

AUDIT AND GOVERNANCE COMMITTEE

AGENDA

**Meeting to be held in the Civic Centre (Committee Room No. 1) on
Friday 26 November 2010 at 1.30 pm**

ITEM	PAGE
1. Receipt of Declarations of Interest (if any)	
2. Apologies	
3. Minutes of the Meeting of the Committee held on 30 September 2010	1
(Copy herewith).	
4. Internal Audit Services – Progress Report for 2010/2011	9
Report of the Head of Audit, Risk and Procurement (copy herewith).	
5. Internal Audit Services – Consultation for Internal Audit Plan 2011/2012	23
Report of the Head of Audit, Risk and Procurement (copy herewith).	
6. Corporate Risk Profile	-
Report of the Director of Financial Resources (copy to follow).	

7. **Statement of Accounts 2009/2010 – Court of Appeal
Decision in Veolia ES v Nottinghamshire County
Council and Others (2010)** 27

Report of the Director of Financial Resources (copy
herewith).

ELAINE WAUGH
Head of Law and Governance

Civic Centre
SUNDERLAND
18 November 2010

At a meeting of the AUDIT AND GOVERNANCE COMMITTEE held in the CIVIC CENTRE on TUESDAY 30 SEPTEMBER 2010 at 1.30 pm.

Present:-

Mr G N Cook in the Chair

Councillors M Forbes, Rolph, Tate and Mr J P Paterson.

Declarations of Interest

The following Councillors declared personal interests in the following report as Members of the bodies indicated:-

Item 8 – Audited Statement of Accounts 2009/2010	Councillor Rolph	Member of the LGPS
	Councillor Tate	Member of the LGPS, Member of GMB, Chairman of Hetton Home Care, Director of Newcastle International Airport, Director of Empire Theatre Trust and Wife works for the Local Authority

Apologies for Absence

Apologies for absence were received from Councillors Allan and T Wright.

Minutes of the Meeting

14. RESOLVED that the minutes of the Committee held on 29 June 2010 be confirmed and signed as a correct record.

The Director of Financial Resources clarified that the Annual Report on the Work of the Audit and Governance Committee had been presented to the Council on 29 September 2010 rather than the Cabinet as stated in the minutes.

He also informed the Committee that the South of Tyne and Wear Waste Management Partnership PFI had been reported to the Cabinet and to full Council.

With regard to budget reductions which had been discussed at the last meeting, the Director of Financial Resources provided copies of the report which had been considered by the Cabinet for the information of the Committee.

The Director advised that he had written to Councillor Forbes in response to the queries she had raised at the last meeting on the Statement of Accounts. With regard to Councillor Forbes' question on the proportion of council tax that related to pension fund costs, he explained that it was a misrepresentation to show the amount required for the Local Government Pension Scheme (LGPS) as a proportion of the council tax raised as the cost of pensions was also funded through grants and other funding sources.

Treasury Management – Half Yearly Review of Performance 2010/2011

The Director of Financial Resources submitted a report detailing the borrowing and investment strategy and the Treasury Management Performance for 2010/2011 to date.

The borrowing and investment performance for 2010/2011, in accordance with the requirements of Treasury Management Policy and Strategy, was set out in the report. Internal monitoring procedures track performance daily against the various prudential indicators agreed by the Council. The indicators were approved by Council on 3 March 2010 and are regularly reviewed to ensure that:-

- the Council remains within its Authorised Borrowing Limit for External Debt;
- treasury management decisions are taken in accordance with the Treasury Management Code of Practice and the current Council Treasury Management Policy and Strategy Statement;
- the capital expenditure control framework operated locally is consistent with, and supportive of, local strategic planning, local asset management planning and proper option appraisal.

The report covered quarters one and two of 2010/2011 and the Director of Financial Resources elaborated on the predicted and actual changes in interest rates over the period. This illustrated how the monitoring and understanding of interest rates was key to treasury management.

Variations in longer term borrowing were also illustrated in the report; £30.5m had been borrowed this year, the largest component of this being rescheduled debt. Rescheduling exercises had taken place in January 2009 and January 2010 and these had been beneficial to the Council resulting in an underspending in 2009/2010 with further savings in 2010/2011. The Council was also now benefiting from ongoing lower borrowing costs, as the replacement borrowing, at an average of 3.3% was at lower rates than the original borrowing.

The investment policy was being monitored to ensure it had flexibility to take full advantage of changes in market conditions. The lending criteria and lending list had been amended because it was proving difficult to place money. This was done while bearing in mind the Council's investment priorities, which are, in order of importance:-

- (A) The security of capital;
- (B) The liquidity of its investments; and then
- (C) the Council aims to achieve the optimum yield on its investments but this is commensurate with the proper levels of security and liquidity.

