

# Resources Overview and Scrutiny Panel

Agenda  
Item:

**A.3**

Meeting Date: 6<sup>th</sup> June 2013  
Portfolio: Finance, Governance and Resources  
Key Decision: No  
Within Policy and Budget Framework: Yes  
Public: Yes

Title: Audit Report on Carlisle Leisure Limited (CLL) Contract Monitoring  
Report of: Director of Resources  
Report Number: RD17/13

## Purpose / Summary:

This provides members with the audit report on Carlisle Leisure Limited (CLL) Contract Monitoring. This audit report was submitted as part of the Internal Audit Progress Report (Appendix H) to the Audit Committee on 15<sup>th</sup> April 2013.

## Recommendations:

Members are requested to receive this report and note the detailed action plan which is attached as Appendix A.

## Tracking

Executive:	Not applicable
Overview and Scrutiny:	Not applicable
Council:	Not applicable

<b>Audit Committee</b>	<b>Agenda Item:</b>  <b>A.6</b>
------------------------	---------------------------------------

Meeting Date: 15<sup>th</sup> April 2013  
 Portfolio: Finance, Governance and Resources  
 Key Decision: No  
 Within Policy and Budget Framework: Yes  
 Public

Title: Audit Services Progress Report 2012-13 (No. 4)  
 Report of: Director of Resources  
 Report Number: RD05/13

**Purpose / Summary:**

This report summarises the work carried out by Audit Services since the previous report to Committee on 11<sup>th</sup> January 2013 and details the progress made on delivery of the approved Audit Plan during the fourth quarter of 2012/13.

**Recommendations:**

Members are requested to receive this report and note the progress made against the agreed 2012/13 Audit Plan.

**Tracking**

Executive:	Not applicable
Overview and Scrutiny:	Not applicable
Council:	Not applicable



## **AUDIT SERVICES**

*A Shared Service between Cumbria County Council, Carlisle City Council and Copeland Borough Council*

## **FINAL REPORT**

**Audit of:**

**CARLISLE LEISURE LIMITED (CLL) CLIENT CONTRACT**

**Draft Report Issued: 17<sup>th</sup> December 2012.**

**Revised Draft Issued: 5<sup>th</sup> March 2013.**

**Final Report Issued: 11<sup>th</sup> March 2013.**

## Section 1 – Management Summary

### 1. REASON FOR THE AUDIT

- 1.1. The audit of Carlisle Leisure Limited (CLL) Client Contract was identified for review as part of the agreed Audit Plan for 2012/13. This is the first time that this area has been examined by Internal Audit.

### 2. AUDIT CONTACT & REPORT DISTRIBUTION

- 2.1. The audit report has been distributed to the following officers.

Recipient	Action Required
Director of Community Engagement.	Action required. Please refer to Appendix A – Summary of Recommendations/Action Plan.
Director of Resources	For information.
Director of Governance	For information.
Communities, Housing and Health Manager, Community Engagement	Action required. Please refer to Appendix A - Summary of Recommendations / Action Plan.
Wellbeing Manager, Community Engagement	Action required. Please refer to Appendix A - Summary of Recommendations / Action Plan.
Policy & Performance Officer, Chief Executives Team.	Action required. Please refer to Appendix A - Summary of Recommendations / Action Plan.
Chief Accountant, Resources Directorate	Action required. Please refer to Appendix A - Summary of Recommendations / Action Plan.
Development & Support Manager, Resources	Action required. Please refer to Appendix A - Summary of Recommendations / Action Plan.
Head of Financial Services, Resources	For information.
Policy and Communications Manager, Chief Executives Team.	For information.

- 2.2. Other recipients of the final report:

Chief Executive	Report to be noted.
Deputy Chief Executive	
Audit Committee	To consider the Summary of Recommendations / Action Plan (Appendix A) at its next meeting on the 15 <sup>th</sup> of April 2013.

### 3. BACKGROUND INFORMATION

- 3.1. CLL is a not for profit organisation established in 2002, primarily for the purpose of managing the leisure facilities for Carlisle City Council. The Carlisle City Council contract encompasses the provision of Leisure Services at:-

## Section 1 – Management Summary

- The Sands Centre,
- The Pools,
- Stonyholme Golf Course,
- The Swifts Golf Course,
- The Sheepmount,
- Bitts Park Pavilion and Tennis Courts, and

The one year rolling contract incorporating:-

- St James Park and Richardson Street Pavilion.

