

**AUDIT REPORTS WITH MODERATE OR LOW LEVEL OF ASSURANCE
ISSUED QUARTER 2 2014/15**

Shared Legal Services – 20 August 2014

1. Scope and Objectives of Audit

1.1. The purpose of the audit examination was to report a level of assurance on the adequacy of controls to secure economic, efficient and effective delivery of legal services under the shared agreement with Warwickshire County Council.

1.2 The examination was in the form of an evidential risk-based review of structures and processes for managing Warwick District Council's interests in respect of the Shared Legal Services Agreement, focusing on the following areas:

- § contractual provisions;
- § roles and responsibilities;
- § resource planning;
- § procedures for commissioning, issue of instructions, case review and sign-off;
- § financial processes and monitoring;
- § performance and improvement.

1.3 The findings are based on:

- § initial discussion with Andy Jones, Deputy Chief Executive and Client Manager;
- § an awareness survey of officers authorised to commission services;
- § discussions with selected officers involved with commissioning legal services;
- § examination of relevant documents and a sample of records;
- § analysis of financial and billing data over the twelve months prior to the audit.

1.4 No examination of the systems operated by Warwickshire County Council in respect of Shared Legal Services was deemed appropriate to the scope of this audit. The option was left open during the audit to contact representatives of the service at the County if required for information purposes (subject to Andy Jones' express consent). In the event, however, no such contact was deemed necessary.

1.5 For assurance purposes in this regard, reliance is placed on assumptions that Lexcel accreditation is preserved and the County's legal service operation as a whole is subject to scrutiny by the their own internal audit function.

2. Background

2.1 The arrangements for the provision of a Shared Legal Service between Warwick District Council and Warwickshire County Council first came into effect in March 2010. These took the form of a single in-house team with the aims of improving resilience, maintaining sufficient capacity through fluctuations in demand and reducing reliance on external resources to the benefit of both parties.

2.2 With the approval of the Executive, a new 4-year agreement was entered into with effect from 1st April 2013.

2.3 In the previous audit undertaken in September 2011, the findings were dominated by major issues concerning the billing process. It is clear that these have been addressed and the process now runs relatively well. The tables of charge elements that support the monthly invoices have proved valuable for analysis and testing.

2.4 To gain insight into day-to-day commissioning and case management processes on the District side, the top five users were selected for more detailed enquiry, analysis and testing. Based on the level of spend (including disbursements) over the twelve months prior to the audit, these are:

<u>Service</u>	<u>Expenditure</u> (£000)
Estates (corporate/commercial)	104
Housing Anti-Social Behaviour Injunctions (ASBI)	76
Development Control	65
Benefit Fraud Prosecutions	53
Right to Buy	46

2.5 Together, the above areas account for just over 50 per cent of the overall spend.

2.6 Other areas of high spend to which a measure of analytical review has been applied include Committees/Democratic Representation (£43k) and Licensing (£27k).

3. Findings

3.1 Contractual Provisions

3.1.1 The current Agreement was signed up to in March 2013. A signed original Agreement document was located (duly secured and indexed) in the Document Store and a scanned copy obtained for reference. A brief read-through confirmed the formal agreement to be essentially

unaltered from the draft submitted to Executive, subject to two items of 'fill-in' information inserted (agreement date and minimum 2013/4 budget) and a date corrected.

3.1.2 The Agreement comes across as an elaborate contract document representing a comprehensive framework for managing Shared Legal Services. In addition to typical service contract formalities, supplementary schedules provide for the scope of service, reimbursement arrangements with a scale of hourly rates linked to seniority level of respective 'fee earners', service/quality standards and a protocol for avoiding conflict of interest situations

3.1.3 Particularly notable points to emerge are:

§ The decision to continue Shared Legal Service arrangements came on the back of a highly favourable picture presented on the working of the Shared Legal Services to date, supported by a review report from Warwickshire County Council.

§ Independent legal advice referred to the arrangements as being consistent with the 'horizontal shared services co-operation model' that can be invoked under relevant procurement regulations and known forthcoming directives without going formally to the competitive market.

§ Charging is based on cost recovery with two main elements – County Legal staff costs at hourly rates and incidental costs incurred (or 'disbursements').

§ Warwick District Council was committed in the Agreement to a budget for 2013/14 of at least £515,000 (excluding disbursements).

3.2 Roles and Responsibilities

3.2.1 Under the Agreement, the service is managed by a designated County Council officer defined simply as 'the Manager' (the role is exercised by a named Legal Manager). For Warwick District, two distinct levels of responsibility are apparent:

§ Client Officer
Officers authorised to commission legal work.

3.2.2 The designation of Client Officer is to be found in the published Portfolio Holder Structure and identifies the Deputy Chief Executive who is also the Monitoring Officer.

