

TO: JOINT WASTE DISPOSAL BOARD
1st July 2010

JOINT WASTE DISPOSAL BOARD
REPORT ON AUDITS OF THE re3 JOINT WASTE PFI
(Report by the Project Director)

1. INTRODUCTION

1.1 The purpose of this report is to review the recommendations of the three internal audits which have, to date, been undertaken on the re3 Joint Waste PFI.

2. RECOMMENDATIONS

2.1 To note the progress made in responding to the recommendations from the three audits carried out on the re3 Joint Waste PFI to date.

2.2 That Members request that the Internal Audit Teams from the re3 councils investigate both the potential for future audits to be undertaken together and the principles by which they will be undertaken, as described within this report. The programme to be presented to the JWDB at the 2010 Annual General Meeting.

3. SUPPORTING INFORMATION

Audits To Date

3.1 There have, since the commencement of the PFI contract at the end of 2006, been three internal audits which have either focussed on the re3 PFI or touched on it.

3.2 The first audit was undertaken by Reading Borough Council in 2008 and looked solely at the PFI.

3.3 The second audit was undertaken by Wokingham Borough Council towards the end of 2008, reporting in early 2009. This audit too, looked solely at the PFI.

3.4 The third audit was undertaken by Bracknell Forest Borough Council in March 2010. The audit looked at waste services across the council and so included links to the PFI within it.

Status of Recommendations

3.5 In total, the three audits included 14 separate recommendations. The recommendations are included at Appendix 1 below.

3.6 Each of the councils employs a slightly different system to quantify the importance of the recommendations although each has three tiers.

3.7 Of the 14 recommendations, none fell into the highest priority tier in which a serious weakness in management would be identified. 8 recommendations were assessed as being in the middle tier and the remaining 6 recommendations were assessed as being in the lowest tier.

3.8 The majority of recommendations have been addressed and incorporated into the schedule of management.

3.9 The table below summarises the three recommendations which have not yet been addressed.

Table 1. Audit Recommendations Currently Unaddressed.

Ref	Description	Commentary
RBC 2	It was recommended that an annual report be produced to summarise performance, achievement and progress. It was also suggested that it should be linked to the Corporate Plan at RBC so there is a demonstrable link between corporate and PFI aims.	The Annual Environment Report (AER) is produced and circulated widely amongst Members and Officers at all three councils. However, an undertaking was given to append the AER to a report to CMT at RBC and that has, thus far, not happened.
WBC 3	It was recommended that the Joint Working Agreement (JWA) be changed to address a perceived risk relating to the timing of payments to the Administering Authority. The JWA states that payment should be made 5 days prior to the end of each month. In practice there have been occasions where that has not happened.	<p>The issue seems to hinge on the ability of the councils to raise an invoice ahead of the month end, for works or services carried out during that same month. However the PFI has always worked on a system of on account payments which are known and set in advance of the beginning of the year. Subsequent quarterly and annual reconciliations make any necessary correction against the 'actual' payments. Amendment of the JWA is clearly a possible option. An alternative solution may be to amend the council processes so they are in line with the terms previously agreed between the councils. This is an issue which may best be solved by a discussion at a partnership level.</p> <p>The issue has not been brought before the Joint Waste Disposal Board but could be included in any proposed amendments at the 2010 AGM, later this year, if agreed.</p>
BFBC 2	<p>It was identified as a Weakness that some previous amendments to the JWA had not been clarified as formally agreed by the Executive at each of the councils.</p> <p>The same item also identified as a weakness an understanding that no formal terms of reference are in place for the Project Director or for a number of council officer groupings which have formed as an interface between the councils and the PFI.</p>	<p>The item could be interpreted as suggesting that the councils are operating without a signed inter-council agreement. That is not the case. The Management Response from the relevant Chief Officer articulates the position more accurately.</p> <p>The roles and responsibilities of the Project Director are described within the JWA – both within the body of the document itself and within the Delegations (Schedule 4 of JWA). The other officers groups referred to have no formal role within the PFI but meet and collaborate because it forms a working interface with the PFI and is to the benefit of the councils that they do so. The necessity for binding or formal terms of reference to continue in that vein is something which may best be debated at a partnership level.</p> <p>The issues have not been brought before the Joint Waste Disposal Board but could be included in any proposed amendments at the 2010 AGM, later this year, if agreed.</p>