- 3.2. From the 1<sup>st</sup> of April 2004, CLL expanded by entering into additional partnerships with Allerdale Borough Council, Cumbria County Council and Richard Rose Morton Academy to reopen and operate a community swimming pool. In September 2005, Trinity Leisure Centre opened which is a partnership between Carlisle Leisure Limited and Trinity School.
- 3.3. As a company with charitable purposes, this status is recognised by the Inland Revenue and 80% mandatory business rate relief and VAT advantages are applied. Corporation tax is also payable. These financial arrangements enable the company to potentially reinvest any financial surplus back into the services it provides. Carlisle Leisure Limited is governed by the rules of an Industrial Provident Society set by the Financial Services Authority.
- 3.4. The contract with Carlisle City Council commenced on 1<sup>st</sup> December 2002 and is for a period of up to 15 years. It is due to expire in November 2017 and the annual contract sum, which is subject to inflation in line with the RPI is currently valued at £0.75m. The original Revenue Price Bid for the lifetime of the contract calculated in 2002 was £8,791,507 less RPI. Therefore this initial estimate, after taking into account previous and existing variations during the contract term, and previous and future inflationary factors, could value the whole contract at over £11 million in total.

## 4. SCOPE

- 4.1. Audit testing and verification have been carried out to form an opinion over the effectiveness of systems and controls in place relating to the risks identified. Key areas for review are:

Section	Area Examined
1.	Client Risk Registers
2.	Contractual Agreement
3.	Performance Framework / Monitoring Arrangements
4.	Contract Payments
5.	Reporting and Accountability.

- 4.2. Detailed findings are shown in Section 2 of this report - Matters Arising.
- 4.3. The scope and testing undertaken as part of this review reflects identified risks specific to Carlisle Leisure Limited Client Contract. Where applicable, other emerging risks have also been included in the scope and testing undertaken.

## Section 1 – Management Summary

- 4.4. Please note that on conclusion of the audit, any risks highlighted by the audit review should be assessed by the relevant Director and necessary updates to the operational risk register should be made. If risks are of a strategic nature, these should be reviewed by the Corporate Risk Management Group.

### 5. RECOMMENDATIONS

- 5.1. There are 10 recommendations arising from this review :
- 2 at grade A
  - 8 at grade B

### 6. STATEMENT OF ASSURANCE

- 6.1. From the areas examined and tested as part of this audit review, we consider the current controls operating within Carlisle Leisure Limited (CLL) Client Contract provide **Restricted** assurance.

### 7. KEY FINDINGS ARISING FROM THE AUDIT REVIEW

- 7.1. The limited assurance level given to an audit area is influenced by a number of factors including the stability of systems, number of significant recommendations made, impact of not applying audit recommendations, non adherence to procedures etc.
- 7.2. A number of opportunities to improve existing arrangements and further enhance controls have been identified; these matters are detailed in Section 2 – Matters Arising and summarised in the Action Plan which is attached as Appendix A. The key issues arising from this review are:
- Overall, there has been limited monitoring of the CLL contract prior to the relatively new current management structure. This is a situation which was inherited and present management are working hard to correct this position and officers are in the process of developing a challenging and frank relationship with CLL, where performance and adherence to contractual terms will be challenged and quantified. Although not complete, there has been some progress made with regard to monitoring the contract compared to previous arrangements and officers fully recognise the issues which remain regarding further improvements to the contracting monitoring arrangements and are keen to develop these activities
  - Client Risk Registers.  
The Council's risk management arrangements are not sufficiently developed as they do not reflect the existing risks and those emerging through the expiry of the existing contract. Clearer responsibilities, processes and delegations to those best placed to manage the identified risks are needed. The risks specific to operational service delivery should be formally identified, actively monitored and routinely reported to all concerned, along with mitigating actions developed and implemented where possible.
  - Contractual Agreements.  
Whilst a detailed contractual agreement is in place, the Council's arrangements for ensuring this is delivered need to be improved upon. In practice, the original agreement is outdated in parts; nonetheless departments with responsibility for contract monitoring were not familiar

## Section 1 – Management Summary

with all the conditions of the contract, especially those terms regarding performance monitoring. There were also omissions to asset management, insurance provisions and financial statement information where it was found that annual renewals / records have not been provided to the client as standard and there are also no client monitoring arrangements in place to ensure the existence and accuracy of asset inventories.