3.2.3 Under the Agreement the 'Manager' and the Client Officer are at the centre of joint review arrangements which provide for:

- § discussing operational arrangements;
- § maintaining overview to support joint strategies for future provision;
- § reviewing quality of service and adherence to standards;

- § consulting on annual budget provision.
- 3.2.4 The Client Officer is the first point of contact from the County for reporting issues in respect of the Districts' performance of its obligations under the Agreement and has a joint role with a designated County Legal Manager for resolving conflict of interest situations (actual and potential).
- 3.2.5 From interpretation of the provisions on Warwick District Council's obligations, a role for the Client Officer in designating those officers authorised to commission legal work (i.e. authorise new instructions) is also implied. A copy of the authorised officers' list was furnished by the Client Officer.
- 3.2.6 All but one of the 43 officers listed were still employed at the time of the audit, the exception being the former Head of Corporate and Community Services whose departure had been quite recent. However, this left only the ICT Services Manager as the sole authorised 'commissioning' officer within that Service Area (there is significantly more delegation in the other Service Areas).
- 3.2.7 This situation was seen as having particular implications for Human Resources referrals. From a discussion with two Senior HR Officers it was confirmed that they were in the position of having to instruct County Legal in their own names, in effect circumventing the authorisation regime. This since has been addressed with additions to the authorised list approved.
- 3.2.8 The definition of what constitutes a 'new instruction' is not always clear. This is illustrated by an observation regarding Right to Buy applications which are routinely referred by a Business Administration Assistant in Housing and Property Services (who is not on the list) without any counter-signature of an authorised officer. It is likely that the referrals have operated in this way since the inception of Shared Legal Services as a continuation of the arrangements previously in force. The same Legal Officer (who had transferred under TUPE) still receives the referrals.
- 3.2.9 The question this raises is whether each Right to Buy application is regarded as a new instruction or whether a standing mandate is implied. If the latter, then this should be formalised. The matter has been discussed with the Housing Strategy and Development Manager. The question of standing mandates is also considered in the context of procedural documentation in Section 4.4.below.
- 3.2.10 Enquiries and testing generally confirmed that the authorisation regime for instructing legal work is being properly observed in all the other major areas examined.
- 3.2.11 All known documented provisions on responsibilities specific to the commissioning officers seem to concentrate on operational relationships with Shared Legal Services and are less clear on internal financial and

policy considerations. This is considered as significant in the light of the 2013/14 budget overspends and a clear case of policy breach (both discussed further in Section 4.4.).

3.3 Resource Planning

3.3.1 The Agreement provides for joint meetings between the 'Manager' and Client Officer (see 4.2.3) to consider forthcoming developments and consult on the annual budget. The Agreement specified a budget of £515,000 for 2013/14 (excluding disbursements) with future years' budgets being determined by joint review and mutual agreement. Notes from the November 2013 meeting indicates no change for 2014/15 but allude to budgetary challenges from 2015 to 2016.

3.3.2 Interestingly, the original budget for 2013/14 was set at a lower figure of £489,700 and reduced in-year to £472,000. At the time of the audit, the latest budget for 2014/15 showed as £461,200.

3.3.3 For 2013/14, the matter is academic given the actual outturn which exceeded the Agreement amount and constituted a significant budget overspend which has been reported to the Client Officer and raised at a recent joint meeting. There are still, however, implications to consider for the current and future years' budgets.

3.3.4 The circumstances have been discussed with the Client Officer and Head of Finance with further enquiries to follow. The issue is seen as highlighting the need for the budget amount agreed for each year to be clearly recorded and communicated.

Risk

The Council may be seen as not acting transparently and in good faith in respect of honouring its budget commitments under the Shared Legal Services Agreement.

Recommendation

Management should ensure that budget setting for Shared Legal Services takes due account of the Agreement commitment and that any significant variation from the sum provided for is by mutual agreement between Warwick District Council and Warwickshire County Council.

3.3.5 Resource planning has been incorporated as a discussion item in the last two joint meetings with projects and developments into 2014/15 and beyond considered, although it is not clear to what extent this has translated into budget considerations for Shared Legal Services.

3.4 Procedures

3.4.1 A User Guide was produced at the inception of Shared Legal Services in 2010 and is the only known documented procedural reference for operational matters under the Agreement. This started as a single-page guide provided by Warwickshire County Council, subsequently

expanded into a three-page document by the former Head of Members Services.

