



City of Westminster

Audit and Performance Committee Report

Meeting:	Audit and Performance Committee
Date:	27 th June 2012
Classification:	For General Release
Title:	Internal Audit & Counter Fraud 2011/12 – Year End Summary Report
Wards Affected:	All
Financial Summary:	Service Budget 2011/12 £1,034k
Report of:	Chief Operating Officer

1. Executive Summary

Key outcomes from the Internal Audit & Counter Fraud work in 2011/12:

- Audit work carried out in the financial year 2011/12 found that **in the areas audited, internal control systems were generally effective** with 73% of the audits undertaken receiving a positive assurance opinion. This is an improvement from 2010/11, where 70% of audits undertaken received a positive opinion. The internal control framework is considered to be improving and the Council was found to be effective in most areas, at implementing recommendations where problems were found. There are a few areas where control improvements are required and compliance with agreed systems should be improved. In each case, action plans are in place to remedy the weaknesses identified and these will be followed up until they are considered to be complete. The areas where the control weaknesses/lack of compliance were identified in our audit work at the end of the financial year are also summarised in this report.
- Housing Benefit Fraud Investigations resulted in 18 prosecutions and 74 “Cautions” or “Administrative Penalties” during 2011/12 which related to overpayments and fines totalling £637K of which £199K has been recovered so far. This is a consistent level of performance to the prior year.

- The Council has undertaken its first successful prosecution for subletting a Council property, under Section 3 of the Fraud Act 2006.
- General fraud investigation work has resulted in 18 Council/housing association properties being recovered and one member of staff being dismissed. This was an improvement from 2010/11 when 14 properties were recovered. In addition, investigations into the fraudulent misuse of disabled parking badges or residents parking permits have resulted in 18 prosecutions.

2. Recommendation

That the Committee consider and comment on the internal audit and counter fraud work carried out during the period.

3. Background, including Policy Context

RSM Tenon is the Council's appointed internal auditors and counter fraud specialists. Detailed reports on the performance of the Internal Audit and Anti-Fraud contract and the outcomes of the work undertaken, are presented monthly to the Deputy Director, Corporate Finance. These can be made available to the Committee on request. In addition, the Audit & Performance Committee receives updates at each meeting on all RED or AMBER RAG limited assurance audits issued in the period.

This report provides a high level overview of the outcomes of the Internal Audit and Anti-Fraud activity for the financial year 2011/12 as required by CIPFA's Code of Practice for Internal Audit in the public sector.

The report also includes details of the Internal Audit and fraud investigations completed since our last report to the Committee.

4. Opinion on the Control Framework

Our opinion is that at the time of preparing this report, the Council's internal control systems in the areas audited were adequate. This is a positive opinion which means that the Council generally has effective internal control systems with 73% of audits receiving a positive assurance opinion. The implementation of "significant" and "fundamental" recommendations has been consistently effective.

However, there were a few areas where improvements in compliance with controls were needed. The Council undertook a transformation of its Finance structure during the past year, "Finance Foundations", and as part of it,

established a Shared Service Centre (SSC). As part of this transformation, new best practice process controls were identified, agreed and documented. Since the change, a follow up was undertaken to ensure that expected improvements were being delivered. Internal Audit identified that compliance with these new processes and associated controls needs to be improved and recommendations have been made to address the issues of non-compliance in a number of areas. These issues are being addressed and action plans are in place to remedy these weaknesses and to ensure the required cultural shift occurs effectively.

In the above context we stress that:

- This opinion is based solely upon the areas reviewed and the progress made by the Council to action our recommendations;
- Assurance can never be absolute neither can our work be designed to identify or address all weaknesses that might exist;
- Responsibility for maintaining adequate and appropriate systems of internal control resides with council management, not internal audit;
- We have not placed reliance on other agencies' work in carrying out our audits.

Issues arising from Internal Audit work which have significant implications for the Council's control assurance framework have been included in the Annual Governance Statement which is separately reported to this Committee. The monitoring process in respect of the Annual Governance Statement also ensures that follow up action is taken to remedy key control weaknesses found.

5. Audit Outcomes in the last Quarter

During the year, audits with significant findings have been reported to the Committee. As a number of our finance audits are not undertaken until the latter two quarters of the year, a larger number of audits are included in this report compared with our previous reports, on this year's work. Set out below are those audits with significant findings which were completed since the last report to the Committee.