- Performance Framework/Monitoring Arrangements.  
Revised quarterly performance management arrangements have been in place for 18 months though no formal contract variation has been put in place based on criteria developed since the contract was agreed. These current arrangements surrounding the performance framework/monitoring of the contract need improving. Whilst steps have been taken to improve the performance monitoring since 2011, further improvements are needed across the contract.
- Contract Management.  
A robust contract management arrangement is vital, especially on a contract of this size and complexity. The development and expansion of CLL during the life of this contract requires the Council to be challenging of the arrangements and seek verification, in good time, that CLL is executing the project in accordance with the original terms of the contract. If the contract management is ineffective this can mean that decisions are not taken at the proper time thus allowing potential risks to appear, the opportunities to improve value for money are lost and the contractor's performance is not evaluated throughout the execution of the contract therefore not allowing for action to be taken to increase the performance and effectiveness.
- Standards of Service/Default in Performance.  
The agreement clearly outlines the expected standards of service, and the penalties applicable if these were not achieved. Penalties have never been imposed. It would therefore be difficult to impose these requisites, if deemed necessary, so late on in the contractual term. It is of great importance that in any future contract negotiations that the application of the penalty system is introduced and subsequently applied as part of any comprehensive performance monitoring framework.
- Financial Monitoring.  
CLL should be encouraged to be proactive in furnishing the Council with management and financial information so that any performance monitoring and review undertaken by the Council is properly informed.
- Payments.  
CLL's expansion into West Cumbria superseded the original contract detail and no specific reference was included regarding how Carlisle City Council's contribution should be spent. This situation should be rectified when preparing any contract renewal.

The provision of relevant financial information has been insufficient in the past, however, steps have been taken to address this and in-house financial advice and input has been sought. Management should ensure that in the future, the Council takes ownership of the

## Section 1 – Management Summary

financial arrangements so to contribute towards the success of the agreement and ensure that the quality of service does not suffer.

- Reporting and Accountability.

Traditionally, over the period of the contract governance arrangements surrounding the CLL contract have not been adequate. Quarterly contract meetings have been in place since Jan 2011, however these need to be further developed and in the future should be the basis of reporting and accountability arrangements moving forward ensuring Senior Managers and Members are fully informed of the contract progress.

## COMMUNITY ENGAGEMENT DIRECTORATE

## Audit of Carlisle Leisure Limited Client Contract.

## SUMMARY OF RECOMMENDATIONS &amp; ACTION PLAN

REF	ISSUE RAISED	RECOMMENDATION	GRADE	AGREED ACTION	RESPONSIBLE OFFICER	DATE ACTIONED BY
R1	The Council has not sufficiently considered risks associated with the ongoing delivery of leisure services by the external contractor. There is no mention of any risks of this nature in any strategic, operational or contract risk registers.	The risk of the CLL not fulfilling its contractual obligations should be reflected within the risk registers maintained by Community Engagement, with a suitable strategy to mitigate these risks.  As part of this, contingency plans should be developed to handle contract failure (temporary or long-term failure or default).	B	Key risks to CLL are currently examined each quarter and include: <ul style="list-style-type: none"> <li>• Costed Asset Management Plans</li> <li>• State of the economy/ Lack of disposable income, increase in interest rates, VAT increase,</li> <li>• NNDR</li> <li>• Catastrophic failure of plant, structure, machinery or large equipment</li> <li>• Comprehensive Spending Review and pressure on council's to make savings</li> </ul> <p>A greater emphasis will be placed on the risks to the City Council from 2013/14 and added to the Community Engagement risk register. Contingency plans will also be drawn up in the event of a contract failure.</p>	Director of Community Engagement.	May 2013.