The Council was outperforming its benchmark for returns received on investments and confirmation had been received that arrangements for access to money markets were now in place.

Having given consideration to the report, it was:-

15. RESOLVED that the Treasury Management Performance for 2010/2011 to date be noted.

International Financial Reporting Standards (IFRS) – Progress Report

The Director of Financial Resources submitted a report providing an update on the Council's progress towards compliance with IFRS since the last report in March 2010.

The workload and timetable for the IFRS had been divided into three manageable phases:-

- Phase 1 – Restatement of the 2008/2009 transition balance sheet.
- Phase 2 – Full restatement of 2009/2010 accounts into IFRS compliant accounts.
- Phase 3 – Production of IFRS compliant accounts for 2010/2011 (with comparisons of 2009/2010).

Phase 2 of the process was to be completed by 31 December 2010, however CIPFA have not provided the templates for this as yet. During the final stage of the convergence process, it was intended to provide detailed training for Members and Officers to ensure understanding and enable adequate scrutiny of the revised Statement of Accounts.

The key information within the Statement of Accounts would not change but the disclosure notes would have to be more detailed. The Director of Financial Resources highlighted that staff within the Team were monitoring the situation

closely and are able to access early information and will present this to the Committee as soon as practicable.

The Committee:-

16. RESOLVED that the report and project outline be noted.

Corporate Risk Profile

The Director of Financial Resources submitted a report informing the Committee of the updated Corporate Risk Profile and the amendments which had taken place since the last report in March 2010.

The Head of Audit, Risk and Procurement stated that the report provided information in relation to:-

- the identified risks and any additions, changes or closed risks;
- an analysis of the risk score movement and commentary;
- an analysis of progress in relation to actions identified to mitigate the risks.

In a change to previous reporting, rather than the whole Corporate Risk Profile being provided to the Committee, high level summary information was presented to demonstrate that major risks have been identified and assessed and were being managed effectively.

The report comprised four tables detailing the changes to risk descriptions, additional and closed risks, risk movement and analysis of actions. This was presented to the Committee to provide information and assurances on the risks to the authority.

Councillor Rolph drew attention to the risk associated with developing and delivering an effective strategy for social inclusion and community cohesion and queried whether any cuts to these programmes would affect the risk score which had remained the same, where in similar circumstances, other risk scores had increased. The Head of Audit, Risk and Procurement advised that risk scores were determined by a consensus of the Corporate Risk Management Group and then validated through the Executive Management Team. The Director of Financial Resources added that it was also a timing issue as the risk review began in April prior to the Government grant reductions. The next review had just begun and this would come more quickly to the Committee and would also begin to capture the impact of spending restrictions, again depending upon the timing. A number of the increased risk scores were a direct reflection of the degree of uncertainty around financial and policy issues.

Councillor Rolph also highlighted that in terms of Risk 31 'Failure of the Organisation to have an overall approach to sustainability', this would feel the impact of the flexible working pilot as people working at home produce more emissions. Another major consideration would be the strategic waste solution and the Director noted that

as this was not yet implemented there was a degree of uncertainty around this too. Councillor Tate added that the environmental impact of transporting the waste had to be considered.

With regard to the presentation of the information, Councillor Tate enquired whether a traffic light system might be used to make this clearer. The Director of Financial Resources drew attention to the 'heat map' within the report and said that efforts would be made to improve the clarity of this in future reports.

Having considered the Corporate Risk Profile, it was:-

17. RESOLVED that the updated Corporate Risk Profile be noted.

Interim Audit Opinion Report 2009/2010

The Audit Commission submitted a report detailing the results of their interim audit work for 2009/2010.

Gavin Barker highlighted that this was the work done prior to the production of financial statements and consisted of mapping the financial and information systems providing material figures in the financial statements, documenting the processes and controls in place within each system and testing key controls within the systems to ensure they are operating effectively.

The Audit Commission had concluded that in general, the key controls within the Council's main financial systems were operating as designed. A small number of recommendations were made in relation to high value journal entries, Council Tax, Benefits and IT access controls.

With regard to journal entries, the Audit Commission had felt it necessary to carry out a more detailed check of the process and Steve Nicklin suggested that the Council may want to consider doing random checks on low level journal entries.

In response to a query from Councillor Rolph on records management for BACS audit trails, the Director of Financial Resources advised that the software had kept records for what was felt to be an adequate length of time but had proved not to be sufficient, but another system was now in place which retained BACS payment runs for 18 months.

Following discussion, it was:-

18. RESOLVED that the Interim Audit Opinion Report 2009/2010 be noted.

Audited Statement of Accounts 2009/2010

The Director of Financial Resources submitted a report which presented the Interim Annual Governance Report 2009/2010, the revised Annual Governance Statement and the Audited Statement of Accounts 2009/2010.

The Director referred the Committee to the covering report which outlined the circumstances which had led to the audit not being concluded and a final opinion and certificate not being issued.

