



**DELEGATION OF THE CITY COUNCIL'S INTERNAL
AUDIT FUNCTION AND PROVISION TO
LEICESTERSHIRE COUNTY COUNCIL**

Decision to be taken by: City Mayor
Decision to be taken on: 12 January 2017
Lead director: Alison Greenhill

Useful information

- Ward(s) affected: None
- Report authors: Colin Sharpe, Head of Finance
- Author contact details: 0116 454 4081 – colin.sharpe@leicester.gov.uk
- Report version number plus Code No from Report Tracking Database: 2

1. Purpose of report

- 1.1. To seek approval to the delegation of the City Council's Internal Audit function to Leicestershire County Council and the transfer of the City's general audit staff to the County, resulting in the County delivering an internal audit service to both Councils.

2. Summary

- 1.2. In the light of reducing budgets for the Internal Audit team at the City Council and the inability to recruit to currently vacant positions, the Director of Finance is getting close to being unable to deliver an effective Internal Audit service – a statutory duty - through the internal team.
- 1.3. The City and County Councils have been exploring the potential for combining the two Internal Audit functions into a single team employed and managed by one Council, which would then deliver the service to both Councils in a more sustainable, efficient and effective manner.
- 1.4. This paper outlines what is felt to be the most effective and efficient use of resources going forwards in the delivery of Internal Audit services to both Councils.

3. Recommendations

- 2.1 With effect from 1 April 2017 or such other subsequent date as is agreed between Leicester City Council and Leicestershire County Council on the basis set out in this report, the City Mayor is recommended to:
 - a) Delegate the City Council's Internal Audit function to Leicestershire County Council in accordance with the provisions of Section 9EA of the Local Government Act 1972, the Local Authorities (Arrangement for the Discharge of Functions) (England) Regulations 2012 and all other enabling powers. This would be for an initial period of three years;
 - b) Approve the Council entering into an Administrative Collaboration Agreement, under S9EA of the Local Government Act 1972 with Leicestershire County Council;

- c) Delegate authority to the Director of Finance, in consultation with the City Mayor, to approve an Administrative Collaboration Agreement setting out the roles and responsibilities of the parties in respect of the delegated functions;
- d) Approve the transfer of City general audit staff to Leicestershire County Council on the terms set out in the Administrative Collaboration Agreement from the Commencement Date, and in accordance with the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE);
- e) Note that the Section 151 officers (or their representatives) from the City and County Councils will oversee the implementation and ongoing monitoring of the Agreement;
- f) Authorise the Monitoring Officer to make any consequent changes to the Council's Constitution to reflect the delegation of the internal audit function and delivery arrangements; and
- g) Note that formal consultation will be undertaken with regards to the potential redundancy and the TUPE transfer of staff.

4. Report/Supporting information including options considered:

- 4.1 The Director of Finance as the Council's statutory finance officer under s151 of the Local Government Act 1972 has a statutory duty to ensure that an effective internal audit service is delivered to the City Council.
- 4.2. In the light of reducing budgets for the Internal Audit team at the City Council and the inability to recruit to currently vacant positions, the Director is getting close to being unable to deliver this requirement through the internal team.

Proposed Delegation to the County Council

- 4.3 Recent discussions with the County Council have concluded that to maintain an effective and statutorily compliant internal audit service for both councils as audit and service budgets continue to reduce, an integrated service would be mutually advantageous. This would make the most efficient and effective use of audit managers and specialist auditors and provide greater sustainability and resilience for both Councils, for example in the event of staff absences or a major unplanned investigation.
- 4.4 Therefore, it is proposed that the City Council's Internal Audit function should be formally delegated to the County Council. The City's general audit staff would transfer to the County under TUPE arrangements, becoming County employees. The integrated County team would then provide the internal audit service to both Councils and their respective external clients, building an integrated audit team over time.

- 4.5 The arrangement would allow an average of 750 to 800 general audit days p.a. to be delivered to the City, which is significantly more than could be achieved by retaining a stand-alone team at the City, given on-going budget reductions and recruitment difficulties. These days would be reviewed in the future in the light of any further budget reductions required and changes in wider Council services requiring audit.
- 4.6 All of the staff in the combined County team would be able to work at a range of sites, giving an opportunity to experience new and different audits to those they have been delivering for many years in their current roles. Efficiencies from synergy should be achieved, for example where a service function can be audited at both councils the audit planning and delivery can be replicated. Single working practices, processes and systems can be developed and shared. The County Council continues to build up a more significant traded portfolio, which will also offer opportunities.
- 4.7 The post of Head of Audit and Risk Management at the City Council is proposed for deletion alongside the delegation of the audit function. This will create a potential redundancy situation.
- 4.8 The new arrangements would be targeted to start in April 2017. The City would pay £280k p.a. for the first three years, plus a one-off £10k towards set-up costs. This would save circa. £20k p.a. on the current City budget (including part of the cost of the post of Head of Audit and Risk Management). It would also allow the release of the majority of the accumulated Internal Audit earmarked reserve, which would need to be retained if the service continued in-house. Further savings and efficiencies would be expected in future years.
- 4.9 All Local Government Pension Scheme liabilities of the City staff that transfer under TUPE to County will be transferred to Leicestershire County Council, together with an equal amount of assets. The County Council will take on a 'fully funded' position in respect of the transferred staff. As a result, Leicester City Council will retain any pension fund deficit in respect of the transferred staff.
- 4.10 The Audit and Risk Committee at its meeting on 16 November 2016 received and noted a verbal update on future plans for Internal Audit for 2017 onwards.

