

INTERNAL AUDIT REPORT

FROM: Audit and Risk Manager
TO: Head of Development Services
Head of Cultural Services
C.C. Chief Executive
Deputy Chief Executive (AJ)
Head of Finance
Business Manager (Town Centre)
Events Managers

SUBJECT: Markets & Mops
DATE: 31 March 2014

1. Introduction

- 1.1 In accordance with the Audit Plan for 2013/14, an examination of the above subject area has been undertaken and this report presents the findings and conclusions drawn from the audit for information and action where appropriate. This topic was last audited in September 2009.
- 1.2 Wherever possible, findings have been discussed with the staff involved in the procedures examined and their views are incorporated, where appropriate, into the report. My thanks are extended to all concerned for the help and cooperation received during the audit.

2. Background

- 2.1 The Council works in partnership with E.G. Skett & Co to provide a range of different markets across the district, including traditional markets in Kenilworth and Warwick, Farmers' Markets in Kenilworth, Leamington Spa and Warwick and a number of themed markets that operate occasionally in the three towns.
- 2.2 The Warwick Mop Fairs run over two weekends in October. A formal agreement had been in place with the Showmen's Guild of Great Britain to hold these fairs, although this has now been formally transferred to Wilson's Amusements.
- 2.3 The management of the fairs has historically been undertaken by the relevant Town Centre Manager. However, this role has now transferred to the dedicated Events Managers within Cultural Services.
- 2.4 The future of the Mop fairs is currently under review with a formal project board being in place and public consultation being undertaken. A decision is due to be reached prior to the issuing of any new licenses (i.e. before the end of 2014).

3. Scope and Objectives of the Audit

- 3.1 The audit was undertaken to ensure that appropriate management and financial controls are in place and are operating effectively.

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

Markets:

- Markets are run by an appropriately appointed operator in accordance with a signed agreement.
- The council receives rental income from the markets as appropriate.
- Appropriate budgets are set and monitored.
- The risks of operating the markets have been appropriately assessed, with liability for varying aspects having been assigned as appropriate.

Mop Fairs:

- The Mop Fairs are run in an appropriately licensed manner.
- All costs are appropriately recharged, so the events are 'cost neutral' (at worst) for the council.
- Monies are held to cover defaults against the license.
- The risks of operating the Mop Fairs have been appropriately assessed, with liability for varying aspects having been assigned as appropriate.

4. Findings

4.1 Markets

Markets are run by an appropriately appointed operator in accordance with a signed agreement.

- 4.1.1 A contract is in place with E.G. Skett & Co (Sketts) for the 'management' of the Council's markets. This runs from February 2007 until 31 January 2015. Appendix 1 of the contract documentation sets out the regular markets that are to take place in the three towns (both 'traditional' and farmers markets), although, this does not cover the themed markets that are held.
- 4.1.2 The last procurement exercise was undertaken in 2006 for the award of the contract to Sketts. As such, the contract in place is the same as was in place at the time of the previous audit.
- 4.1.3 The Business Manager (Town Centre) (BMTC) advised that early steps had been made to get tender documentation drawn up for the re-let of this contract and the Procurement Manager confirmed that she was aware of the need to re-let this contract and that contact had been made with relevant staff.

The council receives rental income from the markets as appropriate.

- 4.1.4 A fee is set for each stall and the council receives a percentage of this, depending on the number of stalls at each market. The percentage brackets are set out in the contract and it was confirmed upon review that these figures were accurately included in the fee setting reports that had been presented to Executive.
- 4.1.5 The actual payments received from Sketts are based on estimates of the number of stalls to be held at each market, with invoices being raised by the council in specific months. However, a number of issues were noted with regards to the invoices raised for the current year and the amounts being charged for each stall.
- 4.1.6 The current contract in place sets out that a meeting should be held in April each year to agree an amount for the first six months, spread across five invoices (May to September). A discussion should then take place in October to review the actual number of stalls that had been in place at the markets and to then agree a new figure for the remaining six months, taking account of any discrepancies from the first half of the year, spread across five further invoices (November to March).
- 4.1.7 An email chain between the BMTC and a representative from Sketts highlighted that some estimates were sent through by Sketts in May 2013. This highlighted that two payments had already been made for the current financial year, relating to the first two invoices which had been raised at the 'old year' rate of £3,900, but that ten more invoices should be raised for £3,113 (i.e. two more in total than the number set out in the contract).