During the public inspection period for the accounts, a request had been received to examine documents relating to the Council's PFI contracts. These contracts had confidentiality clauses, however under the Audit Commission Act 1998, members of the public have the right to inspect documents and other information underlying the Accounts. The relevant contractors had been asked if they were prepared to release the information, however there was currently a piece of case law going through the court of appeal challenging whether Section 15 of the Audit Commission Act 1998 would override the confidentiality aspects of agreements. The High Court had said the Act did take precedence but the decision had been appealed against and the judgement would not be handed down until October.

At the present time, the Council was not able to satisfy the request of the member of the public or the wish of the contractors to keep the information confidential. As a consequence of this, the period of inspection had been stopped, the Director of Financial Resources had been unable to send a Letter of Representation to the Audit Commission and they in turn could not offer an opinion or issue a certificate.

Once the legal position was clarified, the Council would be notified by the Auditor of a fresh public inspection period and a new date when local electors can ask the Auditor questions and/or raise objections to the Statement of Accounts 2009/2010.

The Audit Commission have provided an 'interim' report and have indicated that they would have issued an unqualified opinion under normal circumstances.

(a) Interim Annual Governance Report

Steve Nicklin, the District Auditor, introduced the Interim Annual Governance Report and highlighted that this was 'interim' because the inspection period had been halted and the Audit Commission did not know what all the matters raised by the public may be.

In relation to the District Auditor's statement on the independence of the process, he highlighted that a member of the staff at the Audit Commission had a partner working in Sunderland libraries but this did not compromise objectivity.

The audit had found that the Council had adequate arrangements for securing economy, efficiency and effectiveness in the use of resources and the District Auditor planned to issue an unqualified Value for Money conclusion once the issues which had stopped the audit had been resolved. The District Auditor had recognised the strengths demonstrated by the Council and noted the further improvements made.

An action plan had been developed with three main recommendations relating to working papers for the accounts, the valuation for Newcastle International Airport and a review of the scope for a more streamlined and focused set of

financial statements for 2010/2011. All of these actions were to be complete for the 2010/2011 accounts.

The report identified the key messages for the Committee to consider. The District Auditor asked the Audit and Governance Committee to:-

- consider the matters raised in the report before approving the financial statements;
- take note of the adjustments to the financial statements set out in the report;
- take note of the reasons why the District Auditor would be unable to issue an opinion by 30 September 2010;
- note the District Auditor's findings in relation to the value for money conclusion; and
- agree a response to the proposed action plan.

Councillor Tate was pleased to have an external body giving the Council a clean bill of health and felt confident that the good standards would be maintained even without a Use of Resources Assessment in the future.

The Assistant Head of Performance Improvement highlighted that the issues noted for further improvement within the report were already known to the Council and that the Authority was very self aware about the areas it needed to improve.

The District Auditor having indicated that the Committee would need to consider the report again once the audit was complete, it was:-

19. RESOLVED that the Interim Governance Report be received and noted.

(b) Audited Statement of Accounts 2009/2010

The Director of Financial Resources submitted the Statement of Accounts 2009/2010 for consideration by the Committee.

The accounts had been amended to reflect presentational changes following the audit and the changes were set out in Appendix B to the report.

Once the legal position with the Accounts was resolved and the inspection period concluded, the audited and amended Statement of Accounts 2009/2010 would be re-presented at a future meeting of the Committee for approval.

Following discussion, it was:-

20. RESOLVED that the audited Statement of Accounts for the financial year ended 31 March 2010 be noted.

(Signed) G N COOK
Chairman

AUDIT AND GOVERNANCE COMMITTEE

26 November 2010

INTERNAL AUDIT SERVICES – PROGRESS REPORT FOR 2010/2011

Report of the Head of Audit, Risk and Procurement

1. Purpose of Report

- 1.1 To consider the performance of Internal Audit up to 8th October 2010, areas of work undertaken, and the internal audit opinion regarding the adequacy of the overall system of internal control within the Authority.
- 1.2 The Internal Audit Strategy and Operational Plan for 2010/2011 was approved by the Audit and Governance Committee on 26th March 2010. This set out the audit work planned for the year and the performance targets to be achieved.

2. Description of Decision

- 2.1 The Audit and Governance Committee is asked to note Internal Audit's performance and consider the audit opinion on the adequacy of the overall system of internal control within the Authority at this stage in the financial year.

