

WILTSHIRE COUNCIL

AUDIT COMMITTEE

28 SEPTEMBER 2011

Subject: INTERNAL AUDIT TUPE UPDATE

Cabinet member: John Brady – Finance, Performance and Risk

Key Decision:

Executive Summary

1. This report is to update the Audit Committee on progress since its May meeting and subsequent Cabinet decision to pursue a TUPE (Transfer of Undertakings (Protection of Employment)) negotiated transfer of the Council's Internal Audit function to the South West Audit Partnership (SWAP). A further paper has been provided to members in Part II covering some of the commercially sensitive matters.
2. Negotiations with SWAP have progressed well with no showstoppers identified. The latest position suggests the transfer will save a further £27,907 on the current budget.
3. Performance measures have also been agreed in principle and subject to review by this Committee and Cabinet to ensure improvement in quality of the service post transfer.
4. Whilst there are some issues raised by staff these are being worked through, and are almost solely down to a misunderstanding of certain key data and facts. In total over 50 meetings have been held with staff, including 1:1s, and meetings with SWAP.
5. SWAP are due to commence their in-depth due diligence on Wiltshire Council's audit appraisal at the start of October and conclude staff meetings at the same time, as such a transfer dated on 1 November is hoped.

Proposal

6. Members of the Audit Committee are asked to review the key performance indicators to monitor the partnership post transfer to secure an efficient and effective Internal Audit; and make recommendations on these, if appropriate, to Cabinet, for approval.

Reason for Proposal

6. This report is to update the Audit Committee on progress since its May meeting and subsequent Cabinet decision to pursue a TUPE (Transfer of Undertakings (Protection of Employment)) negotiated transfer of the Council's Internal Audit function to the South West Audit Partnership (SWAP).

Michael Hudson
Chief Finance Officer

WILTSHIRE COUNCIL

AUDIT COMMITTEE

28 SEPTEMBER 2011

Subject: INTERNAL AUDIT TUPE UPDATE

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Key Decision:

Purpose of Report

1. This report is to update the Audit Committee on progress since its May meeting and subsequent Cabinet decision to pursue a TUPE (Transfer of Undertakings (Protection of Employment)) negotiated transfer of the Council's Internal Audit function to the South West Audit Partnership (SWAP). As these negotiations contain matters of a commercial nature and affect individuals certain information has been made public, and some is reported separately to members under Part II of this Committee's agenda.

Background

2. At its May Audit Committee members received a paper on the options for the future delivery of the Council's Internal Audit Function. Members agreed for officers to commence negotiations with another local government partnership – SWAP (The South West Audit Partnership). Although if those negotiations were to stop for any reason to pursue, as an interim measure, the management of the section through the three Principal Auditors and this arrangement has been running since that period and during the SWAP discussions.
3. The decision to enter into formal TUPE negotiations with SWAP was taken at the following Cabinet meeting, which took on board the Audit Committee's views.
4. Since that date negotiations and discussions have begun with
 - Staff (including Legal and HR)
 - Trade unions
 - Somerset Pension Fund
 - SWAP

5. The discussions with SWAP have progressed well and to date no 'show stoppers' have been identified. As such the option to pursue a TUPE transfer has not been withdrawn. As stated in paragraph 2 above the three Principal Auditors have led the service in the meantime. Whilst this has gone well there is no evidence to change the scoring of any of the options, although SWAP are now delivering more savings as discussed from paragraph 7, so could justify higher scoring. As such the SWAP proposal remains, it is not withdrawn and is still first option
6. This report sets out to members the progress made through those discussions and negotiations, as well as the next steps. The report thus focuses on:
 - Economy and Efficiency – the cost of the partnership: Paras 7-10
 - Effectiveness – the qualitative performance of a future partnership service: Paras 11-15
 - Staff's position – the effect on the current team: Paras 16-20
 - Next steps – actions and timetable to transfer: Paras 21-22

Economy and Efficiency

7. The current (2011/12) cost of the service, allowing for a full year cost of the current vacant post, is £603,400. This is a £150,000 gross reduction from 2010/11, when three posts were removed as part of the Council's restructure of its management. The remaining resources were still sufficient to deliver the audit plan, with provision for the recruitment of an auditor post during 2011/12).
8. Discussions have been held with SWAP as to the fee that would be due under a partnership. SWAP calculates their need by applying a multiplier to the basic staff cost of the function transferring.
9. SWAP's management have calculated on this basis the fee to Wiltshire Council for the same number of staff and outputs, or improved outputs would be £575,493. Thus, this is less than the current cost of the service and will represent a part saving of around £7,000 to the Council in 2011/12 and a full year saving of £27,907 in 2012/13.
10. The fee will be fixed for the period of the Contract, and as such would give the Council financial security in its costs and further savings due to nil inflation. Thus, the proposal to transfer is seen as efficient.