R2	<p>There is currently no defined client lead monitoring officer and other officers have assumed responsibility for the ongoing contract monitoring arrangements. These current arrangements fall short in terms of providing a robust challenge and holding the contractor to account as the officer involved are not wholly familiar with the conditions of the contract as they were not involved in the original contract negotiations.</p>	<p>Previously, there has been no designated lead monitoring officer. Those officers that have now taken responsibility should be given the opportunity to become familiarised with the detail with the contract and agreed variations to support ongoing contract monitoring arrangements. Advice from Legal should be sought to clarify contract terminology where necessary. This is an essential requirement which should ensure monitoring arrangements are enhanced and contractual detail is regularly challenged and reviewed as necessary, to meet evolving business needs.</p>	B	<p>The Community Engagement Transformation process will address this. It is proposed that a senior management position with designated contract monitoring responsibility be created within the Directorate. It is proposed to appoint to this post in Spring 2013.</p>	<p>Director of Community Engagement.</p>	<p>May 2013</p>
R3	<p>Carlisle City Council does not maintain a current asset register which details the portfolio of assets held and managed by CLL.</p>	<p>An updated copy of the CLL asset register for the Carlisle City portfolio should be acquired immediately. CLL should be requested to provide the asset list annually and annual asset inspections should be performed by the Council to ensure equipment is present and fit for purpose.</p> <p>This is subject to Section 29 of the agreement.</p>	B	<p>CLL has been informed that it must provide an updated asset register annually. Spot checks will be undertaken to ensure accuracy and assurances sought that equipment is fit for purpose.</p>	<p>Director of Community Engagement.</p>	<p>June 2013.</p>

R4	There was no evidence provided to assure that provision has been made within CLL's lease agreements for Carlisle City Council to take ownership of all leases if necessary.	Copies of all terms and conditions relating to all equipment leases should be acquired and examined by Financial Services. Assurance must be sought that the lease agreements have provision for the Council to potentially takeover ownership of the lease if the situation dictates.	B	Copies of all terms and conditions relating to equipment leases will be acquired. Financial Services will provide assurance that the Council are able to take ownership of leases if required	Director of Community Engagement/ Director of Resources.	May 2013.
R5	There is no evidence to confirm CLL's non property insurance arrangements.	A copy of CLL's Carlisle City Council portfolio non-property insurance evidence for 2012/13 should be acquired immediately. Evidence should be sought from CLL to support the annual insurance arrangements in place. This should be subject to Sections 29 and 36 of the agreement	B	CLL has been informed that it must provide evidence to show that annual insurance arrangements are in place.	Director of Community Engagement.	April 2013.
R6	There is no specific officer delegated with overall responsibility for CLL Contract Management.  There is limited client input into service performance.  Data Quality arrangements	<u>Monitoring Responsibility/Arrangements.</u>  a) A more robust contract monitoring arrangement is required.  The CLL contract requires a designated City Council officer whose specific responsibility is	B	a) See R2 regarding the revised Community Engagement structure.	Director of Community Engagement	May 2013.

<p>when relying on third party information for contract monitoring and internal decision making purposes require strengthening.</p> <p>Not all of the performance indicators detailed in the contract documentation are monitored.</p>	<p>to manage the operational delivery of the contract, monitor performance, provide effective challenge and liaise formally with CLL on a more constructed basis and enforce contractual provisions.</p> <p>b) Performance indicators (PIs) specified within the contract documentation should be examined and if considered fit for purpose, these should be used to underpin more robust contract monitoring activities and adopted as part of the quarterly monitoring arrangements.</p> <p>c) The Council should seek annual assurance, via a data quality statement from CLL which clearly specifies the quality of data expected, to measure and report on agreed performance indicators.</p> <p>d) The Council should have more input into the design and production of supplementary performance indicators. These should be developed to challenge current service</p>		<p>b) The contractual PIs will be revaluated in terms of their usefulness for contract monitoring. If they are deemed inappropriate a contract variation will be put into place.</p> <p>c) Data (other than financial information) quality/integrity could be externally or separately tested but it has not to date caused specific concerns. CLL will be asked to sign up to the Council's data quality statement.</p> <p>d) The PIs measured to date have provided us with a useful benchmark. The list will be reviewed and refreshed to ensure we are monitoring the most important</p>		
--	---	--	--	--	--