3. Key Performance Indicators

- 3.1 The Internal Audit service measures its performance in terms of Efficiency, Quality, Client Satisfaction and Continuous Improvement. Performance to date during the year is shown in Appendix 1.
- 3.2 All KPI's are on target with the following exceptions:
 - The audit cost per £m gross turnover of the Council currently stands at £998 against a target of being lower than the average of the CIPFA comparator group, of £941. Whilst costs have been reduced since last year (the measure being £1,071) it would seem that the comparator authorities have reduced their overall costs to a greater extent. A review of the cost of the overall service is being undertaken which will reduce costs further for 2011/2012.
 - The agreed audit plan for the year includes 102 audits. A total of 41 draft reports have been issued in the year to date (40.2% against an expected position of 48.4%). A further 2 unplanned audits have been undertaken, specifically in relation to providing grant certificates. The shortfall against

the expected position is mainly due to the scheduling of schools audits, as nearly two thirds are now planned for the last two quarters of the year. The schedule of audits planned for the remainder of the year indicates that one audit will not now be undertaken, i.e. Corporate Performance Management. The main purpose of this audit was to review the implementation of the new performance monitoring system which had been planned to be rolled out across all directorates during the current financial year. This is now to be undertaken as part of the implementation of the Business Transformation Programme, and therefore this audit will be deferred to align with the programme.

- The percentage of medium risk recommendations implemented currently stands at 85% (excluding schools) against a target of 90%. Reporting arrangements have been developed to now include a quarterly report to each Executive Director to provide them with an update in relation to Internal Audit work. This includes reporting the latest implementation rate for their directorate and an analysis of the results of each follow up undertaken. When the results of each follow up are reported to the Head of Service and Executive Director this now includes information about the effect that particular follow up has had on the overall implementation rate for the directorate. A summary of the performance by directorate for medium risk recommendations is shown in the table below:

Directorate / Body	Implementation Rate	Implementation Rate
	June 2010	Oct 2010
Children's Services (non schools)	73%	77%
City Services	95%	83%
Office of the Chief Executive	92%	94%
Health, Housing & Adult Services	81%	71%
Total Council Implementation Rate Excluding Schools	86%	85%
Children's Services – Schools	83%	83%
Total Council Implementation Rate	84%	84%

5. Summary of Internal Audit Work

- 5.1 The Internal Audit Strategy and Operational Plan that was presented to the Committee in March this year explained that the audit risk assessment process had been changed and that assurance was to be provided to members based on 18 key risk areas. The audits which were to contribute to the audit opinion on each of the key risk areas were identified. Appendix 2 shows the planned audits that have been completed to date and the key risk area which they relate to. The overall opinions given are based on the results

of audit work in the current and previous financial years. It can be seen from the appendix that the overall opinion for all key risk areas, where an opinion can be given, is either good or satisfactory.

- 5.2 As a result of the audits carried out in the year to date, a number of recommendations have been made to improve internal control. The numbers of recommendations made to date in relation to the Council are shown below:

Categorisation of Risk	Definition	Number Made
High	A fundamental control weakness or non-compliance, which presents material risk to the audited body and requires immediate attention by senior management.	0
Significant	There is a control issue which could have a significant impact on the achievement of the aims and objectives of the organisation, or which presents a significant risk to the organisation's reputation. Prompt management action is required to remedy the situation.	0
Medium	There is a control weakness or non-compliance within the system, which presents a significant risk to the area or service being audited, and management attention is required to remedy the situation within a reasonable period.	248
Low	There is a minor control weakness or non-compliance within the system and proportional remedial action is required within an appropriate timescale.	56

- 5.3 In addition, observations are also made where there are opportunities for improvements to be made but there is no weakness in internal control.
- 5.4 In relation to the audits that have been finalised to date, all recommendations have been agreed by management.
- 5.5 Whilst a number of recommendations to improve internal control have been made, the work undertaken did not identify any matters material to the overall internal control environment of the Council.
- 5.6 The following key points are noted in relation to delivery of the agreed plan:
- Audit work has been ongoing in relation to the Council's Business Transformation Programme, including planned audits in relation to the management of the programme and its projects and providing advice in

relation to changes that are being made to key systems and processes, for example the review of the Blue Badge Scheme.

- A number of grant claims have been reviewed to verify the expenditure claimed and the validity of reported outputs. No major issues were identified.
- *Schools*

The requirement to achieve the Financial Management Standard in Schools is mandatory for secondary, primary and special schools. Schools must receive an independent, external assessment to determine if the Standard has been met, and all schools in Sunderland chose Internal Audit Services to be their external assessors. Results of assessments and the current status of all schools is summarised in the table below:

Total Schools	Secondary	Primary	Special	Nursery *
	14	82	7	9
Number meeting the Standard	12	79	5	9
Number not meeting the Standard and require reassessment **	2	3	2	0

* There is no statutory requirement for Nursery Schools to meet the Standard. However, it is expected by Children's Services that Nurseries should also demonstrate compliance and they therefore receive the same assessment as other schools.

** Schools found not to be meeting the requirements of the Standard are given up to 12 months from the date of assessment to ensure that all of the required arrangements are fully in place. Internal audit will re-visit these schools within the 12 months.