- 3.4.3 While it has been confirmed that the User Guide is still in force, its status is not seen as matched by its profile and attention to updating since its first launch. The only known electronic version of the User Guide is referenced under 'Members Services' on the Intranet and a survey undertaken indicated that a large majority of authorised officers were unaware of the document's existence (23 out of 29 respondents).
- 3.4.4 The User Guide is seen as an important reference to ensure that authorised officers are fully aware of what is expected of them when commissioning legal work, not only in terms of observing the operational standards prescribed in the Agreement but also in exercising financial responsibility and ensuring adherence to Council policies. Findings from the examination suggest procedural failings in both areas.
- 3.4.5 With the Shared Legal Services budget distributed among a number of service cost centres (52 in 2013/14), effective central control is substantially dependent on financial discipline being exercised by individual commissioning officers and budget managers at the outset. Analysis of the outturn against budget for 2013/14 shows evidence of failings which include:
- § checks against available budget not always being made when commissioning work;
 - § ineffective tracking of spend against budget at cost centre level resulting not only in overspends but loss of opportunity to vire from budget allocations not required.
- 3.4.6 In terms of policy compliance, the failing relates to security of information transmission. E-mail is clearly the most generally favoured means of exchanging information. One effect of the inception of Shared Legal Services, not universally recognised at the time or since, was that e-mail transmissions to and from Legal Services would become routed via the public network losing the relative security of internal e-mail.
- 3.4.7 It was (and for the moment still is) a requirement under the Council's Data Handling Policy that such e-mail transmissions containing personal and other confidential information be secured through use of 'GCSX' e-mail accounts. It has been established that personal information relating to Right to Buy applications and human resource matters, as well information for property transactions (some commercially sensitive), is or has been routinely forwarded to Shared Legal Services through insecure e-mail in breach of the Policy.
- 3.4.8 Conversely, in the two most sensitive areas looked at (Housing ASBIs and benefit prosecutions) the implications have been clearly recognised by management and enquiries and testing have confirmed that the Data Handling Policy requirements are observed here. In the case of

Housing, a preference has become established for direct delivery of paper documents after initial instruction in each case (by conveyance to Shire Hall or handover during face-to-face meetings). In cases observed where normal e-mail has been used, the content has been duly de-personalised.

3.4.9 It needs to be emphasised here that the Data Handling Policy is under review at the time of this report with alternatives to GCSX being considered, including rolling out of Egress cryptographic technology already adopted by the County. It is advised that Egress has been introduced in communications with Human Resources.

3.4.10 The upshot from the above issues is that a 'refresh' of the User Guide and accompanying Intranet documents is warranted as a means of raising and maintaining awareness of the proper procedures among the authorised commissioning officers and, more significantly, their responsibilities in terms of financial management and policy compliance where applicable. Also, the User Guide should detail areas where there are standing mandates are in place and how they are applied.

Risks

(1) *Legal services are commissioned inappropriately without taking due account of financial implications.*

(2) *Failure to properly manage legal work commissions lead to unexpected costs and/or breach Council policies.*

Recommendations

(1) The Shared Legal Services User Guide should be refreshed including update of content and expansion to cover (as applicable) standing mandates and internal expectations including financial responsibility and ensuring compliance with relevant Council policies.

(2) The documents accompanying the Shared Legal Services User Guide on the Intranet should be updated.

(3) The refreshed Shared Legal Services User Guide should be relocated, together with the accompanying documents, to a more appropriate and prominent Intranet site and all authorised commissioning officers notified.

(4) All newly authorised commissioning officers should be advised of the Shared Legal Services User Guide and instructed to familiarise themselves with it.

3.5 Financial Processes and Monitoring

3.5.1 The procurement is manifested in the financial system by the raising of an annual purchase order for the entire budgeted sum against a holding account code. For each new instruction, the commissioning officer is

- required to provide a cost centre code representing the service to be charged.
- 3.5.2 One effect of this method is that financial commitments arising from new instructions do not become manifest in the financial system until charges arising are posted in the system from the monthly bills. This heightens the importance of diligence on the part of the commissioning officers and budget managers.
- 3.5.3 The findings generally show the monthly billing and accounting processes to operate properly and test checks confirmed that correct payments are being made according to the supporting schedules.
- 3.5.4 The payments are coded to two holding accounts, one for Shared Legal Services work and the other for incidental disbursements. Recharge to the originating costs centres is by journal entry. In 2013/14 the charges were distributed among 76 cost centres.
- 3.5.5 This has to be done promptly after the bill is processed each month to be of maximum benefit to budget managers. A period of delays in 2013/14 was noted, but this has been addressed and transfers during the current year to date have been reasonably prompt. The Client Officer receives a monthly summary analysis from Finance support monitoring.
- 3.5.6 Tests and analysis performed on billing data showed that all charges conformed to the scale of hourly rates (subject to one isolated exception which was of an insignificant amount and therefore disregarded).
- 3.5.7 Analysis of the billing data was used to profile fee earner time inputs focusing on the major areas of spend listed in Paragraph 3.4 above. Observations arising are summarised below and considered in the light of budget overspends where applicable. Where costs are quoted, these represent the cost elements billed in the 12-month period examined and may not represent the total costs of the cases referred to.
- 3.5.8 Estates
The bulk of the caseload was taken up with property transactions, mainly leases. As expected, there was a wide variation in cost totals between the cases, the most extreme ones being protracted cases including 6/8 Jury Street lease dispute (£7,303) and the dilapidations dispute with the former grounds maintenance contractor.
- 3.5.9 The overall expenditure identified under this heading spans several cost centres, the main one being Estate Management (2060) where the overall expenditure of £53,935 in 2013/14 represented an overspend of £20,635 against budget.
- 3.5.10 It was noted from the billing data that about £22,000 (42 per cent of the total charged to Estate Management) related to undefined work classified as 'general' (i.e. not ascribed to any specific properties or

projects). Other than attendance at monthly meetings, the Estates Manager was unable to provide any other explanation for charging in this way. On closer inspection, the time inputs against this classification peaked during the summer of 2013, but have since tailed off and in the most recent months shown inputs reasonably representative of one or two monthly meeting attendances.

