

Notice of meeting of

Audit & Governance Committee

To:	Councillors Hyman (Chair), Holvey (Vice-Chair), Moore, R Watson, Jones, Scott and Hill
Date:	Wednesday, 4 October 2006
Time:	5.30 pm
Venue:	Guildhall

AGENDA

1. Declarations of Interest

At this point Members are asked to declare any personal or prejudicial interests they may have in the business on this agenda.

2. Public Participation

At this point in the meeting members of the public who have registered their wish to speak regarding an item on the agenda or an issue within the Panel's remit can do so. Anyone who wishes to register or requires further information is requested to contact the Democracy Officer on the contact details listed at the foot of this agenda. The deadline for registering is **Tuesday 3 October**, at **10:00 am**.

3. Exclusion of Press and Public

To consider excluding the public and press from the meeting during consideration of annexes 1, 2 and 3 of agenda item 11 – Annual Monitoring Report: Breaches and Waivers of Financial Regulations 2005/2006 on the grounds that they contain information relating to financial and business affairs. This information is classed as exempt under Paragraphs 3 of Schedule 12A to Section 100A of

the Local Government Act 1972, as amended by the Local Government (Access to information) (Variation) Order 2006.

4. Constitutional Amendment (Pages 1 - 4)

Members will consider a report which gives details of a constitutional amendment proposed by the Labour Group in accordance with the requirements of the Constitution for submission to Audit & Governance Committee.

5. Follow Up Review of Implementation of Internal Audit Recommendations (October 2005 - March 2006) (Pages 5 - 10)

Members will consider a report that sets out the progress made by departments in implementing recommendations made in final internal audit reports issued between October 2005 and March 2006, and other recommendations due to have been implemented in the period up to 31 August 2006. It also includes a proposed amendment to the process for following up internal audit recommendations, for Member approval.

6. Money Laundering (Pages 11 - 18)

Members will consider a report which will;

- a) summarise the legislative requirements necessary to prevent and detect possible money laundering;
- b) provide details of the interim guidance issued by the Chartered Institute for Public Finance and Accountancy (CIPFA) regarding the application of the legislation within local authorities;
- c) propose appropriate arrangements to ensure that the risk to the Council of money laundering is minimised.

7. The Role of Audit and Governance Committee in Monitoring the Implementation of the Fraud and Corruption Prosecution Policy (Pages 19 - 30)

The purpose of the report is to advise Members of the role of this Committee in monitoring the implementation of the Council's Fraud and Corruption Prosecution Policy.

8. The Role of Audit and Governance Committee in Managing and Monitoring the Implementation of Risk Management
(Pages 31 - 48)

The purpose of this paper is to advise Members of the role of the Audit & Governance Committee in managing and monitoring the process of embedding corporate risk management arrangements at City of York Council and in particular:

- ensuring that the risk management process and framework is effective
- monitoring progress against Comprehensive Performance Assessment (CPA) Key Lines of Enquiry, and
- monitoring the delivery of the risk management development agenda

9. Strategic Audit Plan - Consultation (Pages 49 - 64)

The purpose of the report is to give Members the opportunity to contribute to the annual review and update of the internal audit risk assessment and five year strategic audit plan.

10. Audit Commission Report : Arrangements for the Disposal of the Barbican (Pages 65 - 76)

The purpose of this report is to report to Councillors the findings of Audit Commission's review of the Council's arrangements for the disposal of the Barbican.

11. Annual Monitoring Report: Breaches and Waivers of Financial Regulations 2005/2006. (Pages 77 - 100)

The purpose of this report is to inform Members about unauthorised breaches of the Council's Financial Regulations during the 2005/2006 financial year and any waivers of Financial Regulations approved by the S151 Officer during the year.

12. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972

Democracy Officer:

Name: Fiona Young

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For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.



Audit & Governance Committee**4 October 2006****Report of the Head of Civic, Democratic and Legal Services****CONSTITUTIONAL AMENDMENT****Summary**

1. This report gives details of a constitutional amendment proposed by the Labour Group in accordance with the requirements of the Constitution for submission to Audit & Governance Committee.

Background

2. In April 2006, a revised Constitution was approved by full Council with a commitment for the Head of Civic, Democratic & Legal Services to report back at the appropriate time with any 'snagging' issues.
3. Only two full Council meetings have taken place since the introduction of the new Constitution and with revised Standing Orders in operation, governing how full Council conducts its business. Insufficient time has elapsed to warrant the report back anticipated in 2. above. However, a constitutional amendment has since been received to Standing Orders from Members in line with the new constitutional requirement to submit any such proposals to this Committee.

Consultation

4. No public consultation is necessary for what is essentially an organisational matter.

Options

5. The options open to Members are simply to recommend approval or refusal of the proposed amendment or to consult the Member proposing the amendment on any suggested revisions to it.

Analysis

6. The proposed amendment is to Standing Orders 8(2)(a) and 10(a) which currently read as follows:

Standing Order 8(2)(a): *“The Executive Member will answer questions on any item in their written report, the time spent on this item shall not exceed 10 minutes. Such questions must relate directly to the report and be received by the Chief Executive in writing on the day before the meeting.”*

Standing Order 10(a): *“A member of the Council may ask a question on the Leader’s written report or ask an Executive Member a question upon any item within their portfolio when their portfolio is under consideration by the Council under Standing Order 4(c)(9). Such questions must relate directly to the report in the case of the former and in any event must be received by the Chief Executive not later than the day prior to the Council meeting. The time limit for questions on the report is 10 minutes. The Chair of Council will determine the order in which questions should be put and answered to reflect political balance, public expectation and significance to the Council.”*

7. The proposed amendment is being put by Councillor Merrett and is as follows:

Standing Order 8 (2) (a) after the first sentence ending with the words “10 minutes” insert a new sentence with the words “no answer given shall exceed 2 minutes in duration.”

The effect of this amendment would be to make it read as follows:

*The Executive Member will answer questions on any item in their written report, the time spent on this item shall not exceed 10 minutes. **No answer shall exceed 2 minutes in duration.** Such questions must relate directly to the report and be received by the Chief Executive in writing on the day before the meeting*

Standing Order 10 (a) in the sixth line after the sentence ending with the words “10 minutes” insert a new sentence with the words “no answer given shall exceed 2 minutes in duration.”

The effect of this amendment would be to make it read as follows:

A member of the Council may ask a question on the Leader’s written report or ask an Executive Member a question upon any item within their portfolio when their portfolio is under

*consideration by the Council under Standing Order 4(c)(9). Such questions must relate directly to the report in the case of the former and in any event must be received by the Chief Executive not later than the day prior to the Council meeting. The time limit for questions on the report is 10 minutes. **No answer given shall exceed 2 minutes in duration.** The Chair of Council will determine the order in which questions should be put and answered to reflect political balance, public expectation and significance to the Council*

Corporate Priorities

8. The proposal is not directly related to any of the Council's Corporate Priorities but complies with the Council's constitutional arrangements for processing such amendments.

Implications

9. None of the following implications are directly relevant to this report other than the above constitutional requirement to report it to this Committee:

Human Resources;
Finance;
Equalities;
ITT;
Property;
Highways;
Crime & Disorder

Risk Management

10. There are no risk management implications associated with the report or amendment.

Recommendations

13. Members are asked to consider the proposed amendment and make a suitable recommendation to Council for consideration at its meeting on 5 October 2006.

Reason:

To enable the amendment and Committee's recommendation on it to be considered at the next Council meeting.

Contact details:

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Chief Officer Responsible for the report:

Suzan Hemingway
Head of Civic, Democratic and Legal Services

Report Approved



Date 21..09.06

Specialist Implications Officer(s)

None

Wards Affected:

All



For further information please contact the author of the report

Background Papers

None

Annexes

None



Audit and Governance Committee

4 October 2006

Report of the Assistant Director of Resources (Audit and Risk Management)

Follow Up Review of Implementation of Internal Audit Recommendations (October 2005 – March 2006)**Summary**

1. This report sets out the progress made by departments in implementing recommendations made in final internal audit reports issued between October 2005 and March 2006, and other recommendations due to have been implemented in the period up to 31 August 2006. It also includes a proposed amendment to the process for following up internal audit recommendations, for Member approval.

Background

2. In June 2006, Audit and Governance Committee approved the process to be followed in reviewing and reporting on progress made by service departments in implementing agreed internal audit recommendations. Under this process reports will be prepared for the Committee every six months setting out the progress made by departments, together with details of any outstanding recommendations that require referring to the Committee for further action.
3. As reported in June, there will be some overlap between the follow up of recommendations under the old system, based upon the date of the original audit, and the new system, based upon the agreed implementation date for recommendations. This report was prepared largely using the old system which means that the majority of the findings relate to recommendations made in the period October 2005 to March 2006. However, it also includes recommendations followed up under the new system, with agreed implementation dates up to 31 August 2006.

Consultation

4. Details of the findings of follow up work set out in paragraphs 5 - 8 have been discussed with relevant service managers.

Follow Up of Recommendations

5. A total of 246 recommendations were followed up as part of this review. A summary of the priority of these recommendations is included in figure 1, below.

Figure 1: Recommendations followed up as part of the current review

Priority of Recommendations	No. of Recommendations Followed Up
High	65
Medium	165
Low	16
Total	246

6. Of the 246 recommendations, 10 (4%) had been superseded (for example by other audit recommendations or because of cessation of service). Of the remaining recommendations, 211 (86%) had been satisfactorily implemented. However, for 13 of these 211 recommendations it was found that although the department had taken the action agreed at the time of the audit, this has not fully addressed the underlying control weaknesses. These recommendations related to two audits, for which additional recommendations have now been raised to address the ongoing weaknesses. These additional recommendations will be followed up as part of a later review.
7. In 25 cases (10%), the recommendations had not been implemented (although progress had been made in some cases). These were referred back to the service manager or assistant director in accordance with the escalation policy. Following this, a revised deadline was agreed for 23 of the recommendations. These will be followed up again after the revised deadline, and escalated in accordance with the revised procedure set out at paragraph 12, if necessary.
8. For two of the recommendation that have not been implemented, the assistant director reports that he is unable to address them as there is insufficient funding available. These recommendations have now been escalated to the relevant director, in accordance with the escalation policy.

Conclusion

9. The follow up testing undertaken by Internal Audit confirms that in general, good progress has been made by directorates to rectify the weaknesses in control identified in previous audit reports. However, there are a number of areas where work is still required by departments to address the recommendations made. Progress in implementing these recommendations will be monitored, and reported as required through the escalation procedure.
10. There are no specific issues that need to be brought to the attention of the Audit and Governance Committee. Although a number of high priority recommendations have not been addressed satisfactorily, these do not represent fundamental weaknesses in control, and subsequent actions will be monitored as part of continuing Internal Audit follow up work.

Amendment to Follow Up Procedure

11. For 23 of the 25 recommendations that had not been addressed (paragraph 7), a revised deadline for implementation was agreed with the department. Although the revised implementation dates are considered to be reasonable, it is still important that the underlying control weaknesses are addressed.
12. The outstanding recommendations will therefore be followed up again once the new deadline has passed. If it is found that they have not been addressed at this point, then further escalation will be required. It is proposed that rather than restarting the escalation process, that any outstanding issues will immediately be escalated to the next level in the process (as at the point when the extension to the deadline was agreed). In addition, no further extension to the deadline will be given and any remaining unresolved issues will also be escalated. An amendment to the escalation process agreed by Members in June is proposed, to reflect this approach.

Options

13. Not relevant for the purpose of the report.

Analysis

14. Not relevant for the purpose of the report.

Corporate Priorities

15. This report contributes to the overall effectiveness of the Council's internal management & assurance arrangements in helping to achieve the following corporate objectives.
 - Ensure probity, integrity and honesty in everything we do (Objective 8.3).
 - Provide accurate and transparent management information in a timely and effective manner (Objective 8.3).
 - Continue to provide sound and timely financial management, and improve medium and long term financial planning. (Objective 8.6).
 - Manage the Council's property, IT and other assets on behalf of York residents. (Objective 8.9).
 - Implement risk management and business continuity procedures. (Objective 8.10).

Implications

16. The implications are:
 - **Financial** – there are no financial implications to this report.

- **Human Resources (HR)** – there are no HR implications to this report.
- **Equalities** - there are no equalities implications to this report.
- **Legal** - there are no legal implications to this report.
- **Crime and Disorder** - there are no crime and disorder implications to this report.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

Risk Management

17. The Council will fail to properly comply with the Chartered Institute for Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit in Local Government if it fails to follow up on audit recommendations and report progress to the appropriate officers and Members. This in turn would adversely impact on the Council's Comprehensive Performance Assessment (CPA) score for the Use of Resources and therefore its overall CPA score when this is re-assessed in 2007.

Recommendations

18. Members of the Audit and Governance Committee are asked to:
 - consider the progress made in implementing audit recommendations as reported in paragraphs 5 – 10 and what further action is required, if any.