- 5.7 A small number of investigations have been undertaken and action is being taken to address any issues identified. None of these investigations have an impact on the opinion on the overall system of internal control.
- 5.8 Internal Audit has also provided support and guidance to all Directorates and associated bodies during the year in relation to systems developments, identification of risks, improvements to financial procedures and general day-to-day advice on various issues.
- 5.9 Specific work aimed at detecting fraud, misappropriation or errors which may have resulted in financial loss has been undertaken in the following areas:
 - Follow up of the National Fraud Initiative (NFI) 2008 data matching exercise, covering transactions relating to a wide variety of systems over a

three year period, managed by the Audit Commission. Overall, the NFI data matching exercise has resulted in the identification £96,711.18 of overpayments due to either fraud or error. Where overpayments have been made these are in the process of being, or have been, repaid. To date £80,764.78 has been recovered, the balance continues to be pursued.

- At the request of a head teacher the financial systems at one school were specifically reviewed, with no issues being identified.
- Monthly review and comparison of total expenditure incurred within the payroll and creditor systems to identify and review any significant variations.

No major issues were identified during this work.

Work is currently ongoing in relation to the following areas:

- Cash and bank imprests to ensure that they are managed appropriately, properly reconciled, subject to adequate security arrangements and are used for legitimate Council spending.
- Foreign payments.
- BACS transactions.
- Business rates and council tax refunds.
- Security of stocks of cheques.
- Gifts and hospitality.
- Write-offs.

The results of this work will be reported in the Annual Report at the end of the financial year.

6. Conclusions

- 6.1 This report provides information regarding progress against the planned audit work for the year and performance targets. Although it will not be possible to complete one of the planned audits within the year sufficient audit work will be completed to provide an opinion on the overall system of internal control.
- 6.2 Using the cumulative knowledge and experience of the systems and controls in place, including the results of previous audit work and the work undertaken to date within 2010/11, it is considered that overall throughout the Council there continues to be a sound system of internal control.

Background Papers

Internal Audit Strategy and Annual Operational Plan 2010/2011 - Audit and Governance Committee, 26th March 2010.

Appendix 1

Internal Audit Services' Overall Objectives, Key Performance Indicators (KPI's) and Targets for 2010/2011

Cost & Efficiency			
Objectives	KPI's	Targets	Actual Performance
1) To ensure the service provides Value for Money	1) Charge per Audit Day	1) Lower cost than average within CIPFA Benchmarking Club – Comparator Group (Unitary Authorities)	1) Achieved – Sunderland Cost per man day £282 and average for comparator group £317 (based on draft report)
	2) Audit Cost per £m Gross Turnover of the Council	2) Lower cost than average within CIPFA Benchmarking Club – Comparator Group (Unitary Authorities)	2) Not achieved – Sunderland audit cost per £m gross turnover £998 and average for comparator group £941
	3) Percentage of planned audits completed (including agreed variations)	3) 100% (profile to period 7 is 48.4%)	3) 40.2% (below target of 48.4%)
	4) Average number of days between end of fieldwork to issue of draft report	4) 10 working days or less	4) On target – 8.7 working days
	5) Percentage of draft reports issued within 15 days of the end of fieldwork	5) 85%	5) On target – 90.9%
	6) Percentage of audits where the number of days between the start of the audit and the end of fieldwork is within a target of twice the budgeted number of days	6) 75%	6) On target – 82.2%

Internal Audit Services' Overall Objectives, Key Performance Indicators (KPI's) and Targets for 2010/2011

Quality			
Objectives	KPI's	Targets	Actual Performance
1) To maintain an effective system of Quality Assurance	1) ISO9001:2000 Certification	1) Retain certification	1) Certification was retained in July 2010 although it has since been decided to withdraw from the scheme due to value gained.
2) To ensure recommendations made by the service are agreed and implemented	2) Percentage of high, significant and medium risk recommendations made which are agreed	2) 100%	2) On target - 100%
	3) Percentage of agreed high, significant and medium risk recommendations which are implemented	3) 100% for high and significant risk. 90% for medium risk.	3) Achieved - 100% for significant risks Below target – 85% for medium risks
	4) Opinion of External Auditor	4) Satisfactory opinion	4) Satisfactory
Client Satisfaction			
Objectives	KPI's	Targets	Actual Performance
1) To ensure that clients are satisfied with the service and consider it to be good quality.	1) Results of Post Audit Questionnaires	1) Overall average score of better than 1.5 (where 1=Good and 4=Poor)	1) Achieved - Overall average score of 1.2 from 49 returns
	2) Results of other Questionnaires	2) Results classed as 'Good'	2) Achieved - IPF survey of clients showed overall rating of 'Good'
	3) Number of Complaints / Compliments	3) No target – actual numbers will be reported	3) 11 compliments received