3.5.11 In the lease and disposal cases, the typical fee earner input in each case was almost exclusively at Legal Executive level, sometimes with small elements of Legal Support Officer or Legal Assistant input. In exceptional cases where there were significant inputs from Solicitor and/or Property Team Leader level, the Estates Manager confirmed that these were justified by the nature of the cases concerned.

3.5.12 Housing ASBI

On Shared Legal Services fees and disbursements combine, the cost centre which carries the costs of ASBI cases (Tenancy Management) showed an overspend of approximately £19,000. The billing data showed two especially difficult and protracted cases which together account for about £31,000 in costs.

3.5.13 As expected, fee earner inputs are mainly at Solicitor level with small inputs at Legal Assistant/Support Officer level. Only in the two cases referred to above has there been significant input at higher than Solicitor level (in this instance Senior Solicitor/Team Leader Level).

3.5.14 Development Control

This showed only a small overspend on Shared Legal Services fees in 2013/14 and underspend on disbursements in the same year. From the billing analysis, a large proportion of the spend (£20,000) is classified as general support to the development control process with the main inputs divided almost evenly between Solicitor and Team Leader/Senior Solicitor level.

3.5.15 The spend also includes a disbursement of £12,500 for counsel fees in respect of the Kites Nest Lane gypsy encampment. Most of the rest of the spend relates to planning enforcement notices made up of a number of individual cases typically with small levels of input split fairly evenly between Solicitor and Legal Assistant/Support Officer.

3.5.16 Benefit Fraud Prosecutions

An overspend of approximately £27,000 was recorded in 2013/4 on Shared Legal Services fees and disbursements combined. In this case, no real clues as to the cause emerge from the billing analysis beyond sheer volume (58 cases identified).

3.5.17 The main inputs are at Solicitor level with Legal Assistant support. Team Leader/Senior Solicitor level inputs are small representing a measure of management overview, although there are a small number of instances where a Senior Solicitor has evidently taken on the case (these are not significant in cost terms).

- 3.5.18 Right to Buy
An overspend of approximately £10,000 was recorded in 2013/4 on Shared Legal Services fees and disbursements combined. Again, no real clues as to the cause emerge from the billing analysis beyond sheer volume (approximately 100 applications processed).
- 3.5.19 The vast bulk of the input (96 per cent) is at Legal Assistant level (usually the same officer who dealt with them internally before being transferred under TUPE).
- 3.5.20 Other Areas
Human Resources came in for attention by virtue of the difficulty referred to above in reconciling the authorised officers list with the practicalities of instructing legal work in conformity with authorisation requirements. The spend here in 2013/14 was £14,654 compared to an original budget of £4,800 (later updated to £9,800).
- 3.5.21 From enquiries made it was established that there had been an agreement for obtaining ongoing professional management support from a Senior Solicitor during the time when the function was without both a Head of Service and HR Manager. This accounts for around £10,000 – it is debateable whether all of this actually constitutes legal fees in the strictest sense.
- 3.5.22 Turning to Committee Services, an overspend of approximately £5,500 was recorded in 2013/4 on Shared Legal Services fees and disbursements combined. Due to some split coding it was necessary to combine the Committee Services cost centre (2200) with Democratic Representation (2220) to get a more complete picture.
- 3.5.23 Beyond general committee representation, areas emerging from the billing analysis that might account for the overspend are:
- § advice on Council policy for Sexual Entertainment Venues (£3,778);
 - § two Standards investigations (£9,369).
- 3.5.24 The billing analysis indicates Legal Manager level input to Standards Committee with other committees showing a fairly even split between Solicitor and Team leader/Senior Solicitor level.
- 3.5.25 Licensing and Registration showed an outturn in 2013/14 of £18,641 against a budget of £4,100 for Shared Legal Services fees (the disbursements budget of £10,500 was only slightly overspent). The outturn shows a four-fold increase on the total for 2012/13 for reasons that are not apparent from the billing data.
- 3.5.26 A large proportion of spend on the former (£11,689) is ascribed to general support for licensing, mainly at Solicitor level with a peak of activity in evidence between September and December 2013. The remaining spend is substantially made up of individual licence appeal cases.

3.5.27 Disbursements

A brief examination of the large disbursements coming through from the billing data confirmed their validity with reference to the source invoices and showed in most cases to be covered by the budgets indicating that the service units in question had been prepared for them. The only exceptions related to benefit prosecutions and ASBIs which have been considered in further detail above.

3.5.28 Overall Observations

The above observations generally confirm that the resources deployed to the services are at professional levels appropriate to requirements and that the Council is not incurring any significant additional costs from high-level fee earners being inappropriately assigned. On budgetary control matters some possible factors for the 2013/4 overspend apparent from the billing analysis are offered, but this should not preclude further investigation by management at their discretion.

