

AUDIT COMMITTEE

TUESDAY 27 SEPTEMBER 2011 AT 10.00 AM

PRESENT: Councillor Mrs Mallinson (Chairman), Councillors Betton, Ms Franklin, Lishman, Nedved, Ms Patrick and Whalen (as substitute for Councillor Boaden)

ALSO

PRESENT: Mrs Karen Murray (District Auditor, Audit Commission)
Mr Richard McGahon (Audit Manager)
Councillor Mrs Geddes (Community Engagement Portfolio Holder)

AUC.56/11 APOLOGIES FOR ABSENCE

An apology for absence was submitted on behalf of Councillor Boaden.

AUC.57/11 DECLARATION OF INTEREST

Councillor Nedved declared a personal interest in accordance with the Council's Code of Conduct in respect of Agenda items A.3 and B.1 references from the City Council – Carlisle Airport: Audit Commission Report. The interest related to the fact that he was a Member of the Development Control Committee.

Councillor Whalen declared a personal interest in accordance with the Council's Code of Conduct in respect of Agenda items A.3 and B.1 references from the City Council – Carlisle Airport: Audit Commission Report. The interest related to the fact that he was a Member of the Development Control Committee.

AUC.58/11 MINUTES

The Minutes of the meeting of the Audit Committee held on 15 August 2011 were submitted.

RESOLVED – (1) That the Minutes of the meeting of the Audit Committee held on 5 July 2011 be agreed as a correct record and signed by the Chairman.

(2) That the Minutes of the meeting held on 15 August 2011 be received.

AUC.59/11 MINUTES OF RESOURCES OVERVIEW AND SCRUTINY PANEL

The Minutes of the meeting of the Resources Overview and Scrutiny Panel held on 25 August 2011 were submitted for information.

RESOLVED – That the Minutes of the meeting of the Resources Overview and Scrutiny Panel held on 25 August 2011 be noted and received.

AUC.60/11 RESPONSES FROM THE EXECUTIVE

There were submitted Excerpts from the Minutes of the Executive meeting held on 30 August 2011 in response to references from the Audit Committee concerning the following:

(a) Future of the Work of the Audit Practice

The Executive had resolved:

“1. That the Executive had considered the reference from the Audit Committee concerning the future of local audit.

2. That the Acting Town Clerk and Chief Executive be requested to write to the other Cumbrian Local Authorities on the matter, which would also be raised at a future Chief Executives’ meeting.”

RESOLVED – That the decision of the Executive, as set out above, be received.

(b) Audit Services Progress Report

The Executive had resolved:

“1. That the Executive had considered the reference from the Audit Committee concerning the final audit of Housing and Council Tax Benefits Overpayments.

2. That the Portfolio Holder would discuss the concerns raised with the Assistant Director (Resources) with a view to moving the matters forward.”

RESOLVED – That the decision of the Executive, as set out above, be received.

AUC.61/11 REFERENCE FROM THE CITY COUNCIL – CARLISLE AIRPORT: AUDIT COMMISSION REPORT

Pursuant to Minute C.134/11, consideration was given to a reference from the meeting of the City Council held on 13 September 2011 concerning Carlisle Airport: Audit Commission Report.

The City Council had resolved:

“(1) That the Audit Commission Report, appended to Report GD.55/11, be received.

(2) That the Action Plan attached as Appendix 2 to the report be approved.

(3) That the Audit Commission Reports be referred to the Audit Committee for further consideration and the said Committee be instructed to monitor the implementation of the recommendations in the Action Plan.”

A copy of the Minute Excerpt and the Assistant Director (Governance)' report GD.55/11 had been circulated.

The Chairman clarified that the Audit Commission report would be considered by the Audit Committee in both public and private and reminded the Committee that the purpose of the item was to agree an Action Plan for the future that the Audit Committee could monitor.

The District Auditor reminded the Committee that a local government elector had made an objection to the Council's 2009/10 accounts under Section 16 of the Audit Commission Act 1998. The objector asked the District Auditor to make an application to the court under section 17 of the Act to confirm that an item of account was unlawful and to order rectification of the accounts; and issue a report in the public interest under section 8 of the Act to bring the matter to the attention of the public.

She outlined the background to the objection and reiterated that, in her view, there was no unlawful item of account. Her report had identified a number of recommendations to ensure that lessons were learned for the management of future major applications. Each of the recommendations had been based around themes which had emerged during the course of the Audit and she explained that she was satisfied with the Action Plan and the proposed timescale. The concerns raised in the Audit were reflected in the Annual Governance letter and showed a consistent view across the Council.