Effectiveness

11. The current level of performance reporting of the Council's Internal Audit function, due to poor IT is low. A key factor to assess is how officers and members can set and ensure a high standard of performance of a partnership. As such, a number of Key Performance Indicators, KPIs, have been agreed in principle with SWAP to both enable this and address concerns raised by staff and members.
12. The KPIs are set out in detail at Appendix 1 of this report. The focus of the measures are to ensure:
 - Quality of audit coverage and work
 - Efficiency and cost
 - Quality of staff and partnership relationship
 - Innovation

13. Key features to draw out include:

Area of Concern	Proposed KPI	Assurance Gained	Target
1. Wiltshire Council will not work on Wiltshire Council Work.	<ul style="list-style-type: none"> • % of staff available, time for each staff spent on Wiltshire Council audits 	To ensure staff transferred continue to work on Wiltshire Council audits unless mutually agreed by all parties.	80% Unless agreed by: <ul style="list-style-type: none"> • SWAP • Individual, & • CFO
	<ul style="list-style-type: none"> • % of non-Wiltshire Council staff working on Wiltshire Audit 	To measure the added value of staff supporting Wiltshire Council from elsewhere in SWAP.	20%
2. Additional External Audit fees are incurred for lack of SWAP audit work.	<ul style="list-style-type: none"> • % reliance placed by external audit on SWAP work 	An assessment of quality. If less than 100% and SWAP gives rise to a consequential financial loss to the Council, SWAP will be responsible for any additional cost.	100%
3. The level of coverage will worsen.	<ul style="list-style-type: none"> • % of audits delivered to agreed plan (or revised if agreed) 	Assurance that audits required and agreed are delivered.	100%
	<ul style="list-style-type: none"> • % follow-up audit recommendations auctioned 	An assessment of the quality of audit work.	90%
	<ul style="list-style-type: none"> • % key audit dates to deliver work met 	Assurance audit work is being carried out and completed promptly.	95%

Note: Most of these measures are not currently collected or reported, so this represents a significant improvement. The targets will therefore be reviewed once performance is assessed for the first time, but overall remain the goal.

14. The Audit Committee's views of the KPIs and target is sought to inform reporting to Cabinet and in finalising any partnership agreement with SWAP.
15. In addition to performance measures discussions have progressed well with regard to the operation of the function post any transfer. Key staff issues such as will they be able to wear Wiltshire Council identity badges and use the County Hall to Shurnhold bus have been agreed positively. In addition, SWAP have agreed that the current good practices within Wiltshire Council IA reports, such as the risk matrix favoured by members will be retained.
16. We are also looking at ICT arrangements to ensure ICoCo compliance. This is likely to mean IA staff operating initially with two computers, but we are reviewing arrangements to assess if this is needed long term. SWAP have encountered similar situations at other councils where one machine is required for running SWAP systems and reports, and another for access to the council's data. This has been overcome at other sites through the use of desktops and limited access permission. At present these arrangements may not fit with Wiltshire Council's aim to facilitate greater home working were possible, but we will continue to review the matter and it is not expected that it will have any impact on performance.

Staffs' Position

17. In total there have been over 50 meetings with staff. These include:
 - Team meetings - with and without others, such as the Director of Finance, HR, SWAP and Trade Unions.
 - One to ones - with the Director of Finance; and
- with SWAP representatives
18. In addition, this diligence has included sharing of some information with SWAP such as job descriptions and staff costs. Staff are currently confirming or updated their terms and conditions. These will be shared at the start of October. In addition, SWAP will undertake due diligence of the Council's audit processes and records at the same time.
19. Information is also being shared between the Wiltshire and Somerset Pensions Funds to assess any pension liability. If this were to arise, it is likely Wiltshire Council would act as guarantor as this would likely have negligible costs, if any, in future years.
20. Whilst various meetings have been held, staff have recently written to the Chair and Deputy Chair of the Audit Committee to identify a range of issues they felt members may not have been aware of. These issues contain a number of commercially sensitive comments and personal performance matters. As such the full extract has been reported in Part II of this meeting with management responses.

21. In all cases these issues have been discussed and explained to staff on numerous occasions, and in most cases are the result of staffs' misunderstanding or misinterpretation or factual inaccurate record of events.
22. Whilst it is disappointing to have the letter sent in this manner, all issues have been covered with staff several times before. It is not unusual in TUPE for some issues through to be confused and discussions with staff will continue.

