

A report by the Controller of Audit to the Accounts Commission under Section 102(1) of the Local Government (Scotland) Act 1973

Aberdeen City Council

Property sales investigation

Summary

1. Following preliminary enquiries by external auditors into the sale of Carden House, senior officers at Aberdeen City Council requested internal audit to carry out a wider review of property transactions instigated between 2001 and early 2006.
2. The investigation identified: evidence of procedural and administrative deficiencies and poor record keeping; cases where accurate and relevant information was not reported to elected members; a lack of evidence to support the valuation at which properties were sold; and cases where the Council may have achieved a better price. Overall, it appears that there is a potential loss of capital receipts which may be more than £5 million.
3. The Council responded quickly when these concerns emerged and senior officers are taking remedial action for which they are accountable to elected members. The Council is also taking action through its disciplinary procedures and I understand that Grampian Police are making enquiries.
4. Overall, this report on property transactions highlights matters relating to scrutiny and organisational culture which are reflected in my recent report on Best Value and Community Planning at the Council.

Introduction

5. Concerns about Council property transactions first came to light in May 2006 when a member of the public wrote to Audit Scotland expressing concern about the disposal of Carden House, Skene Street, Aberdeen in 2003. Central to this was an allegation that the Council had accepted substantially less than market value.
6. Preliminary enquiries by the Council's external auditors (Henderson Loggie) suggested the need for more detailed investigations. Senior officers at the Council agreed to involve internal audit in a wide-ranging review of this and other property sales. Internal audit considered 26 transactions completed between April 2003 and January 2007 and focussed on the general

administration of disposals, reporting to the Council and the valuation process and outcomes.

7. Internal audit produced a comprehensive report which was submitted to the Council's Continuous Improvement Committee in September 2007. This contains details of the individual property sales examined and, for each disposal, the deficiencies and errors found. Internal audit expressed serious concerns in six of the 26 cases; in only seven did they conclude that the disposal process was adequate. One of the most significant issues is the potential loss of capital receipts which internal audit, in consultation with independent surveyors, quantified as more than £5 million.
8. The Corporate Director of Resources Management also submitted a paper to the September 2007 Committee meeting which set out the programme of work undertaken since this matter was first brought to his attention in August 2006.
9. I requested the external auditors to review internal audit's work and I now have their report. It concludes that the internal audit investigation was thorough and covered the remit agreed by the Chief Executive and the Corporate Director of Resources Management and supported by the (then) Standards and Scrutiny Committee.
10. The internal audit investigation and external audit review have generated a significant amount of material on long running and complex individual property transactions. The external auditors' report summarises the main points from the internal audit work and sets out other matters arising from their review. I have relied on the external audit report and have drawn on it to highlight key issues.
11. This report refers to the Asset Management Section within the then City Development Service at the time these transactions took place. Following a Council wide restructuring in 2006, the Corporate Director for Resources Management was appointed with responsibilities for Finance, Human Resources, Legal, Property/Asset Management and Democratic Services. Neither the Corporate Director nor the Head of Resources Development and Delivery was involved in the property disposals covered in this report.
12. I have agreed the factual accuracy of my report with the Council's Chief Executive.

There was evidence of procedural and administrative deficiencies and poor record keeping

13. The investigation found procedural and administrative deficiencies and poor record keeping within Asset Management. Internal audit attributed this to ineffective management, inadequate processes and inadequate compliance with procedures. They concluded that responsibility for discharging due professional care was not exercised and that the service provided for asset disposals was unsatisfactory.
14. In particular, they identified:
- Missing or incomplete documentation and failure to record meetings and conversations. For example, there are cases where there was no record of negotiations between the case officer and the purchaser.
 - Lengthy disposal process. There is evidence of delays in responding to requests, poor follow-up and long timescales for completion of disposals. In many cases there was a substantial time lapse between the Council agreeing to sales and receipt of the proceeds. It was recognised that this was sometimes due to factors outwith the control of the Asset Management team, for example due to the planning process.
 - Lack of supervision of case officers. There are questions about the competency of some case officers, the quality of their work and the effectiveness of management supervision. Internal audit state that if robust and effective supervisory processes had been in place in the former City Development Service it is likely that at least some of the problems would have come to light earlier.
 - Lack of follow-up of sale obligations where required. There is evidence that benefits negotiated by the Council as part of sales contracts were not pursued eg an upgrade to a play area.
15. Three cases (involving properties at Powis Terrace, Carden House and Seafield) were identified where officers dealt with property developers on a sole negotiation basis. The Council was unable to demonstrate how such an arrangement could be in its best interests.
16. It is also clear that staff in Asset Management accepted proposals and offers from prospective purchasers without consideration of options which might have provided a better deal for the Council. For example, in the case involving the Seafield site (known within the Council as one of the most

attractive development sites to become available for some time), there was no explanation as to why there was no options appraisal. Staff also accepted without challenge views presented by prospective purchasers. For example at Seafield senior managers took assurance from valuations prepared by surveyors acting on behalf of the purchasers.