The Committee agreed to consider each of the recommendations made in the Audit Commission report and included within the Action Plan:

Recommendation 1 – ‘Strengthen arrangements for safeguarding and demonstrating the integrity and transparency of the regulatory planning process and ensuring it is not unduly influenced by economic development aspirations.’

The District Auditor highlighted paragraphs 20 to 24 of her report which explained that the Council must ensure that planning applications were determined on planning merits only, she added that this was a change in attitude rather than documentation.

Members felt that this was an important recommendation and stressed the need to have a procedure in place to aid the recommendation and noted that the timescale for the implementation of the recommendation was 'immediately'.

The Legal Services Manager explained that 'immediately' in Audit terms was three months and so the Committee should be provided with details of how officers would implement this recommendation within three months.

The Chairman commented that the new Assistant Director (Economic Development) had now been appointed and was aware that recommendation 1 was a priority.

Recommendation 2 – 'Ensure that planning applications do not proceed to committee stage until supported by the information that planning officers require to properly report the matter to members'.

The District Auditor understood that statutory timescales could prove to be challenging but it was important for the Council to make the "right decision late as opposed to the wrong decision within the timescale".

Members discussed the meaning of 'subject to' which had been included in the District Auditors comments. They agreed that major applications should not go ahead without all the relevant and necessary information but smaller applications may go ahead subject to the nature and size of the information outstanding.

A Member acknowledged the issue with statutory timescales but felt it was important to have safeguards in place that kept members of the public informed of any delays and the reasons for those delays.

The Legal Services Manager informed the Committee that it would not usually be appropriate to provide information to the public concerning any delays in dealing with planning applications. She also commented that this recommendation gave support to Council officers in their decision to defer applications if necessary.

Recommendation 3 – 'Ensure that where legal advice identifies issues requiring resolution, such issues are demonstrably resolved. This may involve seeking further legal advice to confirm the adequacy of actions taken.'

The District Auditor drew Members attention to paragraph 35 of her report; she stated that if legal advice was taken the Council must be clear how it

would deal with the advice and if it was appropriate to gain different advice then the Council should do so.

A Member asked what the financial limits on seeking legal advice were. The Legal Services Manager responded that the Council's Scheme of Delegation set out the amounts that officers could spend on external advice but clarified that external legal advice would only be sought if in the opinion of the Assistant Director (Governance) or Legal Services Manager such external advice was necessary.

Members asked for details to be brought to the January Committee as to how the appropriate officers intended to make a decision on when to obtain first and second external legal options.

Recommendation 4 – 'Ensure that reports to Committee are clear on the nature of legal advice obtained and actions taken as a result.'

Members accepted the recommendation and asked for evidence to be brought back to them on how to create an audit trail of any legal advice given on planning applications.

Recommendation 5 – 'Review the existing "Members Planning Code of Good Practice" to ensure it adequately covers the requirements on officers. This will ensure that Planning Officer Reports include a clear recommendation or, exceptionally, clarify why no recommendation had been possible.'

The Legal Services Manager pointed out that the Members Planning Code only placed responsibilities on Members rather than officers. She suggested that an Officers Planning Code of Practice, or an amendments to the Officers' Code of Conduct, may be a solution to the recommendations and the District Auditor agreed.

Recommendation 6 – 'Ensure important professional planning judgements receive sufficient attention and are adequately documented on a timely basis.'

The Legal Services Manager commented that there were strict statutory timescales in place for Committee reports and any additional information to circulated in meetings would be at the discretion of the Chairman.

Recommendation 7 – 'Review the provision of specialised training for members of the Council's Development Control Committee and other committees that fulfil specific statutory roles.'

The District Auditor explained that recommendation 7 was a direct result of members' comments that there was scope to improve training.

Members had varying views on the training available and felt that more targeted training could be provided for Development Control Members but also felt that advice and guidance was always available from the Legal Services Team and the Planning Team. They asked that Members of the

Development Control Committee should be surveyed on an annual basis to determine their training needs and asked that other methods of learning, such as e-learning, be considered.

The Legal Services Manager informed the Committee of the current training that was in place. She explained that all Development Control Committee and Regulatory Panel Members had to attend compulsory training before they could sit on the Committee. Annual training was provided and more experienced Members were required to attend this as refresher training. If they were unable to attend then one to one training would be provided. More recently the new Assistant Director (Economic Development) had arranged monthly training sessions on various but specific topics in response to Members requirements. Two Members of the Development Control Committee also had the opportunity to attend the annual Summer Planning School which was a residential course over a weekend. In addition the Organisational Development Team would also contact all Members to identify their training needs.