Reason

To enable Members to fulfil their role in providing independent assurance on the Council's control environment.

- note and agree the proposed amendment to the escalation process set out at paragraph 12.

Reason

To enable Members to monitor the work of the Audit and Fraud team effectively, and ensure that outstanding audit recommendations are addressed to reduce unacceptable risks to the Council.

Contact Details

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Chief Officer Responsible for the report:

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Report Approved

Date 14 September 2006

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

None

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Audit and Governance Committee

4 October 2006

Report of the Assistant Director (Audit and Risk Management)

Money Laundering

Summary

- 1 The purpose of the report is to;
 - a) summarise the legislative requirements necessary to prevent and detect possible money laundering;
 - b) provide details of the interim guidance issued by the Chartered Institute for Public Finance and Accountancy (CIPFA) regarding the application of the legislation within local authorities;
 - c) propose appropriate arrangements to ensure that the risk to the Council of money laundering is minimised.

Background

- 2 The Proceeds of Crime Act 2002 (POCA) consolidated and reformed criminal law in the UK in respect of money laundering. Specific requirements on individuals and organisations are detailed in the Money Laundering Regulations 2003 (the Regulations). Money laundering is also an offence under section 18 of the Terrorism Act 2000.
- 3 POCA defines money laundering as;
 - a) concealing, disguising, converting, transferring or removing criminal property;
 - b) undertaking activities which a person knows or suspects facilitates the acquisition, retention, use or control of criminal property.
- 4 Money laundering is interpreted very widely and includes possessing, or in any way dealing with, or concealing the proceeds of any crime. For a transaction to be suspicious, the exact nature of the criminal offence need not be certain.
- 5 POCA details other possible criminal offences, as follows;
 - a) failing to disclose money laundering offences;
 - b) tipping off a suspect;

- c) doing something that might prejudice an investigation.
- 6 POCA also sets out the obligations on organisations and individuals to report known or suspected money laundering activities. Schedule 9 of the Act defines regulated activities (the regulated sector) which are specifically covered by the legislation. It is a criminal offence not to report actual or suspected money laundering within the regulated sector.
- 7 The Terrorism Act also sets out similar obligations on organisations and individuals to report suspected money laundering activities associated with actual or planned acts of terrorism.
- 8 The Regulations cover the measures which need to be put in place to restrict the opportunities for money laundering in organisations which conduct 'relevant business'. These measures include money laundering reporting systems, record keeping, internal reporting arrangements and staff training. The Regulations further define 'relevant business' as being activity undertaken 'by way of business' (for example, the provision of professional accountancy services to third parties).
- 9 Taken together, regulated activities and relevant business include the following;
- a) banking, investment business and other financial activities covered by the Financial Services and Markets Act 2000 (including deposit taking and dealing in investments);
 - b) the provision of accountancy and audit services;
 - c) money service operators;
 - d) estate agency work;
 - e) operating a casino;
 - f) the provision of legal services involving financial or real property transactions;
 - g) the provision of advice about tax affairs;
 - h) the activities of insolvency practitioners;
 - i) services in relation to the formation, operation or management of a company;
 - j) dealing in goods of any description that involves accepting cash payments of €15,000 or more.
- 10 Organisations conducting any form of relevant business need to;
- a) appoint a nominated officer and implement internal reporting procedures;
 - b) train relevant staff in the subject;
 - c) establish internal procedures in respect to money laundering;

- d) obtain, verify and maintain evidence and records of the identity of new clients and transactions undertaken and report suspicions to the Serious Organised Crime Agency (SOCA).

CIPFA Guidance

- 11 Many public service organisations have been unclear about their specific obligations and responsibilities under the money laundering legislation and regulations. CIPFA issued interim guidance, in 2005, which was intended to clarify the extent of any such obligations and responsibilities.
- 12 The guidance confirmed that the general provisions and offences detailed in POCA (as summarised in paragraphs 3 to 5 above) apply to all public service organisations and their staff. The guidance also concludes that the only regulated activities undertaken by local authorities are likely to be associated with treasury management. However, although there may be occasions when local authorities undertake investment activities on behalf of others, for example, investing trust and charitable funds and placing cash deposits for other public bodies, such activities are normally pursued solely for the purposes of improved investment performance and not 'by way of business'. The activities are therefore likely to be outside the scope of POCA. CIPFA however advises local authorities to be aware of the requirements of the Financial Services and Markets Act when undertaking investment activities on behalf of third parties. Where a third party is deemed to have invested on the basis of advice from a local authority then such activities might be interpreted as being a regulated activity, and therefore within the scope of the Regulations.
- 13 The CIPFA guidance also confirms that most local authorities will not undertake relevant business activities, although it also advises caution when entering into agreements relating to these activities if they involve the provision of services to third parties.
- 14 This means that most local authorities are unlikely to be subject to the 'failure to disclose' offences under POCA and are not obliged by law to comply with the Regulations (for example by putting reporting arrangements, systems and training etc in place).
- 15 However, the size and scope of the activities undertaken by councils are such that few, if any, are likely to be immune from the risks surrounding money laundering. CIPFA therefore recommends that all public bodies should adopt the underlying principles behind the legislation and regulations and put in place anti-money laundering policies, procedures and reporting arrangements, appropriate and proportionate to their activities.

Other Relevant Guidance

- 16 In addition to the guidance issued by CIPFA, the Consultative Committee of Accountancy Bodies (CCAB) published general guidance in March 2004 for all accountants. The guidance provides specific

advice to accountants employed in relevant business or undertaking regulated activities but also recommends that accountants working outside these areas should make themselves aware of the money laundering legislation and in particular the offences contained within POCA (including the offences of tipping off and prejudicing an investigation). Where an organisation has nominated a Money Laundering Reporting Officer (MLRO) then accountants employed by the organisation should report any suspicions to that person.

- 17 CIPFA also made recommendations in respect of treasury management. Local authorities and other public service organisations were advised to put in place and formally approve policies and practices for the recognition and reporting of possible money laundering offences arising from treasury management activities. The Council's Treasury Management Policy and procedures have been revised to reflect the risk of money laundering.

Conclusion

- 18 On the basis of the interim guidance from CIPFA it appears reasonable to conclude that the Council is unlikely to have to comply with the full requirements of POCA and the Regulations. However, there is a need to ensure that the current treasury management activities undertaken by the Council do not fall within the definitions of relevant business and/or regulated activities.
- 19 In addition, the Council is still under a duty to protect public funds and to adopt policies and procedures for the prevention and detection of fraud. The Council needs to recognise that it may be exposed to the risk of money laundering, either directly or indirectly. In the absence of adequate and proper policies and procedures the consequences should this happen could be serious, including the possibility of staff being prosecuted for failing to comply with the law. It is therefore considered necessary to develop and implement further specific measures to combat the risk of money laundering.

Proposed Action Plan

- 20 It is proposed that a detailed action plan is developed to strengthen the Council's existing counter fraud arrangements particularly those in respect of money laundering. The plan should incorporate the following actions and outcomes;
 - a) the Council's existing counter fraud policies and strategies to be updated to reflect the risks of money laundering. Responsibility for the implementation and operation of specific anti money laundering measures will also need to be assigned;
 - b) an exercise should be undertaken to identify those staff most likely to be exposed to money laundering activities, and to make them aware of the obligations placed on the Council

- and them as individuals by POCA and the Regulations (through training and guidance);
- c) systems and procedures should be implemented to allow staff to report suspicions;
 - d) a senior officer should be nominated as the Money Laundering Reporting Officer (MLRO) to take responsibility for reporting concerns to SOCA (the Serious Organised Crime Agency) (this is a serious undertaking since the reporting officer can commit a criminal offence by failing to report suspected money laundering);
 - e) existing arrangements, procedures and controls should be reviewed with a specific emphasis on reducing the risk of possible exposure to money laundering (this could best be achieved by an extension of ongoing audit work but this would have resource implications)
 - f) the existing treasury management policy and procedures are further updated to reflect these changes.

It is proposed that the detailed Action Plan with appropriate timescales is presented to this Committee at the 31 January 2007 meeting.

Consultation

21 Not relevant for the purpose of the report.

Options

22 Not relevant for the purpose of the report.

Analysis

23 Not relevant for the purpose of the report.

Corporate Priorities

24 This report contributes to the overall effectiveness of the Council's internal management & assurance arrangements by helping to ensure probity, integrity and honesty in everything we do (Corporate Objective 8.3).

Implications

25 The implications are;

- **Financial** – there are no financial implications other than the time required to develop and implement a reporting process, and provide training/guidance to relevant staff.
- **Human Resources (HR)** – there are no HR implications to this report other than the need to nominate a Money Laundering Reporting Officer (MLRO).

- **Equalities** - there are no equalities implications to this report.
- **Legal** - there are no legal implications to this report.
- **Crime and Disorder** – adoption of the action plan would help to reduce the risk of crime.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

Risk Management Assessment

26 Failure to implement effective controls increases the risk that the Council and its staff are exposed to money laundering activities. There is also a risk that the Council and individual members of staff may commit one or more of the offences specified in POCA.

Recommendation

27 Members are asked to;

- Note the legislative requirements necessary to prevent and detect money laundering and the associated guidance issued by CIPFA;

Reason

To ensure the Council complies with relevant legislation.

- Agree that an anti money laundering action plan be brought to the January meeting of this committee.

Reason

To ensure that the Council has in place adequate arrangements to prevent, detect and, where necessary, report on suspected money laundering activities.

Contact Details

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Report Approved



Date 14 September
2006

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All



For further information please contact the author of the report

Background Papers

- CIPFA guidance 'proceeds of crime (anti-money laundering) - practical guidance for public service organisations'
- CCAB guidance 'anti-money laundering (proceeds of crime and terrorism)'

Annexes

None

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**Audit and Governance Committee**

4 October 2006

Report of the Assistant Director (Audit and Risk Management)

The Role of the Audit & Governance Committee in Monitoring the Implementation of the Fraud and Corruption Prosecution Policy

Summary

- 1 The purpose of the report is to advise Members of the role of this Committee in monitoring the implementation of the Council's Fraud and Corruption Prosecution Policy.

Background

- 2 The Council has a duty to protect public money and to ensure that its resources are not put at risk from potential fraud and corruption. The Council's counter fraud arrangements include a Fraud and Corruption Response Plan and a Prosecution Policy. The Financial Regulations set out the responsibilities on all staff and Members to inform the Chief Internal Auditor (CIA) if they suspect or know of any impropriety, financial irregularity, fraud or corrupt practice. The CIA will determine the scope and nature of any subsequent investigation and may refer matters to the Police or other external body where appropriate. The Prosecution Policy covers all acts of fraud or corruption which have caused financial loss to the Council, or would have done so had the fraud been successful. The Policy sets out the circumstances when the Council will take legal action against the perpetrators of fraud or corruption. The Policy also sets out the circumstances when it is appropriate to offer a formal sanction as an alternative to prosecution in respect of benefit related fraud.
- 3 Under the Council's Constitution responsibility for the approval of the Counter Fraud Prosecution Policy and Strategy rests with the Executive Member for Corporate Services. The Audit and Governance Committee has delegated responsibility for monitoring the implementation of the anti-fraud and corruption strategy of which the Prosecution Policy forms an important element.
- 4 A revised Prosecution Policy was approved by the Executive Member for Corporate Services on 12 September 2006. The previous policy had been in place for a number of years and needed to be updated to reflect;

- a) the Council's new Constitution and the Officer Scheme of Delegation;
- b) changes in relevant legislation;
- c) changes in roles and responsibilities within the Audit and Risk Management Division;
- d) changes in the subsidy rules for housing benefits which have ended the system of financial rewards for prosecutions and sanctions;
- e) recent changes in the Department for Work and Pensions' own prosecution and sanctions policy.

A copy of the revised Policy is attached as Annex A. The Policy is effective from 1 October 2006.

Monitoring Arrangements

- 5 The monitoring role that the Committee can fulfil is important in ensuring that the policy;
 - a) is being fully adhered to when decisions are taken to prosecute the perpetrators of fraud or corruption;
 - b) continues to comply with relevant legislation and best practice;
 - c) remains effective particularly in acting as a deterrent against future acts of fraud or corruption;
- 6 It is proposed that details of the decisions taken under the Policy, together with the outcomes (where these are known) will be reported twice a year to this Committee as part of the Fraud mid-term monitor (January) and the Annual Report of the Chief Internal Auditor (June). The report will provide summary details of each case to enable Members to properly consider and comment on the decisions made.

Consultation

- 7 Not relevant for the purpose of the report.

Options

- 8 Not relevant for the purpose of the report.

Analysis

- 9 Not relevant for the purpose of the report.

Corporate Priorities

- 10 This report contributes to the corporate priority of improving efficiency and reducing waste so as to free up more resources. The report also contributes to the overall effectiveness of the Council's internal

management & assurance arrangements by helping to achieve the following corporate objectives;

- Ensure probity, integrity and honesty in everything we do (Objective 8.3).
- Improve the forward planning, openness, propriety, speed and effectiveness of decision-making (Objective 8.4).