Next Steps

23. Following the Audit Committee, a separate report will be issued to Cabinet highlighting matters raised by the Committee. Whilst the Constitution has changed to allow TUPE of less than 50 staff to be delegated to the appropriate Portfolio Holder, the Cabinet have expressed, in a spirit of openness and transparency, a desire for an update and Audit Committee comments.
24. During October, SWAP will continue its due diligence of Wiltshire Staffs' terms and processes. In addition, Council officers will finalise the legal and TUPE documentation in preparation for a 1 November 2011 transfer.

Main Considerations for the Council

25. The proposed transfer under TUPE to SWAP is progressing well, is on target to conclude by 1 November 2011, and will yield more savings than anticipated with greater performance reporting.

Risk Assessment

26. There are no direct risk implications associated with this report.

Equality and Diversity Impact of the Proposal

27. None have been identified as arising directly from this report.

Environmental Impact of the Proposal

28. There are no direct environmental implications associated with this report.

Financial Implications

29. The Director of Finance is the author of this report and the financial consequences of the transfer are set out at the Efficiency section (paras 7-10) of this report.
30. In addition, it is noted that a lack of ability to place reliance on Wiltshire Council's Internal Audit's work in 2011/12 has led to an additional £40,000 cost incurred by KPMG to seek assurance. The KPIs proposed would mean that cost, if it were ever to incur under SWAP would be borne by SWAP not the Council.

Legal Implications

31. Wiltshire Council has the power to enter into a joint local government partnership (Local Government Acts 1972 and 2000). Consultation with staff is currently in progress and the final TUPE agreement, and other legal agreements will need a Portfolio Holder delegated decision approval for any subsequent TUPE transfer.

Proposal

32. Members of the Audit Committee are asked to review the key performance indicators to monitor the partnership post transfer to secure an efficient and effective Internal Audit; and make recommendations, if appropriate, to Cabinet, for approval.

MICHAEL HUDSON
Chief Finance Officer

Report Author: Michael Hudson, Director of Finance

Background Papers: May 2011 Audit Committee

Appendices:

Appendix 1 – Key performance Indicators proposed

KPI NAME	EXAMPLE INPUT	OUTCOME KPI	TARGET	WHY
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Key performance Indicators proposed

Appendix 1

Goal	Objective	KPI	Target	Comments
EFFICIENCY (<i>Deliverables</i>)	1. Audit reviews and reports completed	1.1 % of audits delivered to agreed plan 1.2 Number of unplanned audits completed 1.3 % of quarterly partnership review meetings SWAP representative attend 1.4 Quarterly reports and Annual Report issued to Audit Committee on time 1.5 Audit Committee satisfaction	100% 100% 100% 100% 85% good or above	Meet business need and drive value from partnership Improved resource planning for next year's audit plan
	2. Issues and postponed audits	2.1 Number of follow up audit recommendations actioned 2.2 Effective escalation process in place: • High priority matters resolved within 15 days • Low priority matters resolved in 60 days • Matters referred to Head of SWAP as unresolved after 15/60 days • Matters referred to SWAP management board as unresolved by Head of SWAP • Matters referred to SWAP Board as unresolved 2.3 % customer (internal depts.) service satisfaction	90% 95% 100% No > 5% 0% 0% 85% good or above	The target is less the first year to reflect the fact SWAP will take on recommendations. It is expected that the SWAP Audit Manager will lead an effective audit team and promote effective client relationships To review target on ongoing basis
QUALITY (<i>Compliance</i>)	3. Compliance with SWAP Agreement and national guidance and legislation	3.1 % of audits relied upon by external auditors 3.2 % Audit reports completed in timely manner (to be defined as: • Audits commenced on planned start date • Draft issued within 5 days of target completion date • Final agreed report issued with 15 days	100% 90% 95% 100%	Full compliance expected or at SWAP risk To measure the timeliness of reporting

		3.3 External audit fee reduction due to reliance on internal audit	Council measure	
PEOPLE	4. To maintain an effective and skilled audit team	4.1 % of transferred staff (by individual) spent on Wiltshire Council audits 4.2 % of non transferred staff spent on Wiltshire Council audits 4.3 Sickness levels kept below national benchmark 4.4 % training fee spent on transferred staff	80% 20% 6 days 100%	Support Councils vision of providing excellent service through healthy, skilled, trained and motivated staff
INNOVATION <i>(customer focus)</i>	5. Innovation and best practice encouraged	5.1 % of partner cross cutting audit recommendations implemented 5.2 Risk assessment reduced in DLT risk register	75% Council measure	Council can target resources to drive internal improvements and compliance of top issues
COST <i>(Risk)</i>	6. Service delivered to cost	6.1 Audit fee to planned fee	0% variation	Unless agreed by Audit Committee