Internal Audit Services' Overall Objectives, Key Performance Indicators (KPI's) and Targets for 2010/2011

Continuous Improvement			
Objectives	KPI's	Targets	Actual Performance
1) To ensure that the service develops in line with modern thinking and practice on Internal Auditing	<p>Improvement in actual performance in relation to previous years in the following areas:</p> <p>1) Average number of days between end of fieldwork to issue of draft report</p> <p>2) Percentage of draft reports issued within 15 days of the end of fieldwork</p> <p>3) Percentage of agreed high, significant and medium risk recommendations which are implemented</p>	Improvement in actual performance from 2009/2010.	<p>1) Achieved Performance 2008/2009 – 10.9 Performance 2009/2010 – 10.5 2010/2011 to date – 8.7</p> <p>2) Achieved Performance 2008/2009 – 82% Performance 2009/2010 – 87.5% 2010/2011 to date 90.9%</p> <p>3) Achieved Performance 2008/2009 – 84% Performance 2009/2010 – 84% 2010/2011 to date 85%</p>

Audit Coverage – 2010/2011

Key Risk Area	Planned Audits	Conclusion (individual audit undertaken in 2010/2011)	Overall Opinion (current and previous 3 years work)
Corporate Governance	Annual Corporate Governance Review	Good	Good
Commissioning	Funding for 14-19 Year Olds External Placement of Children Responsive Local Services Community Development Service - Sunderland Compact Supporting People Service	Unsatisfactory	Insufficient coverage to date
Service / Business Planning	Responsive Local Services		Insufficient coverage to date
Partnerships	Children's Services - Partnership Arrangements Office of the Chief Executive - Partnership Arrangements Corporate Partnership Arrangements	Satisfactory	Satisfactory
Financial Management	Supporting People Grant Dedicated Schools Grant - Allocation of Funding Funding for 14-19 Year Olds External Placement of Children 39 Schools (Nursery, Primary and Special) City Services Job Costing 2 Leisure Centres Assessments for Personal Care Personal Budgets / Resource Allocation System Port Governance Arrangements Council Tax - Liability Business Rates - Liability Periodic Income - Billing BACS Arrangements Back on the Map Financial Management	Satisfactory Good Satisfactory Good Satisfactory	Satisfactory

Key Risk Area	Planned Audits	Conclusion (individual audit undertaken in 2010/2011)	Overall Opinion (current and previous 3 years work)
Risk Management	Corporate Risk Management Framework Vulnerable Adults Protection Arrangements Port Governance Arrangements Office of the Chief Executive - Risk Management Arrangements 39 Schools (Nursery, Primary and Special)	Good	Satisfactory
Programme and Project Management	Improvement Programme - Programme Management Project Management - Strategic and Shared Services Project Management - Commissioning and Service Review Project Management - Customer Services Project Management - ICT Project Management - Procurement and Third Party Spend Project Management - Organisational Development Improvement Programme - Benefits Realisation Project Management - Smarter Working Accounts Payable - Processing and Payment	Good Good Good Good Good Satisfactory	Good
Local Taxation	Council Tax - Liability Business Rates - Liability	Good Satisfactory	Good
Procurement and Contract Management	BSF Contract Management - ICT Contract Corporate Procurement Strategy Supplier Relationship Management System - User Access Buy Sunderland First	Satisfactory	Satisfactory
Human Resource Management	39 Schools (Nursery, Primary and Special)	Satisfactory	Satisfactory
Asset Management	Property Asset Database		Satisfactory
ICT Strategy and Delivery	ICT Strategy HR Management / Financial Management System Consolidation		Insufficient coverage to date

Key Risk Area	Planned Audits	Conclusion (individual audit undertaken in 2010/2011)	Overall Opinion (current and previous 3 years work)
Fraud and Corruption	Counter Fraud Testing Building and Development Control 39 Schools (Nursery, Primary and Special) 2 Leisure Centres	Satisfactory Good	Satisfactory
Information Governance	Performance Regarding Under 18 Conception Rates Contact Point 39 Schools (Nursery, Primary and Special) Customer Contact Centre Assessments for Personal Care Information Sharing / NHS Partnership Vulnerable Adults Protection Arrangements Compliance with the Data Handling Guidelines	Satisfactory Good	Satisfactory
Business Continuity and Emergency Planning	Corporate Business Continuity Management Winter Maintenance	Unsatisfactory	Satisfactory
Performance Management	Performance Regarding Under 18 Conception Rates Community Development Service - Sunderland Compact Port Governance Arrangements Sustainability / Carbon Management	Unsatisfactory	Satisfactory
Payroll	Payroll Processing and Payment 39 Schools (Nursery, Primary and Special)	Good	Satisfactory
Housing Benefits	No audits planned	N/A	Satisfactory

AUDIT AND GOVERNANCE COMMITTEE

26 November 2010

INTERNAL AUDIT SERVICES – CONSULTATION FOR INTERNAL AUDIT PLAN 2011/2012

Report of the Head of Audit, Risk and Procurement

1. Purpose of Report

- 1.1 It has previously been agreed that the Audit and Governance Committee will be consulted at an early stage on the development of the Internal Audit Operational Plan for the forthcoming year to give members the opportunity to contribute to raise any issues which they feel should be considered. The consultation is to take place during this meeting of the Committee and this report explains the proposed approach.