Implications

11 The implications are;

- **Financial** – there are no financial implications to this report.
- **Human Resources (HR)** – there are no HR implications to this report.
- **Equalities** - there are no equalities implications to this report.
- **Legal** - there are no legal implications to this report.
- **Crime and Disorder** – adoption of the action plan would help to reduce the risk of crime.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

Risk Management Assessment

12 Without ongoing monitoring of the application of the Prosecution Policy there is a risk that decision making is applied incorrectly and/or inconsistently. The policy may also cease to be effective.

Recommendation

13 Members are asked to;

- note and approve the proposed monitoring arrangements for the Prosecution Policy;

Reason

To ensure that the Prosecution Policy remains effective and is adhered to.

Contact Details

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Telephone: 01904 551706

Report Approved



Date 14 September
2006

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All



For further information please contact the author of the report

Background Papers

Fraud and Corruption Response Plan

Annexes

Annex A - the Council's revised Fraud and Corruption Prosecution Policy (as approved by the Executive Member for Corporate Services).

**CITY OF YORK COUNCIL
FRAUD AND CORRUPTION PROSECUTION POLICY**

FRAUD AND CORRUPTION PROSECUTION POLICY

Scope and Purpose

- 1.1 The Fraud and Corruption Prosecution Policy forms part of the Council's overall counter-fraud and corruption strategy. The policy covers all acts of fraud or corruption committed by officers or members of the council, or committed by members of the public, or other organisations or their employees, against the Council. The Policy includes all attempted acts of fraud or corruption.
- 1.2 The policy sets out the circumstances when the Council will take legal action against the perpetrators of fraud or corruption. It also sets out the circumstances when it is appropriate to consider alternative courses of action such as offering a caution. The Policy does not cover internal disciplinary procedures which are the subject of the Council's Disciplinary Policy and Procedure.
- 1.3 This policy should be read in conjunction with the Council's Constitution, Fraud and Corruption Response Plan, Whistleblowing Policy and Disciplinary Procedure.
- 1.4 Housing and Council Tax benefit fraud is the most common type of fraudulent act committed against the Council. The Policy contains specific guidelines for determining the most appropriate course of action when fraud of this kind has been identified. Offences other than fraud and corruption (for example those relevant to the enforcement of regulations and/or the collection of taxes) are dealt with by the appropriate service departments under other policies and relying on specific legal powers.
- 1.5 In accordance with the Council's Financial Regulations all staff and Members must inform the Chief Internal Auditor (the AD Resources - ARM) immediately if they suspect or know of any impropriety, financial irregularity, fraud or corrupt practice. Where fraud or corruption is subsequently proven then any decision on whether to prosecute the perpetrator(s) can only be taken by one of the following 'authorised officers', subject to the specific requirements regarding consultation with relevant Director(s) and the Chief Finance Officer (the Director of Resources) as set out in the Financial Regulations;
 - a) the AD Resources (ARM);
 - b) the Audit and Fraud Manager;
 - c) and/or any other officer specifically named as an 'authorised officer' in the Council's Officer Scheme of Delegation.

Where there is any doubt about the circumstances of a particular case then the Director of Resources will be asked to make the final decision.

FRAUD AND CORRUPTION PROSECUTION POLICY

Principles

- 2.1 The Council is committed to an effective anti-fraud and corruption strategy. The strategy is designed to encourage the prevention and detection of fraud and corruption. As part of the strategy the Council is also committed to taking appropriate action against anyone believed to have attempted and/or committed a fraudulent or corrupt act against it. The Council considers that those guilty of fraud or corruption must take responsibility for their actions.
- 2.2 The Policy is designed to ensure that the Council acts fairly and consistently when determining what action to take against the perpetrators of fraud or corruption.
- 2.3 Staff and Members who are found to have committed fraud or corruption may be prosecuted in addition to such other action(s) that the Council may decide to take, including disciplinary proceedings in the case of staff and referral to the Council's Standards Committee and/or the Standards Board for England in the case of Members. Any decision not to prosecute a member of staff for fraud and corruption does not prevent the Chief Finance Officer (the Director of Resources) from requiring remedial action to be taken by the relevant Director(s) (including disciplinary action) in accordance with the Council's Financial Regulations.
- 2.4 This Policy is also designed to be consistent with the principles and intent of the Council's Equalities Statement. The Council will be sensitive to the circumstances of each case and the nature of the crime when considering whether to prosecute or not.
- 2.5 The consistent application of the policy will provide a means for ensuring that those who have perpetrated fraud and corruption are appropriately penalised. It will also act as a meaningful deterrent to those who are contemplating committing fraud or corruption. The Council recognises the deterrent value of good publicity and therefore information regarding successful prosecutions and sanctions will be made public.
- 2.6 Any decision taken by an 'authorised officer' to prosecute an individual or to offer a formal sanction (HB/CTB cases only) will be recorded in writing. The reason for the decision being taken will also be recorded.
- 2.7 Irrespective of the action taken to prosecute the perpetrators of fraud and corruption, the Council will take whatever steps necessary to recover any losses incurred, including taking action in the civil courts.

Prosecution

- 3.1 The policy is intended to ensure the successful prosecution of offenders in court. However, not every contravention of the law should be considered for prosecution. The Council will weigh the seriousness of

FRAUD AND CORRUPTION PROSECUTION POLICY

the offence (taking into account the harm done or the potential for harm arising from the offence) with other relevant factors, including the financial circumstances of the defendant, mitigating circumstances and other public interest criteria. All cases will be looked at individually and be considered on their own merit.

- 3.2 To consider a case for prosecution the Council must be satisfied that two tests have been passed. Firstly, there must be sufficient evidence of guilt to ensure conviction. This is called the **Evidential Test**. Secondly, it must be in the public interest to proceed – the **Public Interest Test**.
- 3.3 To pass the Evidential Test, the authorised officer must be satisfied that there is a realistic prospect of conviction based on the available evidence (that is, there must be sufficient admissible, substantial and reliable evidence to secure a conviction).
- 3.4 To pass the Public Interest Test, the authorised officer will balance, carefully and fairly, the public interest criteria against the seriousness of the offence. The public interest criteria include;
 - a) the likely sentence (if convicted);
 - b) any previous convictions and the conduct of the defendant;
 - c) whether there are grounds for believing the offence is likely to be repeated;
 - d) the prevalence of the offence in the area;
 - e) whether the offence was committed as a result of a genuine mistake or misunderstanding;
 - f) any undue delay between the offence taking place and/or being detected and the date of the trial;
 - g) the likely effect that a prosecution will have on the defendant;
 - h) whether the defendant has put right the loss or harm caused.
- 3.5 It will generally be in the public interest to prosecute if one or more of the following factors applies, subject to any mitigating circumstances;
 - a) the actual or potential loss to the Council was substantial (and for benefit related fraud exceeds the thresholds set out in the financial guidelines which form part of this Policy);
 - b) the fraud has continued over a long period of time;
 - c) the fraud was calculated and deliberate;
 - d) the person has previously committed fraud against the Council (even if prosecution did not result) and/or there has been a history of fraudulent activity;
 - e) the person was in a position of trust (for example, a member

FRAUD AND CORRUPTION PROSECUTION POLICY

- of staff);
- f) there has been an abuse of position or privilege;
- g) the person has declined the offer of a caution or administrative penalty, or has withdrawn the offer to pay an administrative penalty (HB/CTB cases only);
- h) the case has arisen from a collusive employer or landlord investigation (HB/CTB cases only);
- i) the case has involved the use of false identities and/or false or forged documents (HB/CTB cases only);

Mitigating Factors

4.1 The following mitigating factors will be taken into account when determining whether to prosecute;

4.2 Voluntary Disclosure

A voluntary disclosure occurs when an offender voluntarily reveals fraud about which the Council is otherwise unaware. If this happens, then the fraud will be investigated but the offender will not be prosecuted unless in exceptional circumstances. However, any person colluding in the crime will still be prosecuted. A disclosure is not voluntary if the:-

- a) admission is not a complete disclosure of the fraud;
- b) admission of the fraud is made only because discovery of the fraud is likely, (for example, the offender knows the Council is already undertaking an investigation in this area and/or other counter fraud activity);
- c) offender only admits the facts when challenged or questioned;
- d) offender supplies the correct facts when making a claim to Legal Aid;
- e) disclosure comes to light in some other way, for example, by the issue of a Housing Benefits review form (HB/CTB cases only).

4.3 Ill Health or Disability

Where the perpetrator (and/or their partner in HB/CTB cases) is suffering from prolonged ill health or has a serious disability or other incapacity where illness is a material factor then the offender will not be prosecuted unless in exceptional circumstances. Evidence from a GP or other doctor will be requested if the condition is claimed to exist, unless it is obvious to the investigator. For HB/CTB cases it is also necessary to prove that the person understood the rules governing

FRAUD AND CORRUPTION PROSECUTION POLICY

receipt of benefit and was aware that their action is wrong. This may not be possible where, for instance, the offender has serious learning difficulties. However, simple ignorance of the law will not prevent prosecution.

4.4 Social Factors

A wide range of social factors may make a prosecution undesirable. The test is whether the court will consider the prosecution undesirable, and go on to reflect that in the sentence.

4.5 Exceptional Circumstances

In certain exceptional circumstances the Council may decide not to prosecute an offender. Such circumstances include;

- a) the lack of sufficient resources to complete the investigation within a reasonable period of time (even after requesting assistance from the police and the DWP);
- b) the prosecution would not be in the interests of the Council.

Alternatives to Prosecution (HB/CTB cases only)

5.1 If a Housing or Council Tax Benefits case is considered strong enough for prosecution but there are mitigating circumstances which cast a doubt as to whether a prosecution is appropriate then the Council may consider the offer of a sanction instead. The two sanctions available are;

- a) formal cautions, or;
- b) administrative penalties.

Formal Cautions

6.1 A formal caution is a warning given in certain circumstances as an alternative to prosecution, to a person who has committed an offence. A formal caution is a serious matter and all cautions are recorded by the DWP. Where a person offends again in the future then any previous cautions will influence the decision on whether to prosecute or not.

6.2 Subject to the thresholds set out in the financial guidelines below, a formal caution will normally be offered where all of the following apply;

- a) there is sufficient evidence to justify instituting criminal proceedings;
- b) the person has admitted the offence;
- c) it was a first offence, and;
- d) an administrative penalty is not considered to be appropriate.

FRAUD AND CORRUPTION PROSECUTION POLICY

Only in very exceptional circumstances will a further caution be offered for a second or subsequent offence of the same nature.

- 6.3 Cautions will be administered by the Audit and Fraud Manager or the Fraud Team Leader. If a caution is offered but not accepted then the Council will usually consider the case for prosecution. In such cases the Court will be informed that the defendant was offered a penalty but declined to accept it.

Administrative Penalties

- 7.1 Section 115A of the Social Security Administration Act 1992 as amended by Section 15 of the Social Security Administration (Fraud) Act 1997, permits an administrative penalty to be offered to claimants as an alternative to prosecution. The penalty is set at a rate of 30% of the total benefit overpayment. Once an administrative penalty is accepted, the claimant has 28 days to change their mind.

- 7.2 Subject to the thresholds set out in the financial guidelines below, an administrative penalty will normally be offered by the Council in the following circumstances;

- a) the Council believes that there is sufficient evidence to prosecute;
- b) it was a first offence or a previous offence was dealt with by way of a caution, and;
- c) in the opinion of the Council, the circumstances of the case mean it is not overwhelmingly suitable for prosecution, and;
- d) the claimant has the means to repay both the overpayment and the penalty, and;
- e) there is a strong likelihood that both the overpayment and the penalty will be repaid.

- 7.3 It is important to note that the claimant does not need to have admitted the offence for an administrative penalty to be offered. If an administrative penalty is not accepted or is withdrawn then the Council will usually consider the case for prosecution. In such cases the Court will be informed that the defendant was offered a penalty but declined to accept it.

Financial Guidelines (HB/CTB cases only)

- 8.1 Where the 'authorised officer' considers that justice can be best served with a caution or administrative penalty where the overpayment is higher than the figures shown below then discretion may be applied. Equally, discretion may be applied where it is considered reasonable to prosecute but the overpayment is lower than the limit prescribed.

FRAUD AND CORRUPTION PROSECUTION POLICY

- 8.2 The following guidelines apply in helping to determine the appropriate action to take;
- a) A formal caution or an Administrative Penalty may be offered where the overpayment is under £2,000. The decision on which to offer will depend on the circumstances of the case and whether the offence has been admitted or not by the accused.
 - b) If the overpayment is over £2,000 and it is considered to be in the public interest then prosecution proceedings will generally be instigated.
- 8.3 Where the size of the overpayment is such that the Council would normally prosecute but there are mitigating factors which make such a prosecution undesirable then a formal sanction may be offered instead.
- 8.4 Serious attempted fraud which is discovered before benefits have been put into payment (and where there is no overpayment of benefit as a result) will also be considered for prosecution or sanction. The criteria for determining whether a prosecution is appropriate will be the potential seriousness of the fraud as opposed to the value of the overpayment. Each case will be considered on its own merits and action will be taken as appropriate.