- 4.1.8 These two additional invoices were not raised, although it appears that Sketts had paid these amounts anyway (a payment is shown on TOTAL as being 'on account').
- 4.1.9 There is a further discrepancy in that their email calculations show that an estimated amount of £36k should be charged for the year. The email then sets out that this would be made up of the ten payments of £3,113 plus an overpayment from the previous year of approximately £4,870 (assumed to be based on actual figures for the year compared to the estimates). However, this does not take account of the two payments of £3,900 already made.
- 4.1.10 There was nothing else provided which suggested that a review was undertaken in October to discuss any discrepancies between the payments made for the first half of the year and actual stall numbers. The BMTC did, however, advise that regular meetings and telephone conversations were held during the year with Sketts and finances would be discussed, although he agreed that the half-yearly meetings needed to be formalised.

Risk

Inaccurate payments are made for the year.

Recommendation

Formal meetings should be held to discuss / review invoice figures at appropriate stages of the year, in line with the (current) contract, with the FS Team being made aware of the correct figures to be used on the invoices in a timely manner.

- 4.1.11 Upon review of the fee setting reports to Executive it was noted that fees for 2013 (from 2 January 2013 onwards) were agreed in October 2012, which included the approval of a previously unreported increase. Fees for 2 January 2014 onwards were subsequently approved in October 2013. It was, however, noted that there was a disparity between when the fees were actually being increased by the operator and when the reports to Executive suggested that the new fees should come into force.
- 4.1.12 The email chain (see above) showed that fees were being discussed in February 2013 for implementation from April 2013 for the financial year. However, Appendix 3 of the contract highlights that fees would be agreed at the October Executive meeting for implementation from the following April, although this was based on the old fee setting regime at the Council.
- 4.1.13 As a result of the above, the fees being charged by Sketts (as per the email trail) from April 2013 were not actually agreed by Executive until the following October. The BMTC subsequently advised that the fees for the forthcoming year (2014/15) had been held, pending a scheduled meeting with Sketts.

Risk

Market stall holders are incorrectly charged.

Recommendations

The fee setting process should be adhered to (i.e. fees to be agreed for the production of the October Executive report for the following year), with notes to the report highlighting that these will be implemented from April,

not January as stated in the report (unless agreed differently in the new contract).

If new fees are being agreed to come into effect from April 2014, an update report should be presented to Executive as appropriate.

- 4.1.14 As suggested above, the council will receive fees based on the number of stalls in place at each market held. However, the BMTC confirmed that there are no formal processes in place for monitoring the number of stalls at each market, although some ad-hoc inspections are undertaken by the individual Town Development Officers.

Risk

The council does not receive market fees to which it is entitled.

Recommendation

Formal monitoring should be undertaken to ascertain the number of stalls in place at markets held.

Appropriate budgets are set and monitored.

- 4.1.15 The main aspect of the budget on TOTAL for markets is the income to be received. The BMTC advised that the budget would have been set based on the previous income levels, although he had not had a direct input into the process.
- 4.1.16 Upon review, the income budget was slightly below last year's outturn, but was within a reasonable margin and had only been slightly exceeded, so was considered appropriate.

The risks of operating the markets have been appropriately assessed, with liability for varying aspects having been assigned as appropriate.

- 4.1.17 Upon review of the Development Services risk register that was presented to the Finance & Audit Scrutiny Committee in November 2013, it was established that there was no mention of the operation of markets included.
- 4.1.18 However, Sketts had produced an Event Risk Assessment form, along with supporting documentation covering guidance to stallholders relating to fire risks and risks associated with LPG usage and the use of generators.
- 4.1.19 The BMTC advised that the council's responsibilities only include the provision of a 'proper and sufficient market place' and to allow the operator to earn income from running the markets.
- 4.1.20 Therefore, whilst not specifically stated, any liabilities would seem to rest with the market operator and clause 3.3 of the contract indicates that the company needs to maintain valid and adequate professional indemnity cover in connection with their listed duties. However, the BMTC advised that the position was not clear, and legal advice was to be sought to confirm the position.
- 4.1.21 Evidence was provide which confirmed that Sketts hold an appropriate level of public liability insurance (cover up to £10m). However, the BMTC advised

that there was, at present, no formal mechanism for checking that insurance cover was being renewed each year.