2. Background

- 2.1 The regulatory framework which governs the role of internal audit in local government is as follows:
- The Local Government Act 1972 (S151) requires that *“every local authority shall make arrangements for the proper administration of their financial affairs and shall secure that one of their officers has responsibility for the administration of those affairs”*.
 - The Accounts and Audit Regulations 2003 (S6) (as amended) requires the Council to maintain an adequate and effective system of internal audit of its accounting records, and of its system of internal control, in accordance with the proper internal audit practices, these being set out in the CIPFA Code of Practice for Internal Audit in Local Government.
- 2.2 The Audit Charter states that the prime objective of Internal Audit Services is to provide assurance to the Council in relation to its internal control environment and assist management in delivering the objectives of the Council through assessing exposure to risk and recommending, where appropriate, practical improvements to the control environment.
- 2.3 Given the context above, Internal Audit need to focus their work on the key / major risks facing the Council when formulating the Internal Audit Plan.

3. Approach

- 3.1 In developing the coverage of internal audit work it is appropriate to cover the key risk areas of the business over a period of years. The frequency and scope of the work is driven by an assessment of risk in consultation with key officers within the Council and a review of key documents. In order to achieve this, an audit risk assessment and planning methodology is used, as follows:
- a. A list of key risk areas has been determined which cover the main areas of inherent risk within the Council. In developing this list regard was given to the key risks set out in the Council's Corporate Risk Profile and the underlying arrangements / controls which should be in place to manage those risks in the Profile.
 - b. Each key risk area is assessed based on the strength of the control arrangements known to be in place to manage the risks in that area, the likelihood of a failure in control, and the impact that failure could have. This results in an assessment of the level of need for audit work in order to be able to provide an opinion on the control environment in place in relation to each key risk area for each financial year.
 - c. In order to complete the risk assessment as outlined above, the following is carried out:
 - a review of key corporate strategies / plans;
 - consultation with the Chief Executive, Chief Officers, other senior managers, the Director of Financial Resources, the Corporate Risk Manager and the Assistant Chief Executive, to identify key issues facing the Council (and associated bodies) nationally, regionally, and locally;
 - consideration of new Council (or associated body) initiatives, government initiatives and legislation.
- 3.2 The full process highlighted above usually takes place over December and January of each year. The Council is currently engaged in a programme to review and improve services and identify efficiency savings to respond to the Government's announcements regarding reducing resources for local government generally and in specific service areas. This means that there will be changes to the way services are delivered and to the systems and processes being operated. Details of these changes will be identified through internal audit work that is currently ongoing and through the consultation that will take place with key officers.

- 3.3 The internal audit plan and the allocation of resources will need to be more flexible than in previous years given the increased level of changes that will occur across the Council. Based on knowledge of the work of the Council currently, there are a number of areas that are expected to be a priority for the operational plan for 2011/2012. These are as follows:
- Implementation of the Council's Economic Master Plan (through the Sunderland Single Investment Delivery Team).
 - Shared Service Centre – a project is currently ongoing to bring together all of the transactional processes operated by the Council. This is due to be up and running with new processes in place in the coming financial year.
 - Arrangements for the delivery of corporate services such as human resource management, training and development, performance management and budget management, which are expected to be unified.
 - ICT support and delivery to directorates, including budget management.
 - Corporate Asset Management.
 - Implementation of the Council's Smarter Working Project, particularly the information security aspects of remote working.
 - Major incident planning.
 - Treasury Management.
 - Customer Service Network developments.
- 3.4 The Committee is asked to consider and comment on the areas for potential inclusion in next year's Operational Plan listed above. Members are also invited to discuss any additional areas which should be considered during the development of the Operational Plan for 2011/2012.

AUDIT AND GOVERNANCE COMMITTEE

26 NOVEMBER 2010

**STATEMENT OF ACCOUNTS 2009/2010 – COURT OF APPEAL'S
DECISION IN VEOLIA ES V NOTTINGHAMSHIRE COUNTY COUNCIL AND
OTHERS (2010)**

Report of the Director of Financial Resources

1. Purpose of the Report

- 1.1 To update members on the position in respect of the formal process required to approve the Statement of Accounts for 2009/2010.