Proceeds of Crime Act 2002 (POCA)

- 9.1 In addition to the actions set out in this policy, the Council reserves the right to refer all suitable cases for financial investigation with a view to applying to the courts for restraint and/or confiscation of identified assets. A restraint order will prevent a person from dealing with specific assets. A confiscation order enables the Council to recover its losses from assets which are found to be the proceeds of crime.

Implementation Date

- 10.1 This policy is effective from 1 October 2006 and covers all fraudulent or corrupt acts which are identified after this date.



Audit & Governance Committee

4 October 2006

Report of the Assistant Director (Audit and Risk Management)

The Role of Audit & Governance Committee in Managing and Monitoring the Implementation of Risk Management

Summary

1. The purpose of this paper is to advise Members of the role of the Audit & Governance Committee in managing and monitoring the process of embedding corporate risk management arrangements at City of York Council and in particular:
 - ensuring that the risk management process and framework is effective
 - monitoring progress against Comprehensive Performance Assessment (CPA) Key Lines of Enquiry, and
 - monitoring the delivery of the risk management development agenda

Background

2. The Council has adopted the Chartered Institute of Public Finance and Accountancy (CIPFA) definition for the purpose and function of the Audit & Governance Committee:

“The purpose of the Audit & Governance Committee is to act as the responsible body charged with governance at the Council. In doing so it will provide independent assurance of the adequacy of the risk management framework and the associated control environment, independent scrutiny of the authority’s financial and non-financial performance to the extent that it affects the authority’s exposure to risk and weakens the control environment, and to oversee the financial reporting processes”

3. The role of risk management is that of developing and delivering a strategy and framework that encourages the systematic consideration of risk in everything that the Council does. This clearly links to principle 4 of the 6 core principles that define good governance as set out in the CIPFA/SOLACE (Society of Local Authority Chief Executives and Senior Managers) guide 'Good Governance in Local Government a draft framework document' issued in June 2006. The key messages of principle 4 are:
 - good governance means taking informed and transparent decisions which are subject to effective scrutiny and managing risk
 - making sure that an effective risk management system is in place
 - ensure that risk management is embedded into the culture of the Council, with Members and managers at all levels recognising that risk management is part of their job
4. The role of the Audit & Governance Committee is to manage and monitor the development of the risk management process and framework. It should provide an independent view on the effectiveness of the process while at the same time helping to raise awareness across the Council of the need for embedding risk management into the culture of the organisation

Risk Management Framework

5. Regulation 4 of the Accounts and Audit Regulations 2003 sets out the basis for risk management in relation to the internal control environment:
 - *The relevant body shall be responsible for ensuring that the financial management of the body is adequate and effective and that the body has a sound system of internal control which facilitates the effective exercise of that body's functions and which includes arrangements for the management of risk*
 - *The relevant body shall conduct a review at least once in a year of the effectiveness of its system of internal control and shall include a statement on internal control, prepared in accordance with proper practices*
6. These requirements provide a clear link between the necessity for the Council to report on the effectiveness of its governance arrangements (Statement of Internal Control) and its system of risk management and internal control. Risk management is an integral part of good governance and effective management. There however is often a tendency for risk management to be viewed as a separate function and

process where as in practice it should be embedded into everything that we do and become part of the culture.

7. The CIPFA/ALARM (Association for Local Authority Risk Management) publication Risk Management in Public Services sets out in more detail the attributes required to ensure an effective risk management framework is in place. These are separated into minimum requirements and those that reflect best practice and include:

- a risk management strategy has been adopted by Members
- the strategy requires the Council to identify and profile corporate and operational risks
- that risks are linked to objectives, ownership is assigned and regular reviews undertaken
- risks are considered in decision making
- awareness training is delivered to all Members and relevant Officers
- regular reporting to the responsible Member committee
- the Council considers positive risks (opportunities) as well as negative risks (threats)

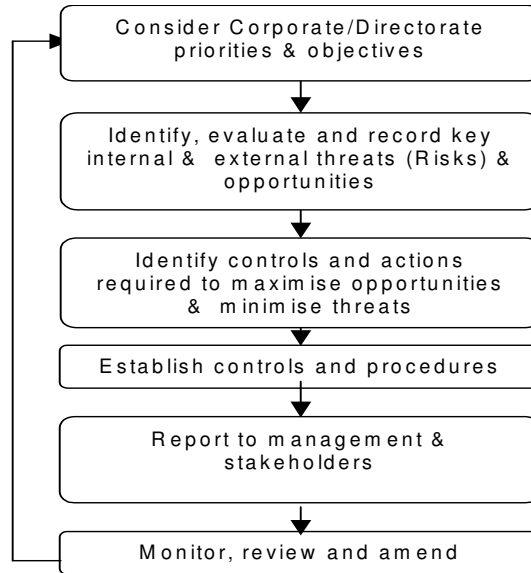
A full list of all the attributes can be found at Annex 1

8. These attributes are also reflected in the Key Lines Of Enquiry (KLOE) with regard to risk management. CPA includes risk management within the internal control element of Use of Resources. The risk & insurance team is making good progress against meeting the requirements of the KLOE's that form part of this years CPA refresh exercise. It is hoped this will help raise the Council's score for risk management from 2 in 2005 to 3 or possibly 4 in 2006. To facilitate the monitoring of progress by the Audit & Governance Committee a full list of the KLOE's and the Council's comments and actions can be found at Annex 2

The Risk Management Process

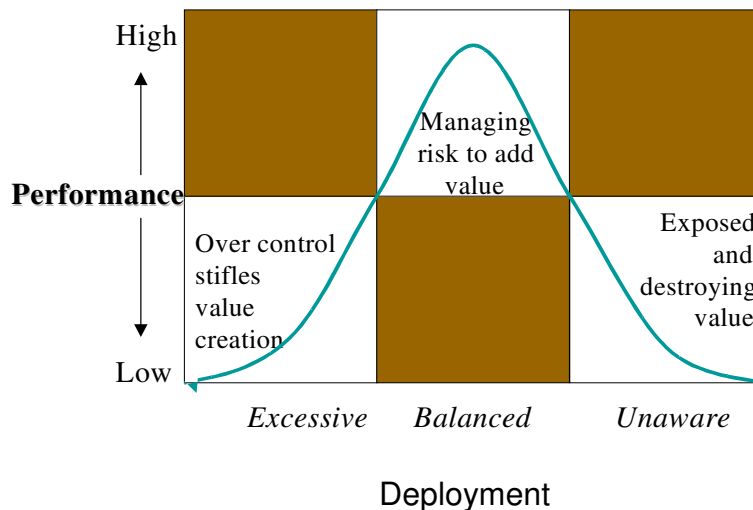
9. The risk management process at York considers strategic risks in relation to the Council's priorities and objectives and operational risks in relation to directorate priorities and objectives. Risk is also considered in relation to the Council's partnerships, programmes and projects. Where workshops have been delivered delegates are asked at the outset to consider what their service is trying to achieve (objectives) and what their priorities are. Delegates are encouraged to consider opportunity as part of the risk identification process. Exhibit 1 below shows this in a little more detail:

Exhibit 1



10. The risk management process at the Council tries to encourage risk consideration as a thought process (culture). Only where significant risks are identified should a systematic evaluation take place to ensure that there is no unnecessary bureaucracy involved. Exhibit 2 more clearly defines the process:

Exhibit 2



11. The identification and recording of key significant risks is an ongoing process. Each individual directorate management team reviews its risks on an annual basis with operational risks identified as part of the

annual Service Planning process. In addition to this projects and partnerships also consider risk as part of their management processes.

12. The recording, evaluation and action planning in relation to key risks is carried out using risk management software (Magique). Magique is a new web based software system recently purchased by the Council that allows a greater flexibility than previously available to analyse and manage risk. Access to the system is available to all Members and relevant officers along with appropriate training if required.

Development Agenda

13. The risk management team has made considerable progress in developing a robust and effective framework to facilitate the embedding of a risk management culture across the organisation. However there are a number of challenging development issues which include:
 - ensuring the consistency and quality of data entered in to the risk management system (Magique)
 - ensuring all directorates and service areas consider and where relevant record and manage risks using Magique on an ongoing as opposed to an annual basis
 - providing formalised risk management training to Officers to ensure that they have an understanding of the role and purpose of risk management in delivering their services
 - continue to build on the pre-Council seminar on 29 June 2006 by engaging Members more fully in their understanding of risk management and its benefits to the Council
 - developing a risk reporting process so that it provides information on key risks to inform the decision making process
 - working with the Performance Improvement Team to formalise the relationship and role of risk in business planning and performance
14. The role of the Audit and Governance Committee in relation to the development agenda, CPA Key Lines of Enquiry and the risk management framework is to monitor progress. The Executive Members role in the risk management process is to present the strategy to Executive on an annual basis.
15. The way in which the Audit and Governance Committee can effectively fulfil this role is to be regularly informed of progress against the development plan. This could be achieved by providing a mid-term monitoring report delivering information on progress against the

development plan and an outturn report, which in addition to achievements and progress will highlight any other areas of constraint.

Directorate Overview

16. To provide the Audit and Governance Committee with some perspective on the current position as regards the embedding of risk management at the Council it is worth looking at the progress that has been made by directorates in embedding risk into their culture and process:

Resources – Risk is considered on an annual basis by the directorate management team and individual divisional management teams. The quality of risks and understanding of the process is patchy and risk fights with conflicting priorities on crowded agendas. However there are some areas of good practice including the Admin Accomm review, easy@york and FMS replacement

City Strategy – As with Resources the management team do look at risk on an annual basis and have some understanding of its role in delivering their services and objectives. Limited work has been done with divisional management teams within the directorate but again conflicting priorities and a lack of resource in the Risk & Insurance team make it difficult to provide adequate training and support to further embed risk into the directorates culture

Chief Executives – This directorate again reviews risk on at least an annual basis and has a number of entries within the risk register. However once risks have been identified they believe that the process is complete and do not follow up control and action issues. As with all the above there is very little evidence that risk is part of the culture and is used effectively as a tool.

Learning, Culture & Children's Services – The directorate management team is very supportive and do review risks on an annual basis however they do not have a full understanding of the process and what it is trying to achieve. They have offered access to deliver workshops for their divisional teams but at present we are unable to support this.

Neighbourhood Services – This is a relatively new directorate the majority of which is made up from the old Commercial Services Directorate. In the past there has been a reluctance to embrace risk management however the new director is more enthusiastic to take a more proactive approach to developing a risk management culture. As with the other directorates how much we can support this depends on the work involved and resource available.

17. One of the key issues underpinning further progress within each directorate and the Council, as a whole is the necessity to deliver a more formalised training programme. This should help with winning both 'hearts and minds' and ensuring a better understanding of the role and purpose of risk management. This is one of the priorities within the development plan and proposed training programmes have already been developed in consultation with two potential providers.
18. A second key issue within the development agenda is that no formal reporting process exists in relation to identified risks. As a result risks are not properly monitored to ensure that progress is made to manage, mitigate or remove them. This is critical as the whole process fails if we do not have a formal reporting process that ensures risks are properly dealt with and opportunities may be missed to find alternative and innovative solutions. A more formal process may instil greater confidence in how we manage risks opening up the opportunity for the Council to undertake more ambitious programmes of work.
19. The Audit and Governance Committee will be kept informed of progress in the deployment of risk management through the monitoring and outturn reports recommended at Paragraph 15. The monitors will provide detail of the actions being taken by directorates to identify manage and mitigate key risks as well as highlighting any gaps in the process across the Council. This information will be provided through the development of a formalised progress report using information from the risk management database (Magique)

Consultation

20. Not applicable to this report.

Options/Analysis

21. Not applicable to this report.

Corporate Priorities

22. Risk management relates directly to the Council's priority to *'improve leadership at all levels to provide clear, consistent direction to the organisation'* clear and consistent leadership and direction requires a thorough understanding of all the risks and challenges to the organisation.

Implications

23. There are no implications arising from this report in the following areas:

- **Financial**
- **Human Resources**
- **Equalities**
- **Legal**
- **Crime and Disorder**
- **Information Technology**
- **Property**

Risk Management

24. None.

Recommendations

24. Audit and Governance Committee are asked to:

- a) note the contents of this report;

Reason

To raise awareness of the progress made to date in respect of the risk management framework at the Council and advise Members of the further work now needed to support the effective development of the Council's approach in the future.

- b) approve the proposed role for the committee as set out at paragraph 14

Reason

To clarify the role and purpose of the committee in relation to the delivery of risk management at the Council

- c) agree to take a mid-term monitoring and outturn reports (Paragraph 15) including details on progress against CPA criteria (Paragraph 8) and the Development Plan (Paragraph 14).