Risk

The council is held liable for relevant claims received.

Recommendation

Annual reminders should be set up to ensure that updated insurance cover details are received from the market operator upon expiry of the certificates provided.

4.2 Mop Fairs

The Mop Fairs are run in an appropriately licensed manner.

4.2.1 A license was in place with the Showmen's Guild of Great Britain for the holding of the Warwick Mop Fairs. The license covered the period 2005 to 2014. However, in 2011, the license was formally signed over to Wilson's Amusements for the remainder of the license term.

4.2.2 Upon review of the copy of the (license) document provided, it was found to be suitably detailed.

All costs are appropriately recharged, so the events are 'cost neutral' (at worst) for the council.

4.2.3 The Events Manager (SP) advised that the costs for the Mop Fairs are based on quotes received from all relevant agencies and contractors. The relevant charges were identified on TOTAL upon review of the Mop budget code and it was confirmed that an appropriate recharge invoice had been raised, although this has not yet been paid.

4.2.4 There is no officer time charged for the Mop Fairs, as the work forms part of the Event Management team's normal role.

Monies are held to cover defaults against the license.

4.2.5 The Events Manager (SP) advised that a cheque had been received in respect of the agreed bond (£25,000) and this had been handed back to the organiser following the fairs. This had not been banked.

The risks of operating the Mop Fairs have been appropriately assessed, with liability for varying aspects having been assigned as appropriate.

4.2.6 The Events Manager (SP) advised that there is an overarching risk assessment performed by Wilson's Amusements as part of their operations procedure. This covers risks to public and staff under the following headings:

- Presence of moving equipment (entrance to and egress from)
- Danger of overcrowding in parts of the fair
- Fire
- Multiple accident
- Evacuation of the public in the event of a serious incident

- Severe storm
- Safety notices and public disorder
- Transport within the area of the fair.

- 4.2.7 Separate documents were also provided covering the ADIPS (Amusement Device Inspection Procedures Scheme) compliance documents which confirm that the rides have passed the appropriate inspections.
- 4.2.8 The Events Management team also produce an operation order for the fairs and this includes the abovementioned risk assessment and ADIPS documents as an appendix. The operation order also includes other appendices, such as evacuation plans and contact details of staff so that any issues can be dealt with appropriately.
- 4.2.9 The production of this operation order document is in line with the mitigation / control detailed against the generic Events Management risk included in the service risk register for Cultural Services.
- 4.2.10 Any liabilities that may arise due to the holding of the fairs are the responsibility of the Showmen's Guild. This is adequately covered in the license agreement.
- 4.2.11 The operations procedure document provided by Wilson's Amusements included evidence of the insurance held by them for specific rides as well as employer's liability and fair organiser's cover. The liability cover for each ride is shown as £1m.
- 4.2.12 The Showmen's Guild also provides 'top up' cover for £9m on top of the £1m that is required to be arranged by the individual rides owners. However, it was noted that all of the documentation provided covers the rides operated directly by Wilson's Amusements and, upon review of the ADIPS documents provided, it appears that a number of other individuals operate some of the rides.
- 4.2.13 The Events Manager (TD) advised that no insurance documentation had been requested in respect of these rides, with reliance having historically being placed on Tommy Wilson, as the fairs organiser, to ensure that appropriate cover was held.

Risk

The council is held liable for relevant claims received.

Recommendation

Insurance documentation is obtained in respect of all rides operated at the Mop fairs.

5. Summary & Conclusion

5.1 Following our review, we are able to give a MODERATE degree of assurance that the systems and controls in place for the management of the markets and the Mop Fairs are appropriate and are working effectively.

5.2 Issues were identified relating to:

- the review and agreement of invoice amounts payable by the markets operator
- discrepancies in relation to the timing of market fee increases
- the lack of formal monitoring of the actual number of stalls in place at the markets held
- insurance documentation

6. Management Action

6.1 The recommendations arising above are reproduced in the attached Action Plan (Appendix A) for management attention.

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