Future Audit Process

- 3.10 The Audit process is an important one for the three councils, particularly for such a significant undertaking as the Waste PFI.
- 3.11 There is a degree of complication in carrying out separate audits on a shared service in that any management recommendations cannot easily be agreed by any individual party on behalf of the partnership as a whole.
- 3.12 Therefore in compiling this report, Officers have given consideration to some potential principles which the councils may wish to adopt, for future audits, which would continue to support a robust audit process across the partnership but ensure good governance.
- 3.13 In addition they have considered the need to ensure that audit reports and recommendations are relevant and provide assurance as to the management of the joint waste PFI contract.
- 3.14 The first principle is that the terms of reference and expected involvement of staff be agreed prior to any audit.
- 3.15 Each of the three audits has involved a relatively small number of the people engaged in managing and utilising the PFI. Drawing evidence from, and speaking to, a wider selection of (and preferably all) the appropriate people is essential. It's a simple way of ensuring the relevance of the process, and any subsequent recommendations, and guarding against the potential for misinterpretation.
- 3.16 The second principle is that the three councils work together in auditing the shared waste PFI.
- 3.17 If objectives and resources could be coordinated between the teams, the resulting report would include one set of recommendations which the councils, initially via the Joint Waste Disposal Board, would be able to consider together. This would ensure that all parties are involved equally and any changes to management or governance process are considered, not at an individual council level, but at the partnership level.
- 3.18 It is important to note that these two principles would apply only to the audit of the Joint Waste PFI. That may include an investigation of the interface between the PFI and the individual waste collection services, if so agreed. It is not, however, envisaged that the principles be applied to the collection services themselves as they were not included within the scope of the PFI.

BACKGROUND PAPERS

None.

CONTACTS FOR FURTHER INFORMATION

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APPENDIX 1. SUMMARY OF INTERNAL AUDIT REPORT RECOMMENDATIONS (2006-2010) – re3 JOINT WASTE PFI CONTRACT

1) READING BOROUGH COUNCIL 2008

Rec No	Recommendation	Cat.	Audit Risk Identified	Managers Response	Target Date
1	It is suggested that the agenda format for the monthly meetings of the Re3 project group should formally reflect each of the main headings detailed in the main project agreement.	Advisory	There is a low risk that even emphasis might not be given to review of all areas of the contract if the standings agenda items for the Project contract meetings do not fully address all the operational areas detailed in the contract.	In focusing on emergent and current issues, the contract meetings are more likely, I feel, to cover all areas of risk. Fixed/Standard agenda's can contribute to complacency. Happy to review the agenda however.	Oct 08
2	It is recommended that the Waste Disposal Manager and the Head of Environment & Consumer Services considers the merits of producing an annual report to RBC members outlining performance, achievements and progress against targets. This could then be extended to a report or summary that is featured in or linked to the Corporate Plan and/or the Council's website.	Advisory	The lack of an annual progress or activity report reduces the opportunity to publicise the achievements or outcomes of the Re3 partnership.	The Contractor produces an Annual Environment Report (AER) which may serve a purpose here. The AER is produced in June/July each year and, once published, I would propose to prepare a report to CMT which summarises it's contents and provides a clear link back into RBC.	July 09
3	It is recommended that the officer project team also reviews the risk register on a regular (quarterly) basis in advance of the review by the project management group to ensure it is an agreed record and accurately reflects the status of risk(s) facing the partnership at that point in time.	Advisory	The lack of a clear record of regular review and agreement of the risk register by the officer project team could indicate an unevenness in the way that risks are monitored.	The Project Team reviews the risk register monthly and reports it to the Joint Waste Disposal Board quarterly. I agree that there is some value in recording the fact that it is reviewed however.	Oct 08