Audit	RAG	Assurance
Accounts Payable (P2P)	RED	Limited
Cash & Banking	RED	Limited
Accounts Receivable (O2C)	AMBER	Fair
Payroll & Pensions	AMBER	Fair
Enforcement	AMBER	Fair
6 th Form Funding	AMBER	Substantial

5.1 Accounts Payable (Red)

As part of the Council's Finance Transformation Project, the SSC was created, in 2011, incorporating the new Purchase to Pay (P2P) team. Under the new structure, the P2P team is responsible for the ordering process, e-procurement, processing of invoices and management of payments.

Reviews of the new duplicate payments and credit note processes were completed in December 2011 which resulted in a total of 13 recommendations being made.

A general review of the accounts payable function was carried out in the final quarter of 2011/12 which resulted in seven recommendations being made. In the main, the agreed processes, controls and systems in place were found to be sound. However, the audit identified failures to comply with the new agreed processes and controls including:

- The Council's policy of 'No Purchase Order No Pay' not being consistently complied with and limited action taken to improve on this;
- Limited checks being performed to confirm that payments are approved by authorised signatories.

Due to the limited progress that had been made to comply with the agreed processes in respect of duplicate payments and credit notes, together with the lack of compliance identified in other areas of the Accounts Payable process, **limited assurance** has been given that the controls are consistently applied or effective.

All of the recommendations have been accepted and dates of their implementation have been agreed. The implementation of the recommendations will be followed up in quarter 2 as part of the 2012/13 Internal Audit plan.

5.2 Cash & Banking (Red)

The Council's Cash and Banking function has been undertaken by Vertex since December 2003. The area as reviewed consists of the following functions:

- Cheque income;
- Cash income;
- Banking arrangements and reconciliations;
- Petty cash;
- Electronic bank facilities; and
- Income suspense accounts.

This area was last reviewed in 2010/11 when three recommendations were made relating to the need to ensure that:

- bank reconciliations are reviewed in a timely manner;

- the safe insurance limits are appropriate and complied with; and
- appropriate supporting documentation is retained.

From our review, two significant weaknesses were identified in respect of the following:

- Inconsistent compliance with procedures for the completion and retention of appropriate documentation in support of cash receipts, which results in a weakening of the audit trail and the key controls built into the system; and
- Arrangements for maintaining, monitoring and reporting petty cash accounts are not robust. Evidence could not be provided to demonstrate that all of the Council's accounts were being regularly reconciled. Cash has inherently a high risk of fraud and can therefore present a problem if not managed effectively.

Action has been taken to demonstrate clearer audit trails and to provide assurance that controls are operating effectively.

In addition, it was noted that the insurance policy in place during 2011/12 had not been reviewed to ensure that the correct safe was insured for an appropriate level of cash held by the Cashiers, which was an issue raised in the 2010/11 internal audit. Since April 2012, the Council has a new Tri-Borough insurance policy and we have been able to confirm that this adequately covers the cash held by the Cashiers.

5.3 Accounts Receivable – Order to Cash (O2C) (Amber)

The Order to Cash (O2C) team is responsible for raising invoices and credit notes and the debt recovery processes including writing off debts. The team has been part of the Council's Shared Service Centre (SSC) since September 2011.

A compliance review was undertaken on the processes in place for matching unapplied cash with the appropriate invoice/customer account. At the time of this review there were more than 4,000 unapplied cash transactions going back as far as 2001 with a total transaction value of £1.5 million. The key findings from this review were:

- A formal policy and procedure were not in place detailing the Council's approach to dealing with unapplied cash which exposed the Council to the risk that these transactions may not be treated consistently or correctly;
- No formal responsibility for the unapplied cash process had been established and documented. In order for the process of reviewing and allocation to be effective, all parties involved in the process needed to be made aware of their roles and responsibilities;

- There was no action plan which clearly illustrated the process to be followed to review and allocate these items against the appropriate invoice/customer account; and
- Unapplied cash items were held within a separate cost centre and account code until the items were allocated to a customer invoice or account number. The cost centre and account code were not actively monitored as part of any review and the value held within the account was not reported to senior management.