Reason

To ensure that Members can fulfil their role in monitoring the progress made by the risk & insurance team against the CPA criteria and the development agenda.

- d) monitor the progress made by directorates in deploying risk management arrangements (Paragraph 19)

Reason

To ensure that Members can fulfil their role in monitoring the progress made by directorates in considering, managing and embedding risk management into their services.

Contact Details

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Chief Officer Responsible for the report:

Liz Ackroyd
Assistant Director of Resources (ARM)

Report Approved



Date 22/9/06

Specialist Implications Officer(s) Not applicable

Wards Affected Not applicable

All

For further information please contact the author of the report

Background Papers

CIPFA/SOLACE guide 'Good Governance in Local Government a draft framework document' issued in June 2006.

Accounts and Audit Regulations 2003

Risk Management in Public Services CIPFA/ALARM

Annexes

Annex 1 CIPFA best practice risk management framework

Annex 2 Key Lines Of Enquiry response CPA refresh 2006

Framework Required to Ensure Effective Risk Management

Minimum Requirements

- A risk management strategy /policy has been adopted and approved by Members
- The risk management strategy/policy requires the Council to;
 - identify corporate and operational risks
 - assess the risks for likelihood and impact
 - identify mitigating controls
 - allocate responsibility for mitigating controls
- The Council maintains and reviews a register of its corporate business risks linking them to strategic business objectives and assigning ownership for each risk including risks arising from partnerships and other joint working arrangements
- The corporate risk register should be supported by a series of department/service risk registers that identify and assign the lower level operational risks
- A Member committee has specific responsibility included in its terms of reference to consider corporate risk management including a link between this function and the Councils arrangements for reviewing internal control
- Reports to support strategic policy decisions, and project initiation documents, include a risk assessment and the identification of mitigating action

Additional Attributes Required to Obtain Best Practice

- A risk management process that is reviewed and updated at least annually
- Provision of risk management awareness training for those Members with specific responsibility for risk management and ultimately for all Members
- Relevant training and guidance for all appropriate staff to enable them to take responsibility for managing risk within their own working environment
- Regular risk management reporting to the responsible Member committee, which takes appropriate action to ensure that corporate business risks are being actively managed, including reporting to full council as appropriate
- A senior officer champions and takes overall responsibility for embedding risk management throughout the organisation.
- Consideration by the organisation of positive risks (opportunities) as well as negative risks (threats)

4 Internal control *(How well does the Council's internal control environment enable it to manage it's significant business risks?)*

4.1 The Council manages its significant business risks

Issue	Ref	Self assessment comment	Planned actions	Status	RO
Level 2					
The council has adopted a risk management strategy/policy that has been approved by members.	103	Yes, approved in 2004 and reviewed on an annual basis. 2006 review reported to CMT on 23 August, due at Executive on the 12 September for Member consideration. <u>Working paper evidence</u> Risk Management Strategy & Policy Annual reports 2005, 2006	N/A	N/A	ERA/DW
The risk management strategy/policy requires the Council to: <ul style="list-style-type: none"> • Identify corporate and operational risks; • Assess the risks for likelihood and impact; • Identify mitigating controls; • Allocate responsibility for the mitigating controls. 	104	Yes – see Risk Management Strategy & Policy documents. These requirements also mirrored in the new Risk Management system. <u>Working paper evidence</u> Risk Management Strategy & Policy New IT System documentation & exemplar screen prints etc	N/A	N/A	ERA/DW
The council maintains and reviews a register of its corporate business risks linking them to strategic business objectives and assigning ownership for each risk.	105	Yes. Register in place since 2002 and kept under regular in-year review. Fundamental review of all registered risks undertaken in April 2006 following introduction of new IT system. <u>Working paper evidence</u> Risk Register	N/A	N/A	ERA/DW

Issue	Ref	Self assessment comment	Planned actions	Status	RO
Level 2					
Member responsibility for corporate risk management is identified in the terms of reference of one or more committees as appropriate. (SLIGHTLY REVISED)	106	<p>Yes. Executive Member responsibility assigned in the new Constitution. The Executive Member for Corporate Services is responsible for bringing matters of corporate risk management to the Executive for decision.</p> <p>Full Council also appointed a new Member Champion for Risk Management at the AGM in May 2006 (although this person had been acting in this role since autumn 2005 pending formal appointment at the AGM).</p> <p><u>Working paper evidence</u></p> <p>The Constitution (part 3)</p>	Member responsibilities and reporting arrangements to be clarified as part of the Review of the Constitution.	Done	ERA
Reports to support strategic policy decisions, and project initiation documents, include a risk assessment.	107	<p>Yes. Previously well-embedded into PID documents. New report writing protocol developed further to the Review of the Constitution has introduced formal requirements for an assessment of any relevant risk issues and mitigation to be included in all reports for Member decision along with officer guidance. Reports cannot go forward without inclusion of this information. Risk assessments also introduced into officer decision making processes – for example requests for waivers from financial regulations must be accompanied by a formal risk assessment (in place since early 2005)</p> <p><u>Working paper evidence</u></p> <p>The Constitution (Part 4) & guidance notes</p> <p>Exemplar decision making assessment for waiver applications</p> <p>Example Project Initiation Document</p>	Reporting standards to be set out within corporate report writing protocol being developed further to the Review of the Constitution	Done	SH/DS/ DW

Issue	Ref	Self assessment comment	Planned actions	Status	RO
Level 3					
The risk management process is reviewed and updated at least annually	108	<p>Yes, reviewed on an annual basis and reported (see 103 above). Processes, progress and efficiency of the function benchmarked as part of the annual review process.</p> <p><u>Working paper evidence</u></p> <p>Risk Management Strategy & Policy</p> <p>Annual reports 2005, 2006</p> <p>Benchmarking exercise 2005/06</p>	N/A	N/A	N/A
The risk management process specifically considers risks in relation to significant partnerships and provides for assurances to be obtained about the management of those risks. (SLIGHTLY REVISED)	109	<p>Yes, risks included Risk Register and subject to standard monitoring and reporting arrangements as per 104 above. Guidance has been issued.</p> <p><u>Working paper evidence</u></p> <p>Risk Register</p> <p>New IT System exemplar screen prints etc</p>	N/A	N/A	N/A
All appropriate staff are given relevant training and guidance to enable them to take responsibility for managing risk within their own working environment. (SLIGHTLY REVISED)	110	<p>Yes. Training has been targeted at key staff over 2005/06 and further roll out of training will take place later this year following the appointment of a new Risk Management officer to provide additional training and support capacity within the Risk and Insurances team.</p> <p><u>Working paper evidence</u></p> <p>Training notes & slides</p> <p>Diary of DMT/service manager events</p> <p>Training programme proposal</p> <p>Risk Mgt guidance & templates: Service & Financial Planning guidance</p>	<p>Training to be cascaded through DMTs following DMT and local champion training in 2005/06</p> <p>Comprehensive training programme covering staff and Members to be devised</p>	<p>Done</p> <p>WIP</p>	<p>DW</p> <p>DW</p>

Issue	Ref	Self assessment comment	Planned actions	Status	RO
Level 3					
The members with specific responsibility for risk management have received risk management awareness training	111	Yes. Key event held for all Members in June 2006. Previously 121 training with Executive Member for Corporate Services and the Risk Management Champion in light of their particular corporate responsibilities for risk management (see 106 above) and advice to Members of the new Audit & Governance Committee following their appointment by Full Council at 2006 AGM. <u>Working paper evidence</u> Training notes & slides	Members training events to be scheduled. Joint training event with AC in June 2006/07 Appointed Risk Management Champion to receive specific training support	Done Done	DW/AC DW
Members with responsibility for corporate risk management receive reports on a regular basis and take appropriate action to ensure that corporate business risks are being actively managed, including reporting to full council as appropriate. (REVISED)	112	Yes. Regular reports to be scheduled through the new Executive Member & Advisory Panel for Corporate Services in accordance with the requirements of the new Constitution. Previously reported through Resources EMAP, same basic arrangement to continue but enhanced through new IT system that allows Members and officers to view live risk status on a 'real-time' basis between monitoring reports. <u>Working paper evidence</u> Resources Forward Plan (reports to Committees) New IT System & exemplar screen prints etc	Reporting arrangements to be put in place further to the work of the Review of the Constitution	Done	ERA/SH
Level 4					
A senior officer and member jointly champion and take overall responsibility for embedding risk management throughout the council.	113	Yes. Set out in the new Constitution. Director of Resources, Executive Member for Corporate Services and Member Risk Champion in support of that (see 106 above)	Risk Management Champion to be formally appointed by Full Council	Done	ERA

Issue	Ref	Self assessment commentary	Planned actions	Status	RO
Level 4					
<p>The council can demonstrate that it has embedded risk management in its corporate business processes, including:</p> <ul style="list-style-type: none"> • strategic planning • financial planning • policy making and review • performance management 	114	<p>Yes, demonstrated through development of the Medium Term Financial Forecasting (MTFF) process, consideration of risk integral to the budget process, the planning and delivery of Corporate Strategy high level Improvement Statements.</p> <p><u>Working paper evidence</u></p> <p>MTFF</p> <p>Exemplar risk consideration matrix sent to all budget holders as part of the budget setting process</p> <p>Improvement Statement high level specification template</p> <p>Service & Financial Planning guidance and template</p>	<p>Further actions to:</p> <ul style="list-style-type: none"> • fully embed risk management practice in service & financial planning processes; • Corporate performance monitoring cycle • 3 year financial planning & strategy process 	<p>Done</p> <p>Done</p> <p>Done</p>	<p>DW/PL</p> <p>SW/DW</p> <p>PS/DW</p>
All members have received risk management awareness training.	115	Risk Management training provided for all Members to attend (see 111 above). Further training events to be programmed during 2006/07.	All Members to be trained by end of 2006/07	WIP	DW
The Council considers positive risks (opportunities) as well as negative risks (threats).	116	Yes. Key principle set out in the Risk Management Strategy & Policy and now being documented in the decision making process through the requirements of the new report writing protocol and new service & financial planning risk assessment requirements.	Accepted principle within Council RM Strategy, to be embedded through revised report writing protocol and service & financial planning processes as per actions above	Done & on-going	DW

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Audit and Governance Committee

4 October 2006

Report of the Assistant Director (Audit and Risk Management)

Strategic Audit Plan – Consultation

Summary

- 1 The purpose of the report is to give Members the opportunity to contribute to the annual review and update of the internal audit risk assessment and five year strategic audit plan.

Background

- 2 The 2006/07 Audit and Fraud Plan was approved by this Committee on 6 June 2006. In accordance with the Chartered Institute of Public Finance and Accountancy (CIPFA) Code of Practice for Internal Audit the audit plan was prepared on the basis of a risk assessment process. The risk assessment methodology is designed to ensure that the limited audit resources available are prioritised towards those systems and areas which are considered to be the most risky and/or which contribute the most to the achievement of the Council's corporate priorities and objectives.

Risk Assessment Methodology

- 3 The current risk assessment methodology was last reviewed as part of the project to implement the Galileo Audit and Risk Management software in January 2006. Unlike the corporate risk management process which identifies the impact and likelihood of specific risks the aim of the audit risk assessment model is to assess the overall level of inherent risk associated with each 'auditable' area.
- 4 Seven risk factors are used in the risk model with each one given a weighting of between 1 and 3 to reflect the likely impact of individual risks on the overall risk score. The overall score can also be supplemented by any specific risks identified through the corporate risk management process. The individual risk factor scores are formally reviewed and updated on an annual basis as part of the process for preparing the following year's audit plan. The individual risk scores are however kept under constant review and will be amended to reflect any new or emerging risk issues. The risk factors used in the model are as follows;

Risk Factor	Weighting
Materiality	3
Complexity	3
Fraud and Corruption	1
Stability	2
Management Arrangements	1
Control Environment	3
Inspection Regime	2
Plus – any significant risks identified through the corporate Risk Management process	3

Each risk factor is given a score of between 0 and 5 (with 5 being classed as the highest risk). Annex A provides details of the guidance used to assess each risk factor. The total risk score for any area can vary between 0 and 90.