2. Background

- 2.1 Members will recall that at the meeting on 30th September it was reported that the Council had 'stopped' the right of public inspection process until guidance had been received on an important point of law in respect of the disclosure of commercially sensitive PFI information that a member of the public (the applicant) had requested during the public inspection period.
- 2.2 Reference was made in the report to the Veolia ES v Nottinghamshire County Council case and it was noted that clarification was awaited from the Court of Appeal on the legal position in that case on the provision or otherwise of commercially sensitive information under Section 15(1) of the Audit Commission Act 1998 during the public inspection period. The Court of Appeal's decision in the Veolia case was handed down on 28th October.

3. Court of Appeal's Decision

- 3.1 In summary, Veolia were successful on the key ground of their appeal that the right of inspection under Section 15(1) does not provide an absolute or unrestricted right to inspect contract documents and associated invoices in their entirety and there is an implied exception in respect of confidential / commercially sensitive information, which is subject to a separate public interest test.

The Court of Appeal held that this exception within Section 15(1) arises by virtue of the European Convention on Human Rights ("ECHR") (in particular Article 1 of the First Protocol of the ECHR, which protects the "possessions" of any legal person (including a company) except where disclosure is in the public interest and in

accordance with the law. There is case law which confirms that for the purpose of Article 1, "possessions" include commercial and contract documents of economic value.

- 3.2 In addition, this exception under Section 15(1) in respect of confidential information also potentially arises as a result of the European Procurement Directive in respect of any information which is provided to the Council during a tender process and designated by the bidder as being confidential.

The Court of Appeal held that there is a strong public interest in maintenance of a contractor's valuable commercial confidential information, which has only been shared with a contracting authority for the purpose of a specific procurement / contract (in particular in the case of PFI projects, where the contractor's profit margin and financial model are shared with the authority due to the long-term nature of the public-private partnership). The Court stated that the public disclosure of confidential information could be anti-competitive and deter contractors from bidding for public contracts. In each case the salient point is whether the relevant information can legitimately be described as being "confidential" in the circumstances.

- 3.3 As a result of this decision, the position under Section 15(1) in respect of confidential information is therefore closely analogous to the established approach under the Freedom of Information Act 2000 where the Council must apply a public interest test in determining whether or not a confidential document or section of a contract should be disclosed.

The Council has already applied this public interest test in respect of the commercial, confidential information contained in the Sandhill Centre PFI Contract as part of its response to a previous FOI request made by the same individual. The Council will review its decision on public interest with Semperian (the Sandhill Centre PFI Contractor) in advance of the next inspection period.

- 3.4 In relation to those PFI contract documents in the Veolia case (including the Financial Model) that have yet to be disclosed by Nottingham County Council and which were the catalyst for Veolia's appeal, the Leading Judge stated that the Council would have grave difficulties in being able to justify a release of these documents under Section 15(1) given their highly sensitive nature.

In addition, the Judge also observed that other sections of the PFI contract (including the payment mechanism) which had been identified as confidential could also have also been lawfully withheld under the exception to Section 15(1).

- 3.5 In light of this decision, the Council now has sufficient clarity in the law regarding its obligations under Section 15(1) regarding the disclosure

of contract documents and can now continue with the existing audit and to advertise and run a new public inspection period.

4. Next Steps

- 4.1 In anticipation of the new inspection period, the Council has written to both Contractors to seek their updated views on the disclosure of the remaining contract documents in advance of the new inspection period. This will allow the Council to respond promptly to the applicant and any third parties during the inspection period should further requests be made.
- 4.2 As noted above, the Council has already applied a public interest test in respect of the Sandhill Centre PFI Contract as part of its response to the applicant's previous FOI request. The Council will review its decision on public interest with Semperian (the Sandhill Centre PFI Contractor) in advance of the next inspection period.
- 4.3 The Council will also need to undertake the same exercise with the Street Lighting PFI Contractor (Balfour Beatty) in respect of those contract documents that have been withheld.

5. Recommendation

- 5.1 Members are recommended to note the contents of this report and the revised timetable proposed for public inspection and completion of the audit of the Statement of Accounts for 2009/2010, as set out in Appendix 1.

Appendix 1

Revised Timetable for the Audit of the Statement of Accounts for 2009/2010

Statement of Accounts (Subject to Audit) – Approved 29th June 2010

Audited Statement of Accounts – Noted 29th September 2010 (as accounts could not be approved at that stage as the public rights of inspection period had been withdrawn subject to the outcome of the appeal in respect of the Veolia Case)

Notice of Audit of Accounts - Advert to be placed in newspaper ('The Sunderland Echo') – 18th November 2010

Public Inspection Period (20 working days) – 2nd December to 31st December 2010

Date for Exercise of Public Right to Inspect the Accounts – 4th January 2011

Audited Statement of Accounts – to be approved on 11th February 2011