In addition, a review of the level of compliance with the Council's new O2C process was undertaken in the final quarter of 2011/12 which included a review of the implementation of the recommendations made in our earlier audit of how to manage Unapplied Cash. Generally, the new O2C processes were followed and controls operated effectively but there was one isolated incident where a write-off had not been approved. At the time of the O2C audit, the actions required to address the recommendations made in the Unapplied Cash audit had only just been considered and approved. Due to the delay in progressing these recommendations, we were unable to give substantial assurance that the controls relied on to manage the risks in the O2C area are consistently applied or effective. Although there are some actions required to improve control in this area, the outcome of this audit is an improvement on the 2010/11 audit which resulted in a limited assurance opinion.

5.4 Payroll (Amber)

The Council's HR and Payroll functions are outsourced to Vertex, a contractor based in Liverpool and at the Council's offices in Westminster.

Managers within the Council are responsible for the prompt notification of all starters, leavers, transfers and amendments. The Payroll function at Vertex is responsible for the prompt and accurate payment of staff.

An audit was undertaken to ensure that the key controls within the payroll system were being complied with. The review also included a follow up of the Payroll and Pensions audit which was finalised in June 2011.

No fundamental weaknesses were identified from our audit but four significant recommendations were made to improve compliance with the existing controls and to reduce the risk of payroll errors. Although there has been some improvement since the previous audit in this area, further progress needs to be made on improving compliance with controls.

5.5 Enforcement – Waste (Amber)

This audit was undertaken to assess the effectiveness of the Council's enforcement of penalties issued for offences under the Environmental Protection Act 1990, the Clean Neighbourhoods and Environmental Protection Act 1990 and the Control of Pollution Act 1989. No fundamental weaknesses were identified from our audit, although three significant recommendations were made to improve:

- The policies and procedures so that they included all aspects of the process;
- The monitoring of payments, particularly in respect of cheques which do not 'clear' leaving fines outstanding;
- The information provided to senior management, including data on appeals.

All of the recommendations have been accepted and implementation of these recommendations will be followed up later this year.

5.6 6th Form Funding (Amber)

In the 2011/12 financial year, the Council had responsibility for the funding of three sixth forms in the borough and it was agreed with Children's Services that one school would be subject to review in 2011/12.

This audit examined the processes in place and the accuracy of data in respect of overall numbers; residency; eligibility; pupil Learning Aims; retention numbers and Qualification Accreditation Numbers (QANs).

One significant weakness was identified at the school visited in respect of the retention of evidence to support the school's funding claims. Furthermore, on 3 occasions the data required for review was not available due to the files being misplaced. This raises concerns around the security of personal data held by the school. It was found that all other areas tested, including accuracy of numbers, eligibility to be included, QANs and retention numbers were in compliance with the Young People's Learning Agency's guidance.

5.7 Implementation of Audit Recommendations

Follow up audit work found that the implementation of recommendations was generally good with 94% of priority 1 and priority 2 recommendations implemented by their due date. Further follow up work will be undertaken to ensure outstanding recommendations are implemented.

6. Anti-Fraud Work Outcomes

6.1 Summary of Housing Benefit Fraud Investigations in 2011/12

The table below illustrates the sanctions achieved in the financial year 2011/12. From a total of 529 investigated cases there have been 92 sanctions. The investigations have identified £637k in overpaid Housing Benefit of which approximately 31% has been recovered to date. The remaining amounts are subject to continuing recovery action. It has always been the case that recovery has been slow due to the constraints on the action that can be taken, although eventually the majority of the money will be recovered. Internal Audit continues to work with the responsible sections of the Council to improve the speed of recovery. Over £700k of assets are currently frozen under Proceeds of Crime Act legislation and, as these cases come to trial, we would anticipate significantly improved recovery rates.

Year 2011/12 Sanction	No of Cases	Overpayments/ Fine	Recovered to Date	Recovery Rate – March 2012	Comparison Recovery Rate Previous Year (March 2011)
Prosecution	18	£383,363	£47,337	21.04%	30.71%
Official Cautions	23	£106,279	£68,368	66.10%	23.28%
Administrative Penalties (overpayments & fines)	51	£147,725	£83,417	56.47%	43.68%
Totals	92	£637,367	£199,122	31.24%	26.73%

6.2 Housing Benefit Fraud Investigations Outcomes in the last Quarter

Since the last report to Committee in March 2012, there have been 2 further prosecutions for Housing Benefit fraud and one Administrative Penalty and two Cautions issued. These resulted in overpayments and Administrative Penalties of £164,894 all of which is recoverable from the claimants.