3.5.29 It is fully accepted that the legal work commissions behind the overall spend in 2013/14 could not have been avoided without serious consequences. The findings do, however, call into question whether enough is being done at service level to manage the budget distributions and whether better foresight and communication on the part of service managers might have facilitated the setting of a more realistic budget.

3.6 Performance and Improvement

3.6.1 Under the Agreement, the joint review arrangements include provision for half-yearly meetings to review quality and performance matters.

3.6.2 In practice, this has become absorbed in the quarterly meetings with 'feedback' becoming a standard item.

3.6.6 The User Guide provides for the mechanisms on feedback – namely feedback forms at case closure and periodic surveys. It is apparent that for both mechanisms, responses have been scant and the qualitative aspects are judged more on perception rather than actual measurement.

4. Conclusions

4.1 The structures and processes established are seen to be generally robust in themselves and the indications are of a high level of satisfaction on the 'client' side with the services received.

4.2 The examination has established that charges are being universally levied at the correct hourly rates and that resources are deployed at professional levels appropriate to the service requirements so not subjecting the Council to excessive costs.

4.3 However, some cracks appear in the application of the established

structures and processes which converge to a large extent on one factor – awareness. Current guidelines on what is expected from officers commissioning legal work are not seen as sufficiently comprehensive and what guidelines there are do not appear to have been actively promoted.

- 4.4 This was illustrated in a survey which showed a majority of the authorised officers to be unaware even of their existence.
- 4.5 This is seen as at least a contributory factor in two significant areas of concern:
- § significant overspend on 2013/14 budget (and overspend currently forecast for 2014/15);
 - § breaches of the Council’s Data Handling Policy.
- 4.6 An anomaly became evident when comparing the budget that the Council is setting for Shared Legal Services and the minimum annual budget sum committed to in the Agreement.
- 4.7 The examination has also found instances in certain quarters that the authorisation regime was being contravened, although these are being addressed within the services in question.
- 4.8 The overall findings are seen as giving **MODERATE** assurance that the key risks in respect of Shared Legal Services are effectively managed.

5 **Management Action**

- 5.1 Recommendations to address the issues raised are reproduced in the Action Plan for management response.

Corporate Properties Repair & Maintenance – 30 September 2014

1. Background

- 1.1 The council owns and maintains a number of operational and non-operational properties.
- 1.2 The operational properties are those that are used on a day-to-day basis, including Riverside House, the leisure centres, buildings at the cemeteries and crematorium etc.
- 1.3 The non-operational buildings are leased out to companies. The tenants will be responsible for certain aspects of the repair and maintenance of these properties.

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:

- Planning and programming
- Leased properties
- Procurement
- Budget monitoring and reporting
- Risk management.

2.3 The audit programme identified the expected controls. The control objectives examined were:

- All council owned properties are maintained appropriately.
- Management and Members are aware of the works that are to be undertaken.
- Maintenance jobs are appropriately undertaken.
- The council does not pay for works that are the responsibility of the tenants.
- Leased properties are maintained appropriately.
- Value for money is achieved through the procurement process for corporate property maintenance and repairs.
- Management and Members are aware of any material budget variations.
- Management are aware of the risks associated with the holding of corporate properties.

3. Findings

3.1 Planning & Programming

3.1.1 The main asset register is maintained by the Principal Accountant (Capital & Treasury) on the Logotech system, although this details all assets (including artworks etc.). All property assets are also included on the Active H system.

3.1.2 The latest stock condition survey of corporate properties was undertaken in 2012 by E C Harris. This was a detailed review of 32 corporate properties, covering the leisure centres and sports pavilions, the crematorium and cemeteries, toilets and other assets such as the Town Hall, the Pump Rooms and Spa Centre.

3.1.3 The survey comprises a main summary spreadsheet and a series of linked spreadsheets, with each individual property having its own detailed spreadsheet. These individual spreadsheets break down the maintenance required into different elements.

- 3.1.4 A separate survey was performed for non-operational properties (those that are leased out). This was undertaken in-house, with a similar structure being used to identify works required over a thirty year period.
- 3.1.5 It was noted that Riverside House had not been included in the surveys performed. The Asset Manager (AM) advised that only emergency repairs were currently being performed until the situation regarding the future headquarters of the council was decided, and the general condition of the current HQ was, therefore, not important.
- 3.1.6 Reviews of the future of the assets held by the council have also been undertaken to identify how the future costs of operating the portfolio can be addressed, with the reports referencing the 'study' undertaken by E C Harris.
- 3.1.7 An extract is taken from the survey spreadsheets of all the works that are due to take place in the year. Meetings are then held with building managers and / or service heads to look over the building and to check whether there are any other priorities.
- 3.1.8 The Strategic Asset Management Group (SAG) then review the draft programme to balance it against the available budget where appropriate and it will then be passed to Executive for approval (see below).
- 3.1.9 A report was presented to Executive on 12 March 2014 detailing the proposed Corporate Property Repairs & Improvements Programme for 2014/15. This was formally approved by Executive.
- 3.1.10 A spreadsheet is being maintained by the Building Surveying & Construction Manager (BSCM) to monitor progress against the agreed programme (excluding mechanical and electrical jobs (M&E)) and, upon review, it was noted that a number of jobs that were included had either already been undertaken (prior to the current financial year) or were not considered to be needed.
- 3.1.11 The AM advised that the report was produced at a point in time and priorities may have changed leading to the early completion of certain jobs. He also suggested that completed works and jobs not needed should have possibly been identified by the building managers prior to the agreement of the programme during the discussions held, but indicated that new building managers may not be aware of what had already been done.
- 3.1.12 The Energy Manager advised that a similar process had been followed for the M&E programme, with similar issues being identified (i.e. some works already completed and others not felt to be needed).
- 3.1.13 The AM also advised that an Asset Maintenance Group (AMG) is to be established, which would be an operational group of surveyors and building managers. This group would be able to assess in-year priorities and monitor budgets and he suggested that this would enable the managers to be 'educated', enabling them to better challenge what was