The Chairman felt that any Member sitting on a regulatory committee must attend the required training and must produce written evidence. She felt that each Member should have a training file to be transparent and prove which training they had completed. She felt Members who had not completed the compulsory training should not be allowed to sit on the Committee until they had undertaken the training. Records should be kept of the monthly training attendances as Members should be required to attend this as well. The training provided and the attendees should be reported to Audit Committee.

A Member asked whether the monthly training sessions could be made available to all members of the Council.

Recommendation 8 – ‘Ensure that where independent legal advice is required it is obtained on a timely basis, including any requirement for a second opinion.’

The District Auditor explained that recommendations 8,9 and 10 moved their focus towards the Judicial Review application. When the Council took the decision to defend the Judicial Review the timescales were driven by the Court and this put pressure on the Authority. Notwithstanding this she felt that when the Council required independent legal advice it should be done in a timely way.

Recommendation 9 – ‘Avoid tabling documents in Committee meetings. If, exceptionally, documents cannot be circulated in advance members must take sufficient time to properly read and consider all new information’.

The District Auditor advised that, in this instance, an external legal opinion had been presented to Members but had not been circulated in advance. On this occasion, the urgency was driven by the Court timetable, and Counsel had attended the Committee meeting to explain the advice and to answer

questions. This was, though, an exceptional situation and the Council should avoid tabling lengthy, complex documents late.

A Member asked whether the defendant had had the opportunity to respond to the second legal opinion. The Legal Services Manager reminded the Committee that this particular recommendation referred to the Judicial Review and such information would be confidential and not a matter for members of the public or the defendant.

It was pointed out that it should not be taken on face value that Members understood the documents which were before them. The Legal Services Manager commented that officers should seek to ensure that Members had read and fully understood the content and implications of important documents which were before them.

Recommendation 10 – ‘Ensure that decisions only take into account relevant considerations and do not, for example, afford undue weight to the interests of third parties.’

The Legal Services Manager commented that that it must be clear to members of the public what Members had and had not considered and it must be absolutely clear that decisions were taken on planning grounds only.

Although general questions could be asked by members, this should not form part of the decision making and, if necessary, officers would advise members whether the information was a relevant planning consideration.

RESOLVED – 1) That the District Auditor be thanked for her advice and input into the meeting;

2) That that the following recommendations from the Audit Commission report (GD.55/11) be agreed:

- That recommendation 1 be accepted and evidence be included in the Action Plan which showed how officers had implemented the recommendation

- That recommendation 2 be accepted and the Action Plan contain the District Auditors comments that it was better for the Council to make the correct decision rather than the incorrect decision in the right timescale, if an application has to be deferred the reasons should be made public where possible.

- That recommendation 3 be accepted and the Action Plan should include evidence of how the legal section intended to action the recommendation and a report should be provided on the matter at the next meeting of the Audit Committee.

- That recommendation 4 be accepted and reports to committee should include a audit trail of legal advice given and any action taken in response to legal advice.

- That recommendation 5 be accepted and an Officers Planning Code of Practice or an amended Officer Code of Conduct be developed for the City Council.

- That recommendation 6 be accepted.
- That recommendation 7 be accepted and written evidence be produced to show that Members on all regulatory committees had undertaken training before they take part in the decision making process of regulatory committees. That it also be noted that Members had the opportunity to ask officers for advice if and when required.
- That recommendation 8 be accepted.
- That recommendation 9 be accepted.
- That recommendation 10 be accepted.

3) That an update on the Action Plan be submitted to the Audit Committee in three months

4) That the full minute of the Audit Committee regarding the Audit Commission report be submitted to the Executive.

AUC.62/11 FUTURE OF THE WORK OF THE AUDIT PRACTICE

The District Auditor provided a verbal update on the future of the Audit Commission.

She reminded Members of the background and informed them that the work of the Audit Practice was out to tender and the North West would be covered by a single Audit Contract which was proposed to begin in September 2012 and would be responsible for the 2012/13 accounts.

The Chairman raised concerns that there had been no feedback from the Executive as to whether or not the matter had been raised at the Cumbria Leadership Board.

RESOLVED – 1) That the Audit Committee welcomed the verbal report provided by the District Auditor;

2) That the Executive be asked to feedback to the Audit Committee if the matter had been raised with the Cumbria Leadership Board as requested.

AUC.63/11 ANNUAL GOVERNANCE REPORT 2010/11

The District Auditor presented the Annual Governance Report summarising the findings from the 2010/11 audit, which was substantially complete. She further reported that a number of amendments had arisen subsequent to preparation of the report. A paper setting out those changes was tabled at the meeting.