17. The investigation also identified concerns about the interaction between Asset Management and other services which offered advice or warnings, including Legal Services, Planning and Finance. For example, in the Carden House case, a senior legal officer expressed concern about delayed entry dates which in his view undermined the Council's obligation to achieve best value. In another case involving land at Carnie, legal services expressed concern about the contract details but these were set aside with the result that the Council now faces a potential loss.
18. Section 74 of the Local Government (Scotland) Act 1973 (the Act) requires councils to obtain the best consideration reasonably obtainable when disposing of land. Where a council decides to accept less, it requires consent from Scottish Ministers. There were four cases considered during the investigation where the external auditors conclude that Ministers' consent should have been obtained but was not. In one case a property was sold for £150,000 below the District Valuer's valuation. In the other three, including Carden House, individual circumstances, such as other expressions of interest, led the auditors to conclude that less than best price was achieved.
19. Specific conditions apply in situations involving common good land, under section 75 of the Act. Of the 26 disposals included in the investigation four were owned in whole or part by the common good. The external auditors' discussions with the City Solicitor indicated that there was no requirement to seek consent for these particular disposals. However, it appears that outwith the Legal Section there was limited appreciation of the implications, as evidenced by the lack of documented consideration of the section 75 requirements.

Accurate and relevant information was not reported to elected members

20. Within the 26 disposals examined during the investigation, there were ten where relevant information was not reported to elected members or where the information reported was inaccurate. Elected members require relevant and

accurate information to make informed decisions, and the frequency of problems here makes this is an area of major concern.

21. In particular, internal audit found:

- Failure to inform elected members of relevant information and to correct errors in information previously provided. There is also evidence that officers failed to carry out Committee instructions.
- Alternative approaches were not reported to Committee. Because of the lack of commercial awareness, Committee reports did not present options for disposals.

22. In relation to Carden House, information provided to the Resources Management Committee was misleading. Officers knew, or ought to have known at the time of submitting their report, that the prospective purchaser was a property developer and not Grampian Primary Care NHS Trust as stated in their report. Whether or not this was known at that time, members were not informed of the true position when it was highlighted by the Trust three months later. The external auditors were unable to conclude whether the errors in reporting represent naivety, incompetence or a deliberate attempt to mislead.

23. The Resources Management Committee agreed that officers could negotiate to sell the Seafield property subject to obtaining independent valuations. However, no independent valuation was obtained and the disposal was concluded on a sole negotiation basis.

24. The investigation also identified cases where elected members were not informed of other interests in property identified for disposal. For example, in the Carden House case, the file contained correspondence from lawyers and others expressing interest, including a written offer which was £400,000 more than the offer under consideration. Had elected members known, they may have reconsidered the position on exclusive negotiation. Similar situations are noted in the case of land at Eday Road, where informal interest from a supermarket chain was neither followed up nor reported to members, and in relation to the Seafield site, where there is no evidence that other interests were made known to elected members.

There is a lack of evidence to support the valuation at which properties were sold and there are cases where the Council may have achieved a better price

25. Of the 26 disposals considered, internal audit concluded in eleven cases that there was a lack of evidence to support the valuation at which the property was sold. Such a high proportion indicates weaknesses in procedures and in senior management supervision and control.

26. In particular, internal audit found:

- Cases where no valuation report was prepared or where valuation reports were not signed off by the Principal Surveyor.
- Evidence that valuations were prepared after property deals were agreed with purchasers or where there is no evidence to support valuations.
- The potential loss of more than £5 million in proceeds from disposals, based on a comparison of valuations by Asset Management with those obtained by internal audit from independent surveyors.