- 5 Each 'auditable' area is then categorised as 'high', 'medium' or 'low' risk depending on the overall risk score as follows;

Overall Risk Score	Risk Category
0 - 27	Low
28 - 53	Medium
> 53	High

Strategic Audit Plan

- 6 The five year strategic audit plan is updated with the risk score for each 'auditable' area. The aim is to ensure that audit resources are prioritised so as to ensure that;
- high risk areas are reviewed on an annual basis;
 - medium risk areas are reviewed every two or three years;
 - low risk areas are reviewed once every five years (subject to resourcing constraints).
- 7 A copy of the latest Strategic Audit Plan is attached as Annex B for information. The time allocated to each audit is based on previous audit experience and an understanding of the likely resource requirements for that type of assignment.
- 8 Current staffing levels within Internal Audit do not allow all the identified systems and other auditable areas within the Strategic Plan to be reviewed in accordance with the required frequency. The shortfall is approximately 500 days per annum. The scope for choice is also restricted because;

- a) the Audit Commission expect that all the main financial systems will be audited annually irrespective of the identified risk;
 - b) specific audit work is required to support the preparation of the annual Statement of Internal Control (which is published as part of the Statement of Accounts) and the Breaches and Waivers report;
 - c) time must be allocated to investigate possible fraud and corruption, and participate in the Audit Commission's National Fraud Initiative;
 - d) contingency time also has to be set aside to undertake urgent or unplanned work which may arise during the year.
- 9 The current shortfall in audit resources has resulted each year in some of the planned audit work having to be deferred to later years. As a consequence many of the audit areas, particularly those classified as medium or low risk are not being reviewed as frequently as required.
- 10 The annual review of the risk assessment and strategic plan is due to be undertaken in October as the starting point for preparing the 2007/08 Audit Plan.

Issues for Possible Consideration

- 11 Members are therefore asked to consider and comment on the following issues;
- a) Is the current risk assessment methodology adequate for the purpose of prioritising audit work/resources?
 - b) Does the outcome of the risk assessment process appear accurate and does it reflect Members understanding of the risks facing the Council?
 - c) Is the strategic audit plan complete or are there other areas which Members consider should be subject to audit review (for example, operational systems or processes which contribute to the effectiveness of the Council's overall governance framework)?

Consultation

- 12 Not relevant for the purpose of the report.

Options

- 13 Not relevant for the purpose of the report.

Analysis

- 14 Not relevant for the purpose of the report.

Corporate Priorities

15 This report contributes to the corporate priority of improving efficiency and reducing waste so as to free up more resources. The report also contributes to the overall effectiveness of the Council's internal management & assurance arrangements by helping to achieve the following corporate objectives;

- Ensure probity, integrity and honesty in everything we do (Objective 8.3).
- Improve the forward planning, openness, propriety, speed and effectiveness of decision-making (Objective 8.4).
- Continue to provide sound and timely financial management and improve medium and long term financial planning (Objective 8.6).

Implications

16 The implications are;

- **Financial** – there are no financial implications to this report.
- **Human Resources (HR)** – there are no HR implications to this report.
- **Equalities** - there are no equalities implications to this report.
- **Legal** - there are no legal implications to this report.
- **Crime and Disorder** – there are no crime and disorder implications to this report.
- **Information Technology (IT)** - there are no IT implications to this report.
- **Property** - there are no property implications to this report.

Risk Management Assessment

17 The Council may fail to properly comply with the CIPFA Code of Practice for Internal Audit in Local Government if audit plans are not based on an appropriate assessment of the likely risks. This in turn would adversely impact on the Council's Comprehensive Performance Assessment (CPA) score for the Use of Resources and therefore its overall CPA score when this is re-assessed in 2007.

Recommendation

18 Members are asked to;

- note the existing audit risk assessment and planning process and identify suggested changes for inclusion in the 2007/08 Audit Plan.

Reason

To ensure that scarce audit resources are used effectively.

Contact Details

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Report Approved



Date 18 September
2006

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All



For further information please contact the author of the report

Background Papers

None

Annexes

Annex A – risk assessment criteria.
Annex B – five year strategic audit plan.

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**CITY OF YORK COUNCIL
INTERNAL AUDIT RISK ASSESSMENT CRITERIA**

5 is high 1 is low	Weight	Criteria	SCORE				
			5	4	3	2	1
Materiality	3	<ul style="list-style-type: none"> Financial transactions 	Annual income/ expenditure over £2M		Annual income/ expenditure over £500k but less than £2m		Annual income /expenditure less than £500k
		<ul style="list-style-type: none"> Volume of transactions 	Volume of transactions over 10,000 per annum		Volume of transactions between 1,000 and 9,999		Volume of transactions less than 1,000 per annum
		<ul style="list-style-type: none"> Quality of budgetary control arrangements 	Very poor. Non-existent or inadequate budget monitoring systems and arrangements. Little or no regular monitoring and frequent material budget variances.	Poor. Budget monitoring systems exist but often ineffective. Limited budget monitoring and performance often outside acceptable limits.	Satisfactory. Budget monitoring systems exist but not always effective. Actual performance often within acceptable limits	Good. Budget monitoring systems exist and generally effective. Actual performance normally within acceptable limits	Excellent. Fully developed and effective budget monitoring systems and arrangements. Actual performance always within acceptable limits.
		<ul style="list-style-type: none"> Pupil Numbers 	500+	250-500	200-250	150-200	0-150
		<ul style="list-style-type: none"> Turnover (Income plus expenditure) 	£2M+	£1.5M-£2M	£1m-£1.5M	£500k-£1M	£0-£500K
Complexity	3	<ul style="list-style-type: none"> Processing Routines 	Highly complex and requiring detailed technical knowledge to operate. Likely to involve more than one IT application and many staff. Significant scope for error.	Complex. Likely to involve one or more IT applications. Detailed technical knowledge required to operate. Errors likely to occur.	Some complexity. Likely to be based on one IT application. Some detailed technical knowledge required to operate. Errors may occur but unlikely to be significant.	Relatively simple. Likely to be based on manual process or one IT application. Limited knowledge required to operate. Errors may occur but unlikely to be significant.	Simple. Manual process requiring only a limited number of staff. No detailed knowledge required to operate.

**CITY OF YORK COUNCIL
INTERNAL AUDIT RISK ASSESSMENT CRITERIA**

5 is high 1 is low	Weight	Criteria	SCORE				
			5	4	3	2	1
		<ul style="list-style-type: none"> Number of staff employed 	Over 200	Between 100 and 200	Between 50 and 100	Between 10 and 50	Less than 10
		<ul style="list-style-type: none"> Type of establishment 	Secondary		Primary Special		Adult Learning
Fraud and Corruption	1	<ul style="list-style-type: none"> Significant cash handling operation, Previous history of problems (fraud investigations, and/or thefts) Existence of valuable assets Asset security High staff turnover Low staff morale 	High inherent risk. Fraud investigation conducted and/or financial irregularities found within the last five years. High staff turnover and/or low morale.		Medium inherent risk. Some minor financial irregularities discovered or suspected. Normal levels of staff turnover.		Low inherent risk. No actual or suspected fraud or financial irregularity.
Stability	2	<ul style="list-style-type: none"> System stability New service area Changes in key staff 	Major system change and / or new service area. Changed management arrangements or service reorganisation. Very high staff turnover.	Changes to systems and / or service responsibilities. High staff turnover.	Some changes to systems and / or service responsibilities. Normal levels of staff turnover.	Some limited changes to systems and / or service responsibilities. Lower than normal levels of staff turnover.	Highly stable. No changes to systems or management arrangements.
		<ul style="list-style-type: none"> Reserves/Deficit 	Reserves £150+ or Deficit £100k+	Reserves £100k - £150k or Deficit £50k-£100k	Reserves £50k-£100k or Deficit £0-£50k	Reserves £20k-£50k	Reserves £0-£20K

**CITY OF YORK COUNCIL
INTERNAL AUDIT RISK ASSESSMENT CRITERIA**

5 is high 1 is low	Weight	Criteria	SCORE				
			5	4	3	2	1
Management Arrangements	1	<ul style="list-style-type: none"> Reporting arrangements Local systems 	Very poor. Non-existent or inadequate management, service planning and performance monitoring systems and arrangements. Performance targets not set.	Poor. Management arrangements considered to be ineffective. Performance targets set but generally not achieved.	Satisfactory. Service planning and performance management arrangements exist but not always effective. Actual performance often within acceptable limits	Good. Service planning and performance management arrangements exist and generally effective. Actual performance normally within acceptable limits	Excellent. Fully developed and effective service planning and performance monitoring systems in place. Actual performance always within acceptable limits.
		<ul style="list-style-type: none"> External bodies control assessment 	No opinion available or Unsatisfactory	Poor	Satisfactory	Good	Very Good
Control Environment	3	<ul style="list-style-type: none"> Recent audit findings Senior Manager opinion Existence of adequate strategies, policies and procedures Quality of direct supervision and management History of under/over spends Existence and adequacy of written procedures 	Very poor. Non-existent or inadequate control framework. No written procedures and history of significant errors, under performance and/or system failures.	Poor. Control framework ineffective. Written procedures may exist but inadequate. Errors, under performance and/or system failures often occur.	Satisfactory. Control framework exists but not always effective. Actual performance often within acceptable limits.	Good. Control framework exists and generally effective. Actual performance normally within acceptable limits	Excellent. Fully developed and effective control framework. Actual performance always within acceptable limits.
		<ul style="list-style-type: none"> Audit Opinion 	Not Acceptable Or No Assessment	Weak	Acceptable		High Standard
		<ul style="list-style-type: none"> Time Since Last Audit 	36+ mths	30-36 mths	18-30 mths	12-18 mths	0-12 mths
Risk Management Assessment (Magique)	3	<ul style="list-style-type: none"> Assessment of risks identified, quality of control framework and/or action plan 	See Magique				

**CITY OF YORK COUNCIL
INTERNAL AUDIT RISK ASSESSMENT CRITERIA**

5 is high 1 is low	Weight	Criteria	SCORE				
			5	4	3	2	1
Inspection Regime	2	<ul style="list-style-type: none"> Views of Audit Commission (and, or other review agencies) 	No opinion available or Unsatisfactory	Poor	Satisfactory	Good	Very Good
		<ul style="list-style-type: none"> Time since last OFSTED visit 	36+ mths	30-36 mths	18-30 mths	12-18 mths	0-12 mths

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
110	Support and Advice (Resources)	0	0	N/A	4	4	4	4	4
120	Main Accounting Systems	50	12	24-Apr-06	30	30	30	30	30
130	Mortgages	16	36	15-Apr-02	0	0	0	0	0
140	VAT Accounting	36	24		0	0	0	20	0
150	Treasury Management & Prudential Code	48	12	18-Apr-06	20	20	20	20	20
160	Car Loans	20	36		0	0	0	0	0
170	Venture Fund	30	24		0	0	0	0	10
180	Creditors	52	12	4-Apr-06	30	30	30	30	30
190	Debtors	52	12	13-Sep-05	30	30	30	30	30
200	Payroll	52	12	12-Apr-06	30	30	30	30	30
210	Construction Industry Scheme	32	24		0	0	0	15	0
220	IS-IT Strategy	44	24	19-Dec-05	8	0	0	0	0
240	IT Advice and Support (incl systems development)	0	0	N/A	10	15	10	10	10
250	IT Business Continuity	54	12	19-May-05	0	0	0	12	0
260	Information Security	54	12	24-Apr-06	10	30	20	0	0
270	IT Asset Management	44	24		0	0	10	0	0
280	Electronic Communications	44	24		0	0	20	0	0
290	System Development and Maintenance	38	24		24	0	0	0	0
300	Internal Recharging	34	24		0	0	0	10	0
310	Council Tax & NNDR	63	12	20-Apr-05	25	25	25	25	25
320	Council Tax Benefits & Housing Benefits	63	12	28-Apr-06	30	30	30	30	30
330	Cashiers	46	12	21-Apr-06	12	15	12	12	12
340	Electronic Payment Methods	38	24		0	0	0	0	12
350	HB Performance Standards	0	0		0	0	0	0	0
360	Registrars	30	24	15-Sep-03	0	12	0	0	12
380	Data Protection	30	24		0	0	0	0	20
390	Freedom of Information	44	24		0	0	0	20	0
400	Asset Management	54	12	4-Jan-05	20	20	20	20	20
410	Lease Management	30	24		0	0	12	0	0
420	Property Services (RFMD)	46	24	5-Sep-03	0	20	0	0	20
430	Risk Management & Insurance	44	24	27-Jun-05	10	0	10	10	10
450	Support and Advice (Environment and Development)	0	0	N/A	4	4	4	4	4
460	Development Control	32	24	16-Sep-03	0	0	10	0	0
470	Building Control	32	24	16-Sep-03	0	0	10	0	0

