

FINAL INTERNAL AUDIT REPORT
CHIEF EXECUTIVE'S DEPARTMENT

REVIEW OF LEGAL COSTS AUDIT FOR 2015-16

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REVIEW OF LEGAL COSTS AUDIT FOR 2015-6

INTRODUCTION

1. This report sets out the results of our systems based audit of Legal Costs Audit for 2015-16. The audit was carried out in quarter Q4 as part of the programmed work specified in the 2015-16 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.
3. The original scope of the audit was outlined in the Terms of Reference issued on 18th December 2015. The period covered by this report is from April 2014 to December 2015.
4. The total expected Legal Services budget for 2015-16 is a total net surplus of £41,840, including controllable costs of £1.548k and recharges to other departments of £2,060k. The expected use of counsel for 2015-16 was £100k and £139,200 of direct income. At the 22nd January 2016, the spend on counsel was £91k (not including WIP), and income £272k (£163k on Fees and charges, £78k of recoveries and £31k of Section 106 income).

AUDIT SCOPE

5. The scope of the audit is detailed in the Terms of Reference.

AUDIT OPINION

6. Overall, the conclusion of this audit was that Substantial assurance can be placed on the effectiveness of the overall controls. Definitions of the audit opinions can be found in Appendix C.

MANAGEMENT SUMMARY

REVIEW OF LEGAL COSTS AUDIT FOR 2015-6

7. Controls were in place and working well in the areas of:
 - Income is being correctly received and coded
 - Court costs are being recharged where appropriate
 - The cost of service was benchmarked and found to be broadly in line with other local authorities

8. However we would like to draw to Manager's attention the following issues:
 - Benchmarking of the service and performance monitoring of counsel does not take place.
 - Purchase card transactions are not being approved by Management and receipts are not being attached for expenditure incurred
 - Suppliers of Counsel are inconsistently set up on Oracle
 - Quotes obtained for the use of Counsel not part of the Legal Services Framework have not been provided
 - A documented procedure for the treatment and collection of income does not exist
 - Approval to use counsel is not always approved before counsel is instructed and the estimate costs of counsel are being exceeded.

SIGNIFICANT FINDINGS (PRIORITY 1)

9. No significant findings were identified in this review.

DETAILED FINDINGS / MANAGEMENT ACTION PLAN

10. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised at Appendix B.

ACKNOWLEDGEMENT

11. Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1	<p>The process for collecting income from the court and allocating it out to departments is as follows. Cashiers receive a BACs submission monthly from the court and sheet of payments that have been made. This is distributed to a number of Officers within the council and they confirm which money paid over is theirs and it is journaled into their budget. This procedure has not been documented.</p> <p>Testing identified that all income received was as expected, though it was found that for two samples not all income had been received and thus it was yet to be redistributed to the correct department. (samples 5 and 7). As part of the sample testing five items of income tested were for work carried out on the acquisition of properties by legal. This has been agreed at 0.5% on the value of the property, but this agreement has not been written down.</p>	<p>Income may not be collected or allocated to the correct cost centre</p>	<p>Procedures for income should be written down and arrangements made for more than one member of staff to be involved in the collection of income. [Priority 2]</p>
2	<p>Testing of a sample of the use of 10 suppliers for legal counsel found that in all 10 cases, legal counsel had actually been provided. It was found that for 9 of the cases an 'Authority to Instruct Counsel form' had been completed and signed off by the AD for Legal Services or Director of Corporate Services. However in two of these instances the form was not signed</p>	<p>Excessive and inappropriate expenditure may be incurred.</p>	<p>Purchase orders should be raised where the cost of expenditure is known in advance. [Priority 2]</p>

Priority 1
Required to address major weaknesses and should be implemented as soon as possible

Priority 2
Required to address issues which do not represent good practice

Priority 3
Identification of suggested areas for improvement

DETAILED FINDINGS

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	<p>until after the counsel had actually been instructed.</p> <p>It was found that for 9 of the 10 cases a purchase order was raised after the invoice had been received. In five instances although Instruction form had been completed the costs stated in the form were not the same as those invoiced for or the expected value did not match the total cost incurred.</p> <p><i>Audit comment:</i> <i>It is accepted that when using legal counsel it is not possible to accurately predict the length of court cases and that therefore it is not possible to raise a purchase order for the exact amount and at the point the decision is made to use the supplier.</i></p> <p>Testing of a sample of 10 Court costs and 20 legal expenses incurred found that for 2 legal expenses and 5 court fees a purchase order had not been raised and payment had been approved via AP2.</p>		
3	<p>Discussed with the Senior Solicitor that benchmarking is not carried out by the service.</p> <p>A quick benchmarking exercise was undertaken by the auditor, comparing the services costs to those of other South London</p>	Value for Money may not be achieved.	Legal Services should consider carrying out Benchmarking of their service and complete the quality assessment forms

