavers and so lacks the names of their replacements. The list needs updating purely for record purposes not control purposes.
- 3.8 Payments are valid, accurate and recharged correctly
- 3.8.1 The amount paid to WCC in 2010/11 for legal services was around £465,000. So far in 2011/12 they have been paid around £79,000. These figures indicate that all is not well as far as billing and the provision of supporting information goes.
- 3.8.2 On the face of it, the information supplied by WCC looks to be everything that WDC could wish for. The reports that are provided to support the monthly invoice show a job number, a description, the name of the fee earner, the time charged, the cost and the WDC expenditure code.
- 3.8.3 A closer inspection of the figures and the timing of the submission of invoices and discussions with finance staff reveal however that WCC is having serious problems with its Legal Services management system.
- 3.8.4 Staff in Finance are constantly having to chase WCC for invoices and supporting information. So, for this year, only invoices for April and May have been paid. When the supporting information does arrive, sometimes parts of it are missing or are not in the right format.
- 3.8.5 It was very difficult to carry out sample checks on the individual charges as the hourly rates in many cases could not be recognised. A discussion in Finance about this revealed that it had not been identified as no checks are carried out on the supporting information – the invoices are paid without question and it is left to budget holders to consider the reasonableness of the individual charges.
- 3.8.6 The explanation provided by Ian Marriott, the Community, Environment and Shared Legal Services Manager, about the difficulty in identifying hourly rates was that the report only shows the name of one fee earner

against each job, whereas in many cases more than one fee earner will have charged time to the job, so time will have been charged at different rates. He did say that a report can be provided that shows the complete breakdown of the activity on an individual job. Given the problems that WCC are currently experiencing, it does not seem likely that such a report could be generated easily.

3.8.7 Ian Marriott confirmed that WCC was experiencing a lot of problems with the billing side of things.

3.8.8 Monthly reports are produced which, because of the problems, require a lot of checking and then a lot of manual intervention. It is also the case that WCC are having difficulty in producing reports in the format that WDC requires. Needless to say the problems are gradually being addressed, but when a solution will be available was not mentioned.

3.8.9 The supporting information provided by WCC is in both document and spreadsheet form and it requires manipulation by staff in Finance before it can be uploaded to Total to deal with the recharging to individual expenditure codes. For a long time, the time element of the work has not been provided so all that budget holders see is a description and a charge. If a budget holder has any concerns about charges, under the terms of the agreement full details of individual case charges can be provided on request.

3.8.10 The numerous difficulties with the billing arrangements naturally raises the question about WDC's confidence in the amount being paid for the service. Ian Marriott's response was as expected in that he said that the charge was accurate and if there were any errors they were likely to be in WDC's favour.

3.8.11 In summary, the billing situation is completely unsatisfactory. The timing of the receipt of information renders budgetary control difficult and the format of the supporting information means that it is impossible to assess individual charges. The overall lack of confidence in the billing raises doubts about the amount being paid to WCC.

Risks

Budgetary control procedures and forecasts are unreliable as information is often received two or three months after the event.

Charges for individual jobs cannot be assessed as reasonable due to lack of adequate supporting details.

The problems with the billing system may result in WDC paying an incorrect charge for the service.

RECOMMENDATION

The WDC Client Manager and appropriate staff in Finance

should meet with management from the shared services team to consider the problems with the billing system and agree the future format of the information required by WDC.

3.8.12 Finally, on the billing and charging side, the agreement contains the hourly rates charged for 2010/11 which have been held at the same level for 2011/12. The agreement states that WDC will be notified of changes in hourly rates in advance of the financial year, but gives no indication of the method to be adopted to revise and agree the charges. This may be an omission in the original agreement and something that the Client Manager will want to consider in advance of 2012/13.

4. CONCLUSION

4.1 The audit concluded that the Shared Legal Services agreement works well and there are reasonable controls in place but as reported there are some major problems with the charging and billing arrangements. In terms of the assurance opinion the controls in place point towards a substantial assurance but the problems with billing indicate that a limited level is applicable.

4.2 On balance it seems appropriate that the audit provides a MODERATE level of assurance that the systems and procedures in place are appropriate and working effectively.

Assurance Opinion - Moderate