on the programmes, although this group is not yet up and running.

- 3.1.14 A sample of jobs, due to have taken place in the current year was taken from the stock condition spreadsheets to ascertain whether they had been included in the current year plan. Of the 25 scheduled jobs, 24 were found to be included in the agreed programme.
- 3.1.15 The AM advised that a view would have been taken that the works were not actually required, challenging the assumption of E C Harris's survey, although this could not be evidenced.
- 3.1.16 The BSCM advised that the majority of the (non M&E) works would be placed with Pinner & Sons Ltd under the main corporate repairs contract that had been let last year. The agreed programme would be discussed with them and orders would subsequently be placed.
- 3.1.17 For some of the larger jobs on the programme, specific quotes would be obtained from them, but the smaller jobs would come under the schedule of rates (SOR).
- 3.1.18 Other contractors may be used for relevant works where contracts are in place. There are also works included on the programme for the Oakley Woods crematorium. As a large project is underway there already, the contractors on site will undertake these jobs as part of the project.
- 3.1.19 The latest version of the programme spreadsheet included details of orders that have already been placed. Testing was undertaken on these which confirmed that all jobs had been placed with Pinner's under the main corporate repairs contract, with some being undertaken under the SOR and some being based on quotes that they had been asked to produce.
- 3.1.20 It was noted that some records on Active H suggested that quotes had been received. However, when these were requested, H&PS staff advised that, in some cases, the works had been undertaken under the SOR.
- 3.1.21 The BSCM advised that these were genuinely undertaken under the SOR, but where initial costs are unknown the jobs would have been recorded under the SOR code 'CPQUOTE' in order for a commitment to be raised. The exact costs would then be entered at the end of the job. However, he also recognised that some jobs that had been performed under the SOR should possibly have had quotes submitted.
- 3.1.22 He advised that there used to be a specific threshold, above which, a quote should have been requested. He suggested that he would reconsider this for future jobs.
- 3.1.23 Where responsive repairs are required, a call will be received from staff at the relevant building or a manager. Pinner's, or another relevant contractor will then be contacted to either submit a quote or undertake the job based on the schedule of rates in line with the programmed

works. The job will also be recorded on MIS (see section 4.3 for details of procurement testing undertaken).

3.2 Leased Properties

- 3.2.1 The Estates Manager (EM) advised that there are various different forms of lease, with some requiring the tenant to undertake internal works, some requiring external works and some requiring both.
- 3.2.2 Both the EM and AM had suggested that the current leases needed reviewing, as some were not considered appropriate for the types of tenants in the properties. These reviews would be conducted when the leases next came up for renewal.
- 4.2.3 Some works on leased properties will be undertaken by the council as a result of the preventative planned maintenance (PPM) works that were identified during the condition surveys.
- 3.2.4 Reviews of the contents of the leases were performed as part of the stock condition surveys, with the spreadsheets detailing the relevant responsibilities of each party. The spreadsheet detailing the required works is colour coded, with the rows containing the jobs that are the tenants' responsibility being coloured red.
- 3.2.5 A sample of leased properties was chosen from the PPM spreadsheet and a review was performed to ensure that leases were held which detailed these responsibilities and that these had been signed as appropriate. Leases were found to be in place in all relevant instances, with relevant responsibilities being detailed. All copies provided had been signed by the tenants, although some copies provided did not bear a council signature. However, this was not considered to be an issue.
- 3.2.6 The EM advised that he is generally the first point of contact for the tenants if they require works to be undertaken. However, he suggested that some works may be reported via the housing repairs line.
- 3.2.7 He advised that he would check to ensure that the works requested were the council's responsibility and suggested that the Surveyors would also query works with him if they were unsure as to who was liable.
- 3.2.8 As part of the testing undertaken above, a review of Active H was performed for the sampled properties to identify works that had been performed. Testing was undertaken on these jobs to ascertain whether they were the responsibility of the tenant or the council.
- 3.2.9 Only seven jobs were found to have been undertaken during the current calendar year across the ten sampled properties and six of these were confirmed to be the council's responsibility as appropriate. The other job fell into something of a grey area and the BSCM confirmed that he was aware of the job and was not happy with the way it had been handled. Internal Audit were already aware that discussions had been held regarding the liability issues for the works that had been

undertaken.