Members' attention was drawn to the key issues that the Committee should consider prior to completion of the audit, namely to:

- Take note of the adjustments to the financial statements which were set out at Appendix 2 to her report;
- Approve the Letter of Representation, provided alongside the report, on behalf of the Council before the District Auditor issued her opinion and conclusion;
- Agree the Council's response to the proposed Action Plan (Appendix 4);
- Agree the additional audit fee of £9,480 to cover the additional work on the IFRS re-statement and specifically on the Council's consideration and accounting treatment of its complex lease arrangements.

The District Auditor highlighted the key messages, commenting that the report included only matters of governance interest that had come to her attention in performing the audit. The audit was not designed to identify all matters that may be of relevance to the Council.

The District Auditor submitted an addendum to the report which identified a further issue and findings and a misstatement which the Council had not adjusted in the financial statements and the District Auditor had been satisfied with the decision.

The Chairman understood that the changes to the accounts and the adoption of the International Financial Reporting Standards had increased the workload and thanked the District Auditor and officers in the Resources Directorate for their excellent work.

RESOLVED – (1) That the adjustments to the financial statements as set out in the Annual Governance Report be noted;

(2) That the Action Plan as set out in the Annual Governance report be agreed;

(3) That the additional audit fee of £9,480 to cover additional work on the International Financial Reporting Standards re-statement and specifically on the Council's consideration and accounting treatment of its complex lease arrangements be agreed.

AUC.64/11 LETTER OF REPRESENTATION 2010/11

The Chief Accountant presented report RD.47/11 attaching a Letter of Representation for 2010/11.

He explained that, in accordance with Auditing Standards, a Letter of Representation must be considered and approved by the Audit Committee

prior to the Audit Opinion being provided. Once approved it would be signed by the Assistant Director (Resources) on behalf of the City Council.

RESOLVED – That the Letter of Representation be approved and the Assistant Director (Resources) authorised to sign the same on behalf of the Council.

AUC.65/11 STATEMENT OF ACCOUNTS 2010/11

The Chief Accountant submitted report RD.48/11 concerning the Council's Statement of Accounts 2010/11. Copies of the Accounts, which had been subject to a three month audit process, (commencing July 2011 and with a statutory completion date of 30 September 2011) had been circulated.

He informed Members that the Audit was substantially complete with the Auditor's Annual Governance Report being considered elsewhere on the Agenda. That report provided the Council with an unqualified opinion on both the Accounts and the VFM conclusion.

The Chief Accountant added that, although there were no material amendments to the Accounts, several recommendations had been made. The completed Action Plan would be reviewed and monitored closely during 2011/12.

RESOLVED – That the 2010/11 Statement of Accounts which also included the Annual Governance Statement be approved.

AUC.66/11 AUDIT SERVICES PROGRESS REPORT

The Audit Manager submitted report RD.44/11 summarising the work carried out by Audit Services since the previous report to Committee on 15 August 2011 and detailing the progress made against the 2011/12 Audit Plan up to 2 September 2011. She outlined the extent of the progress made on the high risk audit reviews and the near completion on the National Fraud Initiative (NFI) data matching exercise. She further informed Members that 221 days of the 535 total direct audit days expected in 2011/12 had been delivered by 2 September 2011, which was only marginally under the target for that position in the year.

Whilst there were no issues concerning follow up reviews, a comprehensive follow up of the recommendations emanating from the Audit of Grants was ongoing alongside a review of the actions being taken to address the recommendations raised in the Certification of Claims and Returns Annual Report produced by the Audit Commission in early 2011. It was intended that the outcome thereof would be reported to Members at their next meeting in October.

The Audit Services Manager then outlined in some detail the content of and ratings attached to the final reports on the Audits of Risk Management and ICT Governance Review, copies of which were appended to her report.

In conclusion, she requested that the Committee receive the report and note progress made against the agreed 2011/12 Audit Plan.

The Chairman commented that the Committee had previously given serious consideration to the ICT Shared Service and felt that the issues regarding the service plan and the variety of information security policies should be addressed as a priority by the Strategic Board.

RESOLVED – (1) That report RD.4411 be received and progress made against the agreed 2011/12 Audit Plan be noted.

(2) That the summary of recommendations and action plan as set out in the Audit of Risk Management be agreed.

(3) That the action plan as set out in the ICT Governance Internal Audit Review 2011/12 be agreed.

(4) That a report be brought to the Committee to give an update on the outcome of the information security policies, the service plan and recommendation 15 of the ICT Governance Internal Audit Review.