4	<p>For convenience and simplicity it is suggested that the current risk register is improved further by:</p> <ul style="list-style-type: none"> giving a single rating for each risk that is informed by the existing probability and impact factors plotting these risk ratings on to a standard 'risk grid' as per the council's standard proforma. 	Advisory	A minor inconsistency between risk rating methodologies.	Happy to develop this as it will be helpful.	Oct 08
5	It is recommended that management ensures that the directorate / corporate risk registers reflect specific (high level) risks detailed in the Re3 risk register, where appropriate.	Essential	Key operational / financial risks identified by managers might not be reflected on directorate or corporate risk registers	Will contact Dani Ridout to establish a link from the partnership risk register to the appropriate RBC equivalent.	Oct 08
6	It is recommended that periodic checks are carried out on a sample of copy receipts (or alternatively against the weighbridge system itself) to confirm the declared transaction weights reported by the contractor as part of the monthly invoice.	Advisory	Inaccurate weighbridge readings could impact on the payments to the contractor	Agreed. Quarterly checks will be carried out to confirm the copy receipt weights match the weighbridge reports.	Oct-Dec 08
7	It is suggested that the structure of (and in particular the formulae used in) the unitary charge calculator database is agreed and then formally signed off by the RBC's Project Manager representative.	Essential	Unless there is an assurance that the unitary charge calculator record has been formally checked and agreed as fit for purpose there is a potential risk that invoices might not be accurate	The Project Management Team will request that the contractor appends a declaration to the Unitary Charge stating that the formulae have been altered and no other amendments have been made.	

8	<p>In order to promote a better separation of duties it is recommended that:</p> <ul style="list-style-type: none"> on the CHAPS electronic transfer request and authorisation form (used to evidence the payment, that the name of the budget holder is recorded as the Waste Disposal Manager and countersigned by the Chief Accountant) the final reconciliation is maintained is maintained by the Principal Finance & Admin Assistant, who should reconcile transactions back to Oracle Financials as part of that reconciliation. That reconciliation should then be countersigned either by the Chief Accountant and / or the Waste Disposal Manager. 	Essential	Under current procedure there is a lack of a full separation of duties over invoicing, payment and reconciliation of funds.	Agreed. The final quarterly reconciliation will be reconciled back to Oracle Financials and countersigned.	From Oct 08
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Critical - These relate to areas where internal audit has identified one or more of the following:-
 fraud, corruption, breaches of statutory requirements or Council policy, failure to act reasonably in the implementation of previous audit recommendations, evidence of serious management control failure

Essential - these relate to findings of an administrative/operational nature which, although they may be significant for management, are not considered to have strategic or corporate implications. Nevertheless, the weaknesses identified within the internal control framework could, if not addressed, significantly increase risk.

Advisory - these relate to findings of an administrative/operational nature, where our recommendations are simply intended to increase efficiency and effectiveness.

1. Payment Mechanism**(Priority 2)**

Recommendation	Rationale	Responsibility
<p>Controls around the payments of the monthly unitary charge should be strengthened.</p> <p>Payment should only be made upon receipt of a valid invoice received from Reading Borough Council confirming WBC's share of the monthly unitary charge.</p> <p>As a minimum the spreadsheet received should be password protected or in PDF format.</p>	<p>The Joint Working Agreement specifies that Reading Borough Council pay the invoice from WRG on behalf of all the authorities. An email is received with attached spreadsheet detailing how the payments will be split. As per financial regulation 12.1.21.9 Payments shall only be made where an original invoice is provided as a supporting voucher, OR the invoice is produced electronically by a system approved by the Chief Financial Officer.</p> <p>Audit sample testing confirmed that in each instance selected, a payment had been made with adequate authorisation. However, we were unable to verify that an invoice had been received prior to payment from the administering authority for five of the seven months of the financial year. Payment is currently made based on an email with a spreadsheet attached detailing the Council's share of the monthly unitary charge, however the Joint Working Agreement does not specify that payments can be made on this basis.</p> <p>Where payments are not made through receipt of accurate, complete and correct documentation there is a risk that the integrity of the data is compromised. Where insufficient documentation is maintained for payments there is a lack of transparency as to why payments have been administered, this may increase the risk of incorrect or fraudulent payments being administered resulting in a direct financial loss for the Council.</p>	<p>Head of Accountancy and Procurement</p>
Management response		Deadline
<p>It is agreed that invoices should be received and placed on WISE prior to payment to RBC, however the Joint Working Agreement does not lend itself to this process as payments are required to be made to the lead authority (RBC) within 5 working days of the end of the contract month.</p> <p>Reading have confirmed that they will in future he will fax the VAT invoice across to Lianne Wright hopefully before we have to make payment each month, this also has the benefit that we won't have to do a VAT voluntary disclosure in future. The spreadsheet that enables us to thoroughly check the figures is still the most important document in terms of making the payment, this will be password protected going forward.</p>		<p>31st July 2009</p>