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
480	National Land and Property Gazetteer	44	24		10	10	0	0	10
490	Local Land Charges	30	24		0	15	0	0	15
500	Planning Processes	32	24		0	0	20	0	20
510	Section 106 agreements	30	24		0	20	0	0	20
520	Heritage Properties	22	36		0	0	0	10	0
530	Environment and Conservation	16	36	4-Mar-03	0	0	12	0	0
540	Engineering Consultancy	32	24	4-Nov-05	12	0	0	12	0
550	City Development	28	24		0	0	10	0	0
560	Highways Maintenance	41	24		0	20	20	20	20
570	Section 38 Highways agreements	30	24		0	0	0	15	0
580	Highways Regulation	34	24	7-Mar-03	0	0	0	10	0
590	Capital Programme (incl Local Transport Plan)	28	24	5-Apr-06	20	20	20	0	20
600	Emergency Planning	26	36		0	0	12	0	0
610	On street Parking & Car Parks	44	24	29-Apr-05	0	0	20	0	0
620	Traffic Management	38	24		0	0	15	0	0
630	Client Monitoring	28	24		0	0	0	0	0
640	Staff Park and Ride - Staff Parking	22	36	12-Aug-04	0	0	0	15	0
650	Public Transport	33	24	20-Apr-06	15	0	0	15	0
660	Local Transport Plan (now included in Capital Programme)	50	24		12	0	0	0	0
670	Concessionary Travel	30	24	1-Feb-05	0	0	0	20	0
680	Food Safety, environmental health, trading standards and other regulatory services	36	24	15-Sep-03	0	20	0	20	0
690	Crematoria and Cemeteries	22	36		0	0	0	15	0
700	Licensing	40	24		18	0	0	18	0
710	Street Environment Service	30	24		0	0	12	0	12
730	Waste Disposal - Strategy	46	24	30-Mar-05	0	0	20	0	20
740	Pool Cars	17	36	15-Sep-05	0	0	10	0	0
750	York-England.com	0	0		0	0	0	0	0
760	Economic Development Unit	48	24	30-Sep-05	0	0	0	15	0
770	First Stop York Partnership	0	0		0	0	0	0	0
780	Science City (York) Project	0	0		0	0	0	0	0
790	City Centre Partnership	24	36		0	0	0	0	12
800	York Training Centre	38	24		0	18	0	0	18
810	Skills and Social Inclusion	0	0		0	0	0	0	0

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
830	Support and Advice (Commercial Services)	0	0	N/A	4	4	4	4	4
840	External Trading	40	24		0	25	0	0	15
850	Building Cleaning	34	24		0	15	0	0	15
860	Commercial Waste	38	24	20-May-05	0	0	0	20	0
870	Motor Fitters & Fleet Maintenance	44	24		0	0	0	20	0
880	Refuse Collection	44	24		0	0	20	0	0
890	Service Delivery (Quality and Performance)	40	24		0	0	0	15	0
900	Street Scene	28	24		0	0	12	0	0
910	Finance, Administration & Management	44	24	18-Apr-06	20	0	0	20	0
920	Civil Engineering	36	24		0	0	0	0	20
930	Building Repairs and Maintenance	55	12	28-Apr-06	20	0	15	0	0
940	Stores and Purchasing (Servitor)	55	12	19-Jan-04	0	0	20	0	0
960	Support and Advice (Chief Executives)	0	0	N/A	4	4	4	4	4
970	Legal Services and Coroner	28	24	2-Aug-04	0	0	12	0	10
980	Electoral Services, Member support, Democracy support, Members allowances, Members interests	32	24	24-Sep-03	0	15	0	0	15
990	Lord Mayoralty	16	36		0	0	0	0	0
1000	Marketing & Communications	32	24		0	0	0	10	0
1010	Partnerships	56	12	26-Apr-06	20	0	20	20	20
1020	Human Resources	46	24		25	0	25	0	0
1030	Recruitment Process	49	24	26-Apr-06	20	0	20	0	0
1040	Performance Indicators	61	12	7-Sep-05	30	30	30	30	30
1050	Performance Management	61	12		25	0	25	0	25
1060	Business Continuity	43	24	19-May-05	18	18	18	18	18
1070	Public Service Agreements	52	24	1-Feb-06	15	15	15	15	15
1090	Support and Advice (Education and Leisure)	0	0	N/A	4	4	4	4	4
1100	Youth Services, Training and Development	22	36		0	0	12	0	0
1110	Pupil Support Centre	24	36		0	0	0	15	0
1120	Special Educational Needs	52	24		0	0	0	18	0
1130	Early Years and Childcare Service	50	24	26-Apr-06	15	0	15	0	15
1140	Nursery Education Grants	52	24	26-Apr-06	20	20	20	20	20
1150	Sure Start York	42	24		12	12	0	12	0
1160	Neighbourhood Nursery Initiative	40	24		0	0	0	0	0

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
1170	Adult and Community Education	42	24		0	0	0	0	0
1180	Discretionary rate relief	18	36		0	0	10	0	0
1190	Libraries	42	24	20-Aug-04	0	0	0	18	0
1200	Open spaces, park and play areas, pitches, courts & bowls	26	36		0	0	0	0	12
1210	Establishments (TLM)	53	24	25-Jan-06	12	0	12	12	12
1220	Arts and Entertainment	22	36	28-Oct-03	0	0	0	0	15
1230	Performance Arts	26	36		0	0	0	0	12
1240	Music Tuition Fees	47	24	10-Nov-03	0	0	0	20	0
1250	Individual School Budgets	48	24	19-May-05	0	15	15	15	15
1260	Standards Fund	50	24	7-Mar-05	0	0	0	20	0
1270	Recoupment	22	36		0	10	0	0	0
1280	Home to School Transport	48	24	15-Nov-05	5	0	15	15	15
1290	Students Awards	32	24	7-May-04	0	0	0	0	15
1300	Education and Leisure Capital programme	49	24	4-Apr-06	20	20	20	20	20
1310	Private Finance Initiatives	50	24	7-Feb-06	10	10	0	15	0
1320	Education Development Service	38	24		0	12	0	0	12
1330	Management Information	28	24		0	0	0	12	0
1340	Education Contracts	32	24		0	15	0	0	15
1350	Children's Services Administration Sites (Ashbank-Holycroft)	20	36		0	15	0	0	0
1360	Children Leaving Care	16	36		0	0	0	15	0
1370	Exclusions	16	36		0	0	12	0	0
1380	Family Support	28	24	3-Aug-05	0	0	0	0	15
1390	Out of City Placements	37	24	28-Mar-06	15	0	0	15	0
1400	Specialist Child Placements	22	36		0	0	20	0	0
1410	Children with Disabilities	22	36		15	0	15	0	15
1420	Foster Carers and Adoption	34	24	7-Apr-05	0	0	25	0	0
1430	Children's Residential and Respite Accommodation	32	24	15-Nov-05	8	0	8	0	8
1450	Support and Advice (Adult Social Services and Housing)	0	0	N/A	4	4	4	4	4
1470	Homecare Expenditure	46	24	24-Apr-06	25	0	0	25	0
1480	Adults Independent Living	43	24		0	20	0	0	20
1490	Discretionary Charging	40	24	6-Dec-05	15	0	15	0	15
1500	Delayed Discharges	51	24		0	0	0	10	0

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
1510	Residential and Nursing Home Costs	42	24	14-Dec-05	20	0	0	20	0
1520	Meals on Wheels	20	36	2-Jul-03	0	0	0	20	0
1530	Homelessness - Travellers	29	24		0	0	0	10	0
1540	Pooled Budgets	42	24		0	0	12	0	12
1550	York Craft	20	36		0	0	0	0	10
1560	Community Services Transport	28	24	15-Sep-03	0	0	15	0	0
1570	EPH's, Special Sheltered Housing and Sheltered Housing.	45	24		0	25	0	25	0
1590	Mental Health Services	36	24		0	0	0	20	0
1600	Referrals and Care Assessments	38	24	27-Mar-06	20	0	20	0	0
1610	Health and Disabilities (Physical and Learning Disabilities)	33	24		0	0	15	0	15
1620	Joint Equipment Store	28	24	20-Jun-02	0	0	15	0	0
1630	Supporting People	48	24		25	0	25	0	25
1640	Social Services Capital Programme (no longer used)	N/A	N/A		10	0	0	0	0
1650	Commissioning & Bought in Services	34	24		0	0	0	0	20
1660	Adult Social services and Housing Capital Programme	54	24	27-Apr-06	15	8	15	8	15
1670	Housing Revenue Account	44	24		0	0	0	8	0
1690	Right to Buy	26	36	20-Apr-05	0	0	0	0	20
1700	Housing Allocations	38	24	3-Aug-05	0	0	0	18	0
1710	Housing Rents	52	12	27-Apr-06	25	25	25	25	25
1720	Private Sector Housing Renewal	20	36		0	0	0	15	0
1730	Housing Repairs and Maintenance	44	24		0	15	0	0	15
1740	Tenants Choice	33	24	20-Apr-06	20	0	20	0	20
1750	EPH Amenity Fund Audit	0	0		3	3	3	3	3
9000	Contingency Audits	0	0	N/A	90	90	90	90	90
9010	Easy@york	54	24	N/A	20	20	20	20	20
9020	Administration and Accommodation Review	0	0	N/A	0	0	0	0	0
9030	Replacement ISIS System	0	0	N/A	0	0	0	0	0
9040	Replacement FMS System	0	0	N/A	0	0	0	0	0
9050	National fraud Initiative	0	0	N/A	0	15	15	15	15
9060	Follow Up Audits	0	0	N/A	30	40	30	30	30
9070	Fraud Investigations	0	0	N/A	100	90	90	90	90
9080	Contract Procedures	63	12	N/A	50	50	50	50	50

**CITY OF YORK COUNCIL
STRATEGIC AUDIT PLAN**

ANNEX B

Ref	Name	Risk Rate	Audit Frequency	Last Audit Date	2005/06	2006/07	2007/08	2008/09	2009/10
9090	Budgetary Control	48	24	28-Apr-06	25	25	25	25	25
9100	Corporate Governance	42	24	7-Feb-06	30	25	25	25	25
9110	Statement of Internal Control	0	0	9-Jun-05	0	20	20	20	20
9120	Project Management	59	12		0	0	20	0	20
9130	Training and Development	32	24		0	0	0	0	15
9140	Agency Staff	45	24		0	0	20	0	20
9150	RIPA	30	24		0	0	0	15	0
9160	Sickness Monitoring	34	24		0	0	20	0	0
9170	Telecommunications	44	24		0	0	25	0	0
9180	Travel and Subsistence	36	24	19-Jan-06	20	0	0	20	0
9190	New Depot Project	0	0		10	10	0	0	0
9200	Breaches and Waivers	0	0	30-Sep-05	50	50	50	50	50
9230	Future Prospects	0	0		0	8	0	8	0
	Chargeable work / VFM / special projects				24	0	0	0	0
	CAATS/data interrogation				8	0	0	0	0
	Schools				100	100	100	100	100
TOTAL					1460	1340	1735	1708	1696



Meeting of Audit And Governance Committee**4th October 2006**

Report of the Director of Resources

Audit Commission Report : Arrangements for the Disposal of the Barbican**Summary**

1. The purpose of this report is to report to Councillors the findings of Audit Commission's review of the Council's arrangements for the disposal of the Barbican.

Background

2. The Audit Commission have received and taken account of information from York residents and Council Officers in carrying out their review (attached at Annex A). The objectives of the review were to assess the Council's arrangements for:
 - Securing best consideration for the site.
 - Ensuring appropriate governance controls are maintained.
 - Managing the impact on service delivery.

At the time of writing this report the Council was awaiting the results of the Planning Committee's considerations on the Barbican, which are due to take place on September the 28th 2006. Whilst the outcome of this meeting is awaited the Council has not finalised the sale of the Barbican site, but does expect to do so fairly soon after the Planning Committee meeting, subject to the outcome of that meeting. This is not likely to be before the Audit and Governance Committee meeting on the 4th October.

Consultation

3. The only consultation on the contents of this report has been that which the Auditor has referred to in his report and between the Auditor and Officers of the Council with regard to the factual accuracy of the report.

Conclusion

4. The Audit Commission have not highlighted any significant weaknesses in the Council's approach to the disposal of the Barbican however, they have made

three recommendations which are set out in paragraph 15 at the end of the Audit Commission report.

- 4.1 Recommendation R.1 refers to the need to include within the reports the legal framework and basis for making key decisions. This echoes one of the findings in the recent Osabaldwick/Derwenthope Audit Commission review and requires Officers to be more specific in this area. The Council has already responded by making this a requirement within its recently agreed template for committee reports, and the Monitoring Officer and I will follow this up by sending a reminder of the requirements to all Chief Officers.
- 4.2 Recommendation R.2 has two parts. The first involves the Council being clearer in its selection criteria for future partners, in particular with regard to their legal status. Again this echoes a finding in the Osbaldwick/Derwenthorpe review. Since these projects were commenced the Chief Executive's Department has established a post responsible for keeping records on and advising on partnerships (although this is under review) and the Resources department has 0.5 of a post responsible for the financial aspects of partnerships.

The second element of recommendation R2 advises that the Council should set parameters for major schemes, variation beyond which would give rise to a review of the validity of proposed development. This recommendation will be considered further by Officers and is likely to be linked with R3 below.

- 4.3 Recommendation R3 focusses on requesting the Council to clearly articulate and record the objectives of major projects and transactions at the outset, so that success can be evaluated against them in the future. Whilst this does take place in many projects it is not universal and consistent and Officers need to give consideration as to how this approach can be embedded within it process.

Other Implications

5. There are no specific Financial, Human Resources, Equalities, Crime and Disorder, Information Technology or Property implications raised by this report other than those directly referred to within it.