The outcomes from the two prosecution cases were as follows:

- A benefit claimant from NW8, pleaded guilty to two offences of failing to declare a change in her circumstances. The claimant had obtained £8,500 in Income Support from the DWP and £8,000 Housing Benefit from Westminster Council by failing to tell both agencies that her partner was living with her and he was in full-time employment. The case was a joint working case and prosecuted by the DWP's solicitors. The claimant was

sentenced to a 4 month Curfew/Tagging Order requiring her to wear an electronic tag and remain at her home address between the hours of 7pm and 7am. She was also ordered to pay £100 costs.

- Another benefit claimant from NW8 was sentenced to two years in prison following a £200,000 benefit fraud. The claimant was sentenced at Southwark Crown Court having previously pleaded guilty to 17 charges of fraud. Within this amount, she had falsely claimed over £150,000 in Housing Benefit from Westminster Council between August 2004 and October 2011. The case was brought by the DWP's solicitors after their Organised Fraud team had established that the claimant was working under a different identity and that she owned 8 other properties. Three of the properties were in London where they were rented out to other Housing Benefit claimants for profit and five were owned in Kenya. She has also been living with an undeclared partner throughout this period and had significant savings. Assets have been restrained under Proceeds of Crime Act and a Confiscation hearing is due in the future to determine how the defrauded benefits will be recovered. This case was reported in various national newspapers.

6.3 Summary of General Fraud Investigations in 2011/12

During 2011/12, 40 general fraud cases were investigated and closed with the following outcomes:

- 1 successful prosecution for sub-letting a Council property (and return of the property);
- 18 properties recovered for re-letting;
- 1 tenancy succession prevented;
- 1 application for housing prevented;
- 18 prosecutions for parking related fraud;
- 1 dismissal of a member of staff.

The estimated value to the Council of the housing related investigations was in the region of £1million. The total value of parking investigations which resulted in prosecution was £28k.

6.4 **General Fraud Investigations Outcomes in the last Quarter**

Since the last report to Committee, investigations have resulted in:

- 1 Housing Association property being recovered;
- 3 successful prosecutions for the misuse of disabled parking badges;
- 1 member of Council staff being dismissed.

Housing Fraud

A two bedroom Housing Association property was recovered following work by the social housing fraud investigator. The investigator established that the tenant was living in the United States of America whilst subletting the property to two people. After evidence was disclosed to the Housing Association's tenant, the tenant voluntarily surrendered the property.

Parking Fraud

Three successful prosecutions have been completed all of which were connected with the misuse of disabled parking badges. Two cases were in respect of blue badges that were identified as being misused in the Church Street area during a proactive exercise with the Police in July 2011. Both defendants pleaded guilty to the offences, with one defendant being fined £100 and ordered to pay costs of £250. The other defendant was fined £60 and ordered to pay £75 costs.

The third prosecution concerned a lady who was found to be using her deceased husband's disabled badge. The lady's husband had died in August 2010 but she was found to be using her husband's disabled badge in May 2011, to obtain parking near to her business in SW1. The defendant pleaded guilty and was fined £900 and ordered to pay £1,000 costs. In addition she was ordered to pay a compensation order of £2,214 to the Council which was based on the estimated value of parking fees that had been avoided whilst using the disabled parking badge.

Other Fraud

An investigation has been undertaken into the activities of a Council Enforcement Officer who was suspected of breaching his employment contract by undertaking work outside of his contractual duties with the Council without seeking permission from senior management. The investigation provided evidence that the Enforcement Officer is a cofounder and joint owner of a mobile disco business which had provided music at several venues in Westminster. As a result there was a clear risk of a conflict of interest between the Enforcement Officer's role for the Council and his involvement with the mobile disco company. A disciplinary hearing was held on 20th March 2012 and the Enforcement Officer was subsequently dismissed.

If you have any queries about this Report or wish to inspect any of the Background Papers please contact:

Chris Harris on 020 7641 2820,

Email: chris1.harris@rsmtenon.com.

Address: Internal Audit, 33 Tachbrook Street, London, SW1V 2JR. Fax: 020 7641 6039

BACKGROUND PAPERS

Internal Audit Reports;
Monthly monitoring reports