Functions Remaining at the City

- 4.11 The City's technical IT Auditors would for the moment remain employed by the City Council and transfer to the IT Service, thus staying within the Finance Division.
- 4.12 The new internal audit 'client role' for the City Council would be undertaken by an existing Head of Finance, within the strategic direction set by the Director of Finance. This would include liaising with the County Council's Head of Internal Audit Service and Audit Managers, developing the annual audit plan, reviewing progress, commissioning unplanned audits or investigations, reviewing reports and attendance at the City's Audit and Risk Committee. This will help to mitigate the risk of loss of direct control posed by the delegation of the function and the transfer of the staff.

4.13 It should be noted that the consideration and decisions with regards to the findings of the Internal Audit Service will remain with the City Council and are not proposed to be delegated to the County. It will simply be the staffing functions and responsibilities of delivering the work required of an internal audit team.

Other Options Considered

4.14 The principal alternative option is to retain the service in-house. However, as set out earlier in the report, the Director of Finance is getting close to being unable to deliver an effective Internal Audit service – a statutory duty - through the internal team. To remedy this would require substantial additional investment on a recurring basis, and would not be an effective use of resources or deliver the best audit service.

5.1 Financial, legal and other implications

5.1.1 Financial Implications

The proposed delegation of the Internal Audit function would save circa. £20k p.a. on the current City budget for the next three years and will enable the more effective and efficient use of diminishing resources.

Colin Sharpe, Head of Finance, ext. 37 4081.

5.1.2 Legal Implications

Delegation is approved by full Council or the Executive, dependant who the function rests with. Though the consideration of Internal Audit reports is a Council function the function of undertaking the internal audit process is not expressly reserved to Council. In absence of the express reservation, it is therefore considered to be the delegation of an Executive function. As an Executive function the City Mayor can, under Article 12.04, make the delegation himself.

In addition to the Decision of the City to delegate this function, it will require the County Council, in line with its constitutional requirements, to agree to accept the delegation before the delegation is effective.

The recommended option for the delivery is via a Delegated Function Model. Under this option the County Council will be the Lead Authority and undertake, on behalf of the City Council, its Internal Audit Functions. The details of the delegation, including responsibilities, liabilities, roles and expectations will be secured through the two Councils entering in to an Administrative Collaboration Agreement. Though there is no legal requirement as to a formal agreement where a delegation is made, it is recommended that one is in place to clearly establish the roles and responsibilities. As outlined in the report, the County Council will employ all staff for the purposes of its and the City's internal audit function. It should be noted that the report proposes that the City retain all pre-existing pension and other employment liabilities up to the date of the transfer of staff.

Legal support in relation to the Agreement should be sought from Legal Services at an early stage.

Emma Horton, Head of Law (Commercial, Property and Planning)

The report suggests at paragraph 4.7 that the post of Head of Audit and Risk Management would be deleted. This would constitute a potential redundancy situation. The Council's redundancy policy should be followed to minimise the risk of breaching employment rights which could result in successful Employment Tribunal claims against the Council. Employment legal advice in connection with the redundancy procedure is available upon request.

The report recommends that this Council delegates its Internal Audit Service function to Leicestershire County Council with effect from 1st April 2017, or such subsequent date as may be agreed. The effect of the proposal will be for the day to day operational responsibility for the carrying out of the Internal Audit function within the City Council to transfer to Leicestershire County Council. The staff presently employed on the general Internal Audit Service will transfer under TUPE arrangements to Leicestershire County Council. The employees' terms and conditions of employment at the point of transfer would be protected in accordance with the requirements of TUPE. Employees would be entitled to have continued to access to the Local Government Pension Scheme at the point of transfer.

Consultation is a key aspect of both potential redundancies and TUPE. It is important to ensure that this consultation is meaningful.

Further detailed advice is available to the client department in respect of these changes upon request.

Julia Slipper, Principal Solicitor (Employment & Education)

5.2 Other Implications (You will need to have considered other implications in preparing this report. Please indicate which ones apply?)

OTHER IMPLICATIONS	YES/ NO	Paragraph/References Within Supporting information
Risk Management	Yes	4.12
Climate Change	No	
Equal Opportunities	No	
Policy	No	
Sustainable and Environmental	No	
Crime and Disorder	No	
Human Rights Act	No	
Elderly/People on Low Income	No	

Corporate Parenting	No	
Health Inequalities Impact	No	

6. Background information and other papers:

N/A

7. Summary of appendices:

N/A

8. Is this a private report (If so, please indicated the reasons and state why it is not in the public interest to be dealt with publicly)?

No

9. Is this a “key decision”?

No

10. If a key decision please explain reason

N/A