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	<p>Legal Services. It was found that Bromley's spend per FTE on Employee costs is broadly in line with other Authorities.</p> <p>It was also identified from testing a sample of 10 uses of counsel that quality assessment sheets are not being completed by staff.</p>		<p>for the use of Counsel. [Priority 3]</p>
4	<p>A report was run of all of the Purchase card transactions for the only Purchase card held by the Legal section. It was found that of the 41 transactions incurred since October 2014, 18 are awaiting approval and one awaiting account holder.</p> <p>It was discussed that the approver was the former Assistant Director of Legal, but since she left, there has not been an approver until recently when the Senior Solicitor has become the new approver. However at the 10/02/16, there were still 26 transactions awaiting Approval. All transactions viewed seemed appropriate however of 8 transactions sampled only one had receipts attached and for at least two transactions VAT has not been accounted for where it would be charged.</p>	Excessive expenditure is being incurred	<p>Procedures should be put in place make sure purchase card transactions are processed promptly, that the relevant receipts are attached and VAT correctly accounted for. [Priority 2]</p>
5	From testing a sample of 10 uses of counsel, 20 legal costs and 10 court fees it was found that there is a discrepancy	Suppliers set up incorrectly on oracle potentially leading	<p>Suppliers of counsel should be set up</p>

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	between how counsel suppliers are set up on Oracle. Some suppliers are set up as named individual and some as the legal chambers.	to duplicate payment of invoices	consistently either as named individuals or Legal Chambers. [Priority 2]
6	It was discussed with two of the Legal Team Leaders that the Framework of legal suppliers has now expired, though most of the firms will still honour these rates. Evidence of quotes being obtained was not provided for 2 uses of counsel, which a Chamber has been utilised outside of the Legal Framework.	Expenditure may be incurred which is not best value	Evidence of quotes obtained when utilising suppliers outside of the legal framework should be retained. Consideration should be given to formalising the legal Framework rates. [Priority 2]

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MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	Procedures for income should be written down and arrangements made for more than one member of staff to be involved in the collection of income.	2	We will include a written procedure for each in the Lexcel manual, which is to be revised as a procedures manual for Legal.	Team Leaders, Legal Services	June 2016
2	Purchase orders should be raised where the cost of expenditure is known in advance.	2	Staff will be reminded of the need to do this.	Team Leaders, Legal Services	June 2016
3	Legal Services should consider carrying out Benchmarking of their service and complete the quality assessment forms for the use of Counsel.	3	We have done benchmarking in the past but the benchmarking groups have ceased so nothing formal has been done recently. However, we have the hourly rates of the firms on the solicitors' framework and are aware of charges by other firms we have dealings with so are fully aware of the comparison between private practice and our own in house	Not accepted	

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MANAGEMENT ACTION PLAN

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			<p>rates.</p> <p>In practice quality is assessed informally within teams and we do not use someone again if we are not happy with their performance. We will take the quality assessment section off the Counsel instruction form since we do not use that method to assess.</p>		
4	Procedures should be put in place make sure purchase card transactions are processed promptly, that the relevant receipts are attached and VAT correctly accounted for.	2	We are liaising with Finance to find out how to deal with the older payments that have not come through for approval to make sure they are processed correctly	Team Leaders, Legal Services	June 2016
5	Suppliers of counsel should be set up consistently either as named individuals or Legal Chambers.	2	This appears to be the result of the change to payment by BACS – previously Counsel had to be paid	Team Leaders, Legal Services	June 2016

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MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
			individually. We will arrange for consistency in future payments		
6	Evidence of quotes obtained when utilising suppliers outside of the legal framework should be retained. Consideration should be given to formalising the legal Framework rates.	2	We will amend the Counsel instruction form to include provision for recording quotes where appropriate The framework rates are already recorded formally as part of the contract and a table of all the rates is available to all legal staff on the Team websites.	Team Leaders, Legal Services	June 2016

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OPINION DEFINITIONS

APPENDIX C

As a result of their audit work auditors should form an overall opinion on the extent that actual controls in existence provide assurance that significant risks are being managed. They grade the control system accordingly. Absolute assurance cannot be given as internal control systems, no matter how sophisticated, cannot prevent or detect all errors or irregularities.

Assurance Level

Definition

Full Assurance

There is a sound system of control designed to achieve all the objectives tested.

Substantial Assurance

While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.

Limited Assurance

Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.

No Assurance

Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.