		<p>performance and future service developments.</p>		<p>aspects of CLL (including financial elements) and their service provision in time for the start of 2013/14.</p> <p>The PIs in the contract not currently measured are:</p> <ol style="list-style-type: none"> <li>1. <i>Percentage of residents, by gender, socio-economic status and disability, satisfied with the provision at each facility. <u>To be reviewed every three years.</u></i></li> </ol> <p>This will be picked up in 2013/14.</p> <p>CLL conducted a customer satisfaction feedback in 2012. The City Council received a copy.</p> <ol style="list-style-type: none"> <li>2. <i>Percentage of residents and non-residents, by gender, socio-economic status and disability, which use the facilities once a fortnight or more. <u>To be reviewed every three years.</u></i></li> </ol> <p>This will be picked up in 2013/14.</p> <p>The new IT system that CLL has recently implemented will enable more easy and accurate reporting on this.</p> <ol style="list-style-type: none"> <li>3. <i>Number of users per 1,000 population.</i></li> </ol>		
--	--	---	--	---	--	--

				<p>This will be introduced in 2013/14 from usage data already collected.</p> <p>4. <i>Improve Customer Satisfaction re Catering/Bars Operation by 3% year on year</i></p> <p>See no.1. This will be picked up as part of the other customer satisfaction work.</p>		
R7	Service Standards/Default in Performance Standards are not applied.	A revised comprehensive performance monitoring framework should be established and introduced (following R6), which includes the application of the penalty system to be applied if/when appropriate.	B	<p>Since contract monitoring commenced in 2011, the penalty points system has been considered but not formally used. To date negotiation on performance improvement based on structured and evidenced discussion has been sufficient to secure performance improvement. For example poor standards have been challenged at St James Park. (Inspections by Council and an improvement action plan agreed/monitored) Work is on-going regarding the future service provision at St James Park.</p> <p>The current CLL performance framework will be reviewed. The contractual penalty point system will be</p>	Policy and Communications Manager.	May 2013.

				reconsidered for implementation. See R6 regarding the Pls.		
R8	CLL final accounts are not forwarded to Financial Services and financial information regarding Carlisle City Council CLL sites is not regularly provided.	<u>Financial Accountability.</u>  a) SMT and Financial Services should be provided with a set of CLL audited accounts on a regular basis in accordance with Section 18 cl.18.6 of the agreement.  b) Financial data should be sought from CLL to ensure that Carlisle City has sufficient information so that the financial performance of the contract can be meaningfully measured in accordance with Section 16, cls' 16.6 and 16.9 of the agreement.  c) A representative from Financial Services should also be present at future quarterly contract monitoring meetings so that they can establish the exact level of income and expenditure on the Councils leisure amenities. The designated lead contract monitoring and finance officers should robustly assess financial performance information to determine whether value for money	B	a) CLL audited accounts are on the SMT Meeting's Forward Plan and will be scrutinised by Financial Services.  b) Financial information will be a standing agenda item at the quarterly contract monitoring meetings.  c) The Financial Services representative will attend all contract monitoring meetings.	Director of Community Engagement.  Director of Resources  Chief Accountant  Chief Accountant	May 2013.

		achievements are derived from the existing service delivery arrangements.				
R9	The current contract does not specify how contract monies should be spent. This is a major weakness in terms of enabling robust contract monitoring arrangements and assessing the delivery of value for money through the contract.	Any future contract detail should contain clear, up-to-date guidelines and specific use of the contract monies paid by Carlisle City Council.	A	A 'lessons learnt' report will be written before the retendering process takes place.  This can commence immediately.	Director of Community Engagement.	June 2013.
R10	Contract governance arrangements need to be improved.	Due to the size and complexity of the CLL contract, and the circumstances surrounding the contract renewal, a stronger reporting mechanism should be provided so that Senior Managers and Members are furnished with regular financial and operational updates to support future service decisions.  This will support more effective governance arrangements for the leisure contract, extending to the wider appreciation of risks, performance management and the internal controls associated with existing and future service delivery arrangements.	A	Contract governance will be flagged as an organisational issue and mitigating factors will be applied to the CLL contract.	SMT/Director of Community Engagement.	Aug 2013.