2. Supporting invoices for payments

(Priority 3)

Recommendation	Rationale	Responsibility
An invoice should be received and maintained on WISE in order to support the payment of the monthly unitary charge from WRG.	<p>The Joint Working Agreement specifies that Reading Borough Council pay the invoice from WRG on behalf of all the authorities. An email is received detailing how the payments will be split. An invoice is then received from Reading detailing WBC's share.</p> <p>Audit sample testing confirmed that in each instance selected, a payment had been made with adequate authorisation. However, we were unable to verify that an invoice had been received prior to payment from the administering authority for five of the seven months of the financial year.</p> <p>Where no invoices are recorded there is an increased risk of incorrect payments being administered, with no management trail in place to support payment</p>	Purchase to Pay Officer (Accounts Payable)
Management response		Deadline
Agreed.		31 st July 2009

3. Revision of the Joint Working Agreement

(Priority 3)

Recommendation	Rationale	Responsibility
<p>The Joint Working Agreement should be reviewed and updated to reflect the current practices in relation to payments of the monthly unitary and quarterly reconciliation charges.</p>	<p>Schedule 40 of the project agreement states in relation to the monthly unitary charge, under 1.2.1 -</p> <p>"Not less than 5 Working Days before the end of the relevant Contract Month, each Party (other than the Administering Authority) shall make a Payment to Administering Authority equal to its share of the Monthly Unitary Charge calculated in accordance with this Schedule 1 (Financial Allocation Mechanism)."</p> <p>It was identified that none of the payments to Reading Borough Council in relation to the PFI Contract for the current financial year had been paid within five days prior to the end of the contract month. Furthermore, it was deemed an unrealistic target due to the workings of WRG and the contract. Dialogue with Reading Borough Council and Bracknell Borough Council Heads of Internal Audit who confirmed our findings in this area.</p> <p>Where payments are not processed in a timely manner, there is a risk of late payments, which may affect future credit agreements.</p>	<p>Project Director / General Manager, Place and Neighbourhood Services</p>
Management response		Deadline
<p>Agreed in principle, pending confirmation of definition of contract month. The PFI contract relates to schedule 24 for definition of "Contract Month". As defined under schedule 24 it states - "Contract Month - Means a calendar month except for:</p> <ul style="list-style-type: none"> - a) the calendar month in which the Service Commencement Date falls, which shall be the period commencing on the Service Commencement Date and ending on the last day in the relevant calendar month; b) the calendar month in which the Expiry Date or Termination Date (as the case may be) falls which shall be the period commencing on the first day of the relevant calendar month and ending on the Expiry or Termination Date (as the case may be)." 		<p>31st January 2010</p>

4. Quarterly Reconciliation of Payments Received

(Priority 3)