AUC.67/11 HOUSING AND COUNCIL TAX BENEFIT OVERPAYMENT AUDIT

Pursuant to Minute AUC.54/11, the Assistant Director (Resources) submitted report RD.48/11 detailing progress to date in implementing Audit recommendations on overpayment administration.

The Assistant Director (Resources) outlined the background to the matter, drawing Members' attention to the detailed Action Plan which had been produced to progress the required recommendations. In summary, eleven of the twelve recommendations had been fully implemented by 19 September 2011, details of which were provided.

He added that the main recommendation from the audit concerned the production of comprehensive overpayment procedure notes as guidance for staff administering overpayments recovery. That had now been actioned for Carlisle based overpayments administration, in addition to which an overpayment procedure manual had been produced.

In meeting action 1 on the Action Plan the Benefits Manager intended to produce a comprehensive overpayments procedure manual covering the three Councils within the Revenues and Benefits Shared Service, based upon procedures put in place for Carlisle but also taking account of local differences in how overpayments were administered across the Shared Service.

Although that action was being hindered by long term sickness absence, the Benefits Manager was confident that it would be completed and fully implemented across the Shared Service within the next six months.

Referring to short term resourcing of benefits overpayment administration in Carlisle, the Assistant Director (Resources) reported that temporary staff resources had been targeted at overpayments recovery for a six month period. Those staff were working on the backlog of overpayments recovery work with the objective of having all overpayment recovery on individual debts up to date by February 2012. He added that from March 2012 the Shared Service would be in a position to fully resource overpayments administration routines going forward.

The Assistant Director (Community Engagement) added that the implementation of the policy would be undertaken by the Operational Board and he did not envisage any issues regarding the alignment or procedures.

The Recovery Team Leader commented that he had spent time in both Allerdale Borough Council and Copeland Borough Council and agreed that the alignment of procedures would not cause any problems and would improve some systems.

In response to questions the Assistant Director (Resources) explained the procedure for recovering debts and the steps taken when debts were 'written off', he added that when debts were 'written off' they were only removed from the accounts and could be pursued again if circumstances changed.

RESOLVED – (1) That the action plan and procedure notes for Housing Benefit Overpayments be accepted;

(2) That an updated action plan be submitted to the Audit Committee in six months time and any issues raised be highlighted in the report.

AUC.68/11 TREASURY MANAGEMENT APRIL – JUNE 2011

The Chief Accountant submitted report RD.40/11 providing the regular quarterly summary of Treasury Management transactions for the first quarter of 2011/12, including the requirements of the Prudential Code.

He explained the outstanding investments as set out in Appendix A3 in some detail and explained the colour coding system used by Sector, the Council's Treasury Advisors. He reported that 13% of investments were coded yellow which meant that investments were recommended up to 5 years and deemed the safest investments. 32% of investments were blue coded which equated to a recommended investment up to 1 year and were still considered a safe investment.

The Chief Accountant informed Members that the 'normal' risk score for investments was 3.5 and the Council's weighted average risk was at 4.4

which had reduced from 4.9. He clarified that the Money Market Fund that the Council used were UK based and triple A rated.

RESOLVED - That Report RD.40/11 be received and the Prudential Indicators noted as at 30 June 2011.

AUC.69/11 PUBLIC AND PRESS

RESOLVED – That in accordance with Section 100(A)(4) of the Local Government Act 1972 the Public and Press were excluded from the meeting during consideration of the following item of business on the grounds that it involved the likely disclosure of exempt information, as defined in paragraph number (as indicated in brackets against the minute) of Part 1 of Schedule 12A of the 1972 Local Government Act.

AUC.70/11 REFERENCE FROM THE CITY COUNCIL – CARLISLE AIRPORT: AUDIT COMMISSION REPORT
(Public and Press excluded by virtue of Paragraphs 1, 2 and 3)

Pursuant to Minute C.138/11, consideration was given to a reference from the meeting of the City Council held on 13 September 2011 concerning Carlisle Airport: Audit Commission Report.

The City Council had resolved:

“(1) That the Audit Commission report, attached to Report GD.56/11, be received.

(2) That the Action Plan (Appendix 2 of Report GD.55/11) be approved.

(3) That the Audit Commission Reports be referred to the Audit Committee for further consideration and the said Committee instructed to monitor the implementation of the recommendations in the Action Plan.”

A copy of the Minute Excerpt and the Assistant Director (Governance)’ private report GD.56/11 had been circulated.

RESOLVED – That the recommendations as set out in report GD.56/11 be agreed.

[The meeting ended at 12.12pm]