RISK Management

6. The three Audit Commission recommendations are all aimed at enabling the Council to better manage risk and as such it is important that further steps are taken to embed these approaches into working practice within the Council.

Options

7. The Audit Commission report does not offer options but does make three recommendations, which Officers are intending to accept, but which in some cases require further consideration about how to implement.

Recommendations

8. Members are asked to:-

- a) note the Audit Commissions report.
- b) Delegate to the Director of Resources the actions to devise and implement appropriate responses, through giving advice and guidance to other Officers on Council procdures and requirements.

Reason: In order to improve governance and risk management of council projects and developments.

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*Simon Wiles
Director of Resources and Deputy Chief Executive*

Report Approved

Date *25th September
2006*

Wards Affected: Fishergate

All

For further information please contact the author of the report

Background Papers:

Barbican files are held in the Resources Property Services offices in Swinegate

Annexes

Annex A is the Audit Commission's Report on the Arrangements for the disposal of the Barbican

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Arrangements for the Disposal of the Barbican

City of York Council

Audit 2005-2006

External audit is an essential element in the process of accountability for public money and makes an important contribution to the stewardship of public resources and the corporate governance of public services.

Audit in the public sector is underpinned by three fundamental principles:

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Audit approach	5
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Background and introduction

- 1 In 2000, the Council undertook a Best Value Review of leisure facilities which highlighted the continued importance of swimming provision to the achievement of corporate objectives. In August 2001 the tendering arrangements began for the Barbican site, with the requirement for:
 - a pool to remain on site; and
 - the auditorium to be refurbished, managed and made available for specified events.
- 2 After an appraisal process based on the achievement of these objectives a report went to the Member Panel recommending selecting the Barbican Venture as the preferred developer on 31 October 2002. This included:
 - £750,000 capital receipt for the auditorium, which is to be refurbished and run at nil subsidy;
 - £4.125 million receipt for the remainder of the site; and
 - a new pool.
- 3 Following legal advice in December 2003 the Council took responsibility for the development of the pool and a higher capital receipt of £10.33 million was agreed with Barbican Venture.
- 4 In February 2004, the Council agreed to separate the Conditional Development Agreements with Barbican Venture for the auditorium and main development. A conditional contract was signed with Absolute Leisure Ltd in January 2006 and they now occupy the site on a short-term lease. The Council is currently finalising a revised deal with Barbican Venture for the remainder of the site, which is due to be signed in the near future. The current proposed deal involves:
 - no pool provision; and
 - a receipt of £7.862 million.
- 5 Section 123 of the Local government Act 1972 provides that '*a principal Council may dispose of land held by them in any manner they wish*', but that '*except with the consent of the Secretary of State a Council shall not dispose of land under this section ...for a consideration less than the best that can reasonably be obtained.*' A key principle established in case law is that the commercial value of the land represents best consideration.

Objectives and scope

- 6 The objectives of our review were to assess the Council's arrangements to:
 - secure best consideration;
 - ensure appropriate governance controls are maintained; and
 - manage the impact on service delivery.
- 7 During the course of our work a number of electors have contacted us and provided us with information. We have taken account of the information they have provided which is relevant to our external audit responsibilities.

Audit approach

- 8 Our work included:
 - discussion with senior officers;
 - reviewing reports to Members dating back to the inception of the project in 2000; and
 - auditing supporting information.
- 9 During the audit we obtained our own legal and technical advice to complement the work of the local audit team.

Main conclusions

- 10 The project to dispose of the Barbican site has been lengthy. The nature of the current deal is different from the requirements contained within the original tender in two significant aspects:
 - the disposal of the auditorium has been separated from the rest of the site; and
 - the requirement to include the provision of leisure facilities on the site has been removed.
- 11 As a consequence of a change in requirements, and the time taken to progress the project, the value to be received for the site has fallen from £10.3 million to £7.9 million. To ensure the continued achievement of best consideration the Council has:
 - undertaken an initial market testing exercise, which led to the selection of Barbican Venture as preferred partner;
 - obtained an independent professional valuation for the auditorium equipment in January 2006;
 - obtained an independent professional valuation for the car park and hotel site; and
 - reviewed the arrangements by Barbican Venture to remarket the site in December 2005.
- 12 We note that the requirement to comply with s123 of the 1972 Local Government Act has not been set out to Members in project progress reports.
- 13 Our audit of the Council's controls over the process to select a preferred partner has not identified any significant weaknesses:
 - clear assessment criteria were established in relation to the objectives of the project;
 - each tender was scored and evaluated against these criteria;
 - the processes were documented; and
 - timely reporting of progress was reported to Members for decision making, and these reports were made publicly available.
- 14 The Council has not, however, defined the what level of variation in either the requirements of the project or the value offered by the partner, would require a retendering exercise, and whether the preferred partner would be able to challenge any retendering in law.

- 15 The original objective of the project to dispose of the Barbican was to support the improved provision of sports facilities in the City. Our review of the Council's arrangements to ensure continued service provision through the project and to achieve this objective has not highlighted any significant weaknesses. However, there are opportunities for the Council to improve the clarity of how the objectives are expressed and how success will be assessed.

<i>Recommendations</i>
<i>R1 Establish adequate arrangements to inform members of the legal framework within which decision are taken.</i>
<i>R2 Clarify the legal status of the preferred partner in future transactions and establish controls over the variations that will generate a review of the continued validity of the agreement.</i>
<i>R3 Ensure that the objectives of projects and significant transactions are clearly articulated, allowing them to drive decision making and for success to be evaluated.</i>

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Audit and Governance Committee

4 October 2006

Report of the Assistant Director of Resources (Audit and Risk Management)

Annual Monitoring Report: Breaches and Waivers of Financial Regulations 2005/06

Summary

1. The purpose of this report is to inform Members about unauthorised breaches of the Council's Financial Regulations during the 2005/06 financial year and any waivers of Financial Regulations approved by the S151 Officer during the year. The report also includes a summary of progress made in addressing breaches of Financial Regulations identified and reported in earlier years. The requirement to report on these matters is specified within the Constitution and Financial Regulations.

Background

2. The Council's Financial Regulations set out the procedures and standards for financial management and control that must be followed by officers and Members. Compliance with the Regulations helps to ensure that:
 - there are robust systems of financial management and control
 - the finances of the Council are safeguarded from unnecessary risk
 - the Council achieves value for money in its procurement of goods and services.
3. As part of its role, Internal Audit is responsible for preparing an annual report to members detailing any known breaches of the Regulations along with any waivers from the Regulations approved by the S151 officer. Breaches are identified through various means including direct notification to the Director of Resources by officers, and routine audit work. In addition, a separate audit review is carried out to identify procurement related breaches. This review compares payments made to suppliers against contract details held by departments. The current report is based upon the Financial Regulations that were in place during 2005/06 (for which the Council tendering threshold was £100k).

Consultation

- Details of the findings set out in paragraphs 5 – 15 and in the annexes have been forwarded to chief officers and other relevant officers for comment, prior to inclusion in the report.

Breaches of Financial Regulations

- Exhibit 1 below compares the number of breaches of Financial Regulations reported in 2004/05 and 2005/06.

Exhibit 1

Number of breaches of Financial Regulations 2004/05 and 2005/06	2004/05	2005/06	Change	
			No.	%
Total number of breaches reported	34	40	+6	18%
Newly reported breaches	22	13	-9	-41%
No. brought forward from previous year	11	27	+16	+145%

- The total number of breaches of Financial Regulations reported for 2005/06 is 40 – six higher than for 2004/05. However, this is mainly because of the large number of breaches identified for 2004/05, that were unresolved at the time of the last report, which have been brought forward to this year.
- Annex 1 lists breaches of Financial Regulations newly identified for 2005/06. There were only 13 new breaches of the Regulations identified for 2005/06, compared to 22 for 2004/05 – a reduction of 9. This is despite an increase in the sample of expenditure reviewed by Internal Audit for 2005/06. This suggests that there has been a general improvement in compliance with the Regulations. Of the 13 newly identified breaches, 9 have already been addressed, are in the process of being addressed, or are not ongoing issues.
- At the time of the 2004/05 breaches and waivers report there were 27 breaches of Financial Regulations that had not been fully resolved. Progress in addressing these has been reviewed for this year and is detailed in annex 2. Of the 27 breaches, nine have now been satisfactorily resolved, and progress has been made in addressing a further 14. There are four breaches which have not yet been fully resolved, as detailed in paragraphs 9 to 12 below.
- There has been no formal tendering for the supply of concessionary travel tokens, by City Strategy. The department reports that it had insufficient time to tender for this supply for 2005/06, but that a fully EU compliant procurement exercise will be carried out for any future years purchases.
- There has been no formal tendering for plant hire within Neighbourhood Services. The department reports that it will carry out a full tendering exercise in 2007 and a contract will be let from January 2008.

11. Highways maintenance work subcontracted by Neighbourhood Services has not yet been tendered. In total, five of the breaches reported for City Strategy and Neighbourhood Services relate to highways. Three of these are for programmed works which are now being addressed through a separate tendering exercise. The remaining two breaches relate to ongoing maintenance, and will not be resolved until the highways procurement project has been concluded. This exercise is still ongoing and it is not yet clear when these breaches will be resolved.
12. Aggregate expenditure on non-recruitment advertising across all Council departments continues to exceed the limits for tendering. There is currently no corporate contract covering this supply. Further analysis of this expenditure is being undertaken by the Corporate Procurement Team to identify what action is required.

Waivers

13. A total of 28 applications for waivers of Financial Regulations were received by the S151 officer in 2005/06. This compares to 20 applications for waivers in 2004/05.
14. Of the applications received, 27 were approved and one was not required. Each application is detailed in annex 3 to this report for Members to note and question the S151 officer on any of the decisions taken by him in respect of these matters under the Council's scheme of delegation.

Conclusions

15. In 2005/06, 13 new breaches of Financial Regulations have been identified compared to 22 in 2004/05. In addition, departments have made good progress in addressing outstanding breaches from previous years with action already being taken to address 23 of the 27 breaches. There has also been an increase in the number of waiver requests to 28 in 2005/06. Taken together, these figures appear to show an increasing awareness of the requirements of Financial Regulations (and EU procurement rules) and the need to comply with these rules. It should also be noted that there are no breaches outstanding where departments have reported that they do not intend to take any action.

Options

16. Not relevant for the purpose of the report.

Analysis

17. Not relevant for the purpose of the report.

Corporate Priorities

18. This report contributes to the overall effectiveness of the Council's governance and assurance arrangements, and to the corporate priority of improving efficiency and reducing waste so as to free up more resources.

Implications

19. The implications are:
- **Financial** – there are no financial implications to this report.
 - **Human Resources (HR)** – there are no HR implications to this report.
 - **Equalities** - there are no equalities implications to this report.
 - **Legal** - there are no legal implications to this report.
 - **Crime and Disorder** - there are no crime and disorder implications to this report.
 - **Information Technology (IT)** - there are no IT implications to this report.
 - **Property** - there are no property implications to this report.

Risk Management

20. There are a number of risks that arise as a result of breaches of Financial Regulations and EU procurement rules, which are detailed in paragraphs 21 to 26 below.
21. The Council may be subject to scrutiny from central government and may have grant funding withdrawn if it is found to have breached EU purchasing regulations.
22. Third parties may claim to have been disadvantaged by unfair tendering processes and could raise legal challenges to the award of contracts. There is a risk of financial loss if compensation is subsequently awarded or if contracts are overturned. In this case there is also a threat to the provision of services and the reputation of the Council.
23. Any damage to the reputation of the Council caused by inappropriate tendering processes may compromise relationships with existing suppliers and make it more difficult to attract new suppliers in the future. Such a situation could hinder the provision of services and may lead to increased costs.
24. There is an increased risk that the Council will not achieve value for money in its procurement of goods and services.
25. Poor tendering procedures increases the risk that fraud or other inappropriate actions may occur.
26. External Audit may challenge the legality of the Council's activities, which in turn may result in the publication of reports in the public interest under section eight of the Audit Commission Act (1998).

Recommendations

27. Members of the Audit and Governance Committee are asked to:

- note the breaches of Financial Regulations identified or otherwise notified to the S151 officer during 2004/05 (paragraph 7 and annex 1 attached).

Reason

To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.

- consider the actions taken to address outstanding breaches of Financial Regulations and express a view about further action necessary on those matters that remain outstanding (paragraphs 8 - 12 and annex 2 attached).

Reason

To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.

- note the waivers of Financial Regulations approved by the S151 officer under the Council's scheme of delegation (paragraphs 13 - 14 and annex 3 attached).

Reason

To fulfil their role in considering the Council's compliance with its own and other relevant published regulations, controls, operational standards and codes of practice.

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Report Approved



Date 14 September 2006

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex 1 – Newly Identified Breaches of Financial Regulations for 2005/06 (Exempt)

Annex 2 – Follow Up of Breaches of Financial Regulations from Prior Years (Exempt)

Annex 3 - Applications for Waivers of Financial Regulations 2005/06 (Exempt)

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