Recommendation	Rationale	Responsibility
The quarterly reconciliation payment, based on percentage usage, should be obtained for both quarters of the financial year.	<p>Each quarter, a reconciliation invoice is received detailing the two payments on Account and the reconciliation based on actual tonnages. In the event that the authorities have overpaid, the overpayment will be subtracted from the following month's payment.</p> <p>Due to a dispute in relation to actual tonnage calculations following a usage survey, no quarterly reconciliation payments have been received to date for this financial year.</p> <p>Where no reconciliation payments are received, there is a risk the Council may be overpaying for services used, resulting in direct financial loss where not recovered.</p>	Project Director / General Manager, Place and Neighbourhood Services
Management response		Deadline
Agreed. The issue restricting the quarterly reconciliation payments has now been resolved, reported and agreed by the Joint Waste Disposal Board.		31 st July 2009

To assist management in using our reports, we have categorised our recommendations according to their level of priority as follows:

- Priority 1* Fundamental control weakness for senior management action
- Priority 2* Other control weakness for local management action
- Priority 3* Recommended best practice to improve overall control

3) BRACKNELL FOREST 2010

Ref	Weakness	Risk/Implication	Recommended Actions	Priority	Agreed Management Action	Responsibility	Target Date
2	<p>The roles and responsibilities of each Council in the RE3 Partnership are governed by the RE3 Joint Working Agreement (JWA). However, at the date of this audit the revised JWA was signed off by the Council and was awaiting sign off by Reading, and Wokingham Borough Councils. A delay of over 3 months was noted.</p> <p>Our audit also indicated that there are no formal Terms of Reference in place for the:</p> <ul style="list-style-type: none"> - RE3 Project Director reporting to the Joint Waste Disposal Board (JWDB); and - Joint Waste Officers Group i.e. the operation team, finance team and the communications team for all 3 Council's. 	<p>Lack of a formal binding Joint Working Agreement and terms of references may lead to disagreement over the roles and accountability of individual Councils which could have an adverse impact on the partnership and its objectives.</p>	<p>The JWA should be agreed and signed off by all partners of the RE3 Partnership.</p> <p>Formal terms of reference should be prepared for the RE3 Project Director, and Joint Waste Officers Group. The Council should raise this with the RE3 Joint Waste Disposal Board.</p> <p>The Council needs to be aware of the potential risks and should register these within the department so that it informs the Strategic Risk Register.</p>	2	<p>Agreed.</p> <p>There is little risk of any significance in not having the JWA formally signed at any point in time. The terms of the revised document are being applied but we are awaiting confirmation that the formal signing has taken place.</p>	Chief Officer - Environment and Public Protection	1 April 2010
6	<p>We reviewed the most recent risk matrix appended to the February 2010 JWDB meeting documents and noted that the risk register was incomplete in particular:</p> <ul style="list-style-type: none"> ▪ The following <i>Medium Risks</i> did not have an action date: <ul style="list-style-type: none"> No. 18 - WRG Board, No. 22 - Performance Failure (Contractor), 	<p>There is a risk that unrecorded and/or incomplete risk register could have severe financial and/or operational impact should the risks crystallise.</p>	<ul style="list-style-type: none"> ▪ The risk register should be complete i.e. it should have the agreed action dates for all risks. ▪ The risk register should be updated on a monthly basis on the progress of the agreed action. 	2	<p>Agreed.</p> <p>Risk is reported to the Board each quarter. The detail being reported is being developed. These comments will be given to the</p>	Chief Officer - Environment and Public Protection	1 April 2010

	<p>No. 23 - Performance Failure (councils) (2) and</p> <p>No. 25 - Review of Fire Detection system O&M Manuals</p> <ul style="list-style-type: none"> ▪ The <i>following Medium Risk</i> did not have a Potential Mitigation or response: <p>No. 21 - Performance Failure (Council's)</p> <ul style="list-style-type: none"> ▪ The following High and Medium Risk did not have a update on the mitigation of the risks: <p>No 16 - LATS: Councils exceed allowance 2019/2020 (Target Year 3 of 3) – High risk</p> <p>No. 21 - Performance Failure (Council's) – <i>Medium Risk</i></p>		<ul style="list-style-type: none"> ▪ There should be a clear link of the risk to the RE3 Action Plan. 		<p>Project Manager with a view to making members of the Board aware of the concerns.</p>	
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