4.2.10 The EM advised that there used to be a formal programme of visits to leased properties to ensure that the tenants were undertaking their maintenance liabilities. These used to be undertaken by an agent twice a year. However, due to resource issues these were initially reduced to annual visits and now they do not happen.

3.2.11 He advised, however, that all properties would be visited if the lease was terminated and any dilapidations would be expected to be remedied by the outgoing tenant.

3.2.12 A sample property (24 Hamilton Terrace) was identified by the EM to evidence this process. The Senior Building Surveyor advised that an original schedule of dilapidations had been put together. The tenants had subsequently undertaken some of the work, but it was of a poor standard and some works were missed, so a revised schedule has been prepared and this is being negotiated.

3.3 Procurement

3.3.1 The main contract for corporate repairs and maintenance was awarded to Pinner & Sons Ltd in February 2013 for 2013/14 onwards.

3.3.2 The award of this contract was reviewed as part of the investigation into the contracts awarded by Housing & Property Services which was undertaken by Contract Audit Line (CAL) in November 2013. No issues were raised regarding the awarding of this contract in the review performed.

3.3.3 Upon review of the programmed works performed to date (see above) it was confirmed that all of these jobs had been performed by Pinner. Whilst reviewing these jobs on Active H a number of other, non-programmed jobs undertaken at the properties were identified and some of these had been undertaken by other companies. A review was undertaken, therefore, to ascertain if these jobs were performed under another contract or whether other procurement exercises had been undertaken.

3.3.4 A number of the companies had appropriate contracts in place, as per the current contract register provided by the Procurement Manager. However, no contracts were in place for some of the works undertaken and others jobs were placed with contracted companies but the works undertaken did not fall under those contracts:

- Work undertaken by Baydale at the Town Hall to repair the door entry system. Baydale have a contract for the maintenance of the HRA door entry & fire alarm systems to WDC housing properties. The BSCM advised that this job had been cleared with the Procurement Manager and these works will be addressed with a new contract being set up.
- Removal of kitchen equipment was undertaken at the Spa Centre

by D&K Heating Services Ltd. They have a contract for gas servicing at council housing and the corporate air conditioning services but these contracts would not cover the works performed. The BSCM advised that Pinnars were meant to have undertaken these works, but it was deemed safer to get D&K to undertake it for gas safety reasons and the need to get the work done quickly. However, Internal Audit believe that these works should have been placed with Pinnars as they hold the relevant contract.

- Door entry repair works were undertaken at Castle Farm Recreation Centre by Dorma UK Ltd. The BSCM suggested that this is probably a legacy issue, with Dorma having always been used. He acknowledged that this procurement issue needs to be addressed.
- Three orders had been placed with the Electric Centre regarding the supply of electrical sundries at St Nicholas' Park Leisure Centre (SNPLC). The Energy Manager advised that this 'counter service' was used by Warwick Plant Maintenance staff for small sundry items. However, it is felt that work should be undertaken to formalise this agreement or consideration could be given to the use of a procurement card.
- A number of jobs had been placed with Ian Williams Ltd for works at the Aviary Cafe, the Town Hall and SNPLC. Ian Williams hold a contract for general housing repairs and voids and decorations, but these did not cover the works performed. The BSCM suggested that these were 'out of hours' calls, and suggested that Pinnars are not able to cover these. However, this out of hours issue needs to be formalised as it is considered that Pinnars should be performing these works under the contract they hold.
- Orders have been placed with Poolcare Leisure Ltd for the supply of chlorination sundries at SNPLC. The Procurement Manager confirmed that she was aware of this issue, advising that they were the only company able to provide the correct chemicals. Attempts were being made to formalise this contract.
- Four jobs had been undertaken at SNPLC by Ser-Tec Systems Ltd relating to repairs to BMS and AHU controls. The Energy Manager suggested that they were the only company able to undertake these works. A lot was originally going to be included in the major contracts exercise in relation to these works, but this was removed due to the unique supplier position. No contract, however, was in place. A review of orders placed with the company on Active-H confirmed orders to the value of over £25,000 had been placed with them since 1 January 2013 and it considered that a formal contract should be placed with them, with a review of the procurement options also being undertaken.
- Time In Hand had undertaken one job at the Town Hall to repair the bell hammer. The BSCM suggested that ad-hoc jobs were raised for works to the Town Hall and Kenilworth clocks with individual, low value quotes being received.

Risks

Value for money is not obtained.

Contractors holding relevant contracts may challenge the Council over use of other companies for works that they are contracted to perform.

Recommendations

- a) **A procurement exercise needs to be undertaken regarding door entry works at corporate properties covering the works currently being undertaken by Baydale and Dorma.**
- b) **All works covered by the Corporate Repairs contract should be placed with Pinner & Sons Ltd.**
- c) **The out-of-hours situation should be investigated to ascertain if Pinner's can provide this service. If not, procurement options should be investigated.**
- d) **The use of the Electric Centre by Warwick Plant Maintenance staff should be formalised or consideration should be given to the use of a procurement card if appropriate.**
- e) **The procurement options around the use of Ser-Tec Systems Ltd should be investigated, with a formal contract being put in place if no other suppliers are able to provide the service.**

The procurement team should be consulted about these recommendations as appropriate.

3.3.5 The procurement exercises in relation to the contracts recorded on the contract register were not reviewed, as some had already been covered under the investigation detailed above, and others had been let as part of the same major contract re-let as those investigated.

3.3.6 Others had been let a number of years ago, so it was not felt relevant to look at these as part of this audit and there is potential for some of these to be covered by CAL in a further proposed review.

3.4 Budget Monitoring & Reporting

3.4.1 The Principal Accountant (Housing) (PAH) gave an overview of the budget set-up. In general terms, he highlighted that the budget coding structure makes sense, with numerous subjective codes being set for the responsive and cyclical works against the different contracts / areas of work. These will also be spread against the different cost centre codes, with budgets being set per building. Individual projects will also be separately identified, with the budget for the year being placed in a holding code (W000) until the individual jobs are set up on TOTAL.

3.4.2 He suggested that these budgets had just been rolled forward, and no specific reviews had been undertaken to ascertain whether these splits between buildings were still correct.

3.4.3 However, he felt that in general terms, the budgets were not well monitored, as no one owns them as such. The responsive elements are also hard to control as if work is required it is ordered.

3.4.4 He highlighted that, historically, there have been problems with overspends, although he suggested that this may have been due, in part, to project works not being separately identified.

- 3.4.5 He advised that there had not been a formal budget review meeting at the time of the audit review, although there had been a general overview meeting with the BSCM.
- 3.4.6 Part of the issue had been that staff within both Finance and Housing & Property Services (H&PS) had changed, with different Assistant Accountants being responsible for Housing within Finance and the BSCM only having recently taken on the role.
- 3.4.7 The PAH also suggested that the coding of works actually ordered / performed would have an effect on the budget, as he was aware that some cyclical works were being picked up as part of responsive jobs and vice versa, with the costs not being split accordingly. However, there was often a 'bottom line' approach in that, as long as the total was ok, the exact split was not as important.
- 3.4.8 The AM advised that budget monitoring had been an issue, but a meeting was planned with the PAH to try to sort out a logical way of monitoring the budgets going forward. Part of the issue was that some of the commitments are shown on Active H as opposed to TOTAL. The aim will be for quarterly budget monitoring reports to be passed to SAG, with the new Asset Maintenance Group having a role in monitoring spend.
- 3.4.9 In terms of the current position, it was noted that the planned works were at the early stages and the BSCM's spreadsheet (see 4.1.10 above) highlighted the variances against the individual elements of the plan.
- 3.4.10 No specific review was performed relating to the current position of the responsive budgets, as works are undertaken as required, so variances are inevitable.
- 3.4.11 The AM advised that there were no plans for update reports to members, although the budget position would be covered in the general finance reports that they receive.
- 3.4.12 However, despite the planned maintenance programme including some elements that were no longer required, no variance had been reported thus far. (NB Members have only received the report for the first quarter to date).
- 3.4.13 The AM also suggested that, if required, some works could be brought forward to use this surplus, or the unspent monies could be placed into the reserves.
- 3.4.14 In terms of altering the programme, he advised that there was no requirement to get this agreed by Executive, as they had agreed to delegate these powers to officers and the relevant portfolio holders.

3.5 Risk Management

- 3.5.1 Asset management risks are included in the Significant Business Risk Register (SBRR). This covers all council-owned property, including corporate assets. The SBRR is regularly reviewed, with reports going to both SMT and Executive.
- 3.5.2 The H&PS risk register also includes asset-related risks, again covering both housing and corporate properties under the same risks in terms of maintenance etc. This was presented to Finance & Audit Scrutiny Committee for review and comment in April 2013.
- 3.5.3 The AM advised that, in the absence of a head of service for H&PS, he was unaware of whether the document had been reviewed since, although suggested that the Strategic Asset Group (SAG) may have reviewed it.
- 3.5.4 The Economic Development & Regeneration Manager advised that the H&PS risk register isn't generally reviewed at SAG, but the Estates Management one is, which includes risks related to the non-operational properties.
- 3.5.5 He also suggested that a general risk register is to be put together for SAG related risks, although this has not yet been undertaken. The minutes from the March 2014 SAG meeting suggest that this would be developed in line with the Asset Management Plan.

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 in respect of Corporate Properties Repair & Maintenance are appropriate and are working effectively.
- 4.2 A number of issues were identified relating to the placing of contracted works with other companies and some works being undertaken that were not covered by contracts.
- 4.3 Some other points were noted where no recommendations were considered relevant, as plans are already in place to address the issues identified.

5 Management Action

- 5.1 Recommendations to address the issues raised are reproduced in the Action Plan for management response.