27. As part of the investigation, internal audit commissioned independent chartered surveyors to value properties and the District Valuer to provide additional advice on Carden House. The following table summarises the information contained in the internal audit report on the main transactions showing a potential loss:

Property/site	Proceeds received (£)	Maximum potential value (£)
Carden House	590,000	1,250,000
Land at Powis Terrace	275,000	372,000
Site at Earnsheugh Rd, Cove	100	20,000
Seafield Club and Allotments	685,000	2,930,000
Land at Carnie	365,000	1,065,000
College Street car park	1,800,000	3,630,000
Total	£3,715,100	£9,267,000

28. There is of course a degree of subjectivity in such valuations and in some cases the maximum potential value would have been dependent on planning approvals. However, based on these figures, it is clear that the Council may have achieved more across these six properties. In total, this could have

exceeded the amount achieved by more than £5.5 million (£9,267,000 less £3,715,100).

29. While the independent valuations are important in quantifying the financial consequences, the valuers' comments provide useful additional insight on the deficiencies in the Council's processes. The importance of option appraisal is highlighted as a key recurring point. In the case of Seafield, for example, where there is a potential loss of £2.2 million, the valuers note that investigations of alternative uses for the site would have resulted in substantial additional capital receipts.
30. The most serious comment by independent valuers relates to the College Street car park where they concluded that the proceeds may have been double the £1.8 million achieved. Based on the information available and their opinion on open market value, they concluded that the deal struck by the Council was 'extremely poor and almost bordering on negligent'.

The investigation identified residual concerns and other matters

31. Due to the lack of documentation, the inability to obtain responses to audit queries, conflicting accounts of events from staff and former staff and in some cases the reticence of former staff to provide assistance, there are residual and unexplained concerns in relation to five of the 26 disposals ie Seafield, land at Carnie, Eday Road, the former Buchan railway line and the College Street car park. For example, in the Seafield case, internal audit were unable to obtain an explanation for a significant shift in approach: a committee report in April 2001 stated that selling with vacant possession at the end of the lease in 2005 would generate a significantly higher capital receipt, yet in June 2001 a report to members recommended that officers enter negotiations for disposal on a sole negotiation basis.
32. The internal audit investigation did not reveal evidence of fraud by Council staff. Grampian Police have a copy of the internal audit and external audit reports and are currently considering the position.
33. The sample of property disposals included disposals of tied houses ie houses occupied by employees in connection with their duties. These properties were sold to tenants but rules relating to tied houses in some instances, depending on the terms of the lease, preclude sales under the 'right to buy' legislation. Senior officers have instructed a review.

Action taken by the Council

34. Restructuring in the Council in 2005/06 affected all services, and procedures in Asset Management will have changed under the new senior management arrangements. The Asset Management team under the former City Development Service is now part of the Asset Policy (Non Housing) team within Resources Management. Also, having been advised of external audit's concerns, the Chief Executive and the Corporate Director for Resources Management implemented changes when the internal audit work was ongoing.
35. The Corporate Director of Resources Management's report to the Continuous Improvement Committee in September 2007 set out the programme of work which has been underway since these matters were first brought to light in August 2006. This paper covers both strategic and detailed supervisory matters and includes a commitment by the Corporate Director to implement internal audit's recommendations and to be accountable to the Committee for change.
36. The external auditors have also reported to the Continuous Improvement Committee and its predecessor, the Standards and Scrutiny Committee. In their view, elected members have taken these matters very seriously and supported a thorough investigation. The Continuous Improvement Committee considered the internal audit report and approved the report and the paper submitted by senior managers.
37. More recently, I requested an update on progress from the Chief Executive. He informed me that:
 - He and other senior managers have taken a close interest in this matter
 - Revised supervision arrangements are in place, including tighter quality assurance over reports to elected members and a review of professional and technical guidance
 - Following competitive tendering, a wide ranging valuation service for the acquisition and disposal of all council land and buildings is now provided by an external party. Greater use is also being made of the District Valuers service
 - Consultants have been commissioned to implement a comprehensive computer based asset management system

- A separate investigation is underway in relation to the tied house sales
- The Corporate Director of Resources Management will be making a full report to the Continuous Improvement Committee when the police investigation is concluded
- The Council's disciplinary process has been enacted and may be extended following the conclusion of any police enquiries.

38. The Chief Executive has also indicated to me that the problems which have come to light in property disposals are indicative of what he views as a wider 'culture of non compliance' (with corporate systems and processes) across many parts of the Council.

Overall conclusions

39. The purpose of my report is to bring to the attention of the Accounts Commission and the public the serious and wide ranging deficiencies in the Council's approach to property disposals over the period 2001 to 2006. The internal and external audit reports both point to serious weaknesses in governance and accountability and I am concerned that the Council may have suffered a potential and significant financial loss of capital receipts as a result.
40. I have recently completed my report on the audit of Best Value and Community Planning at Aberdeen City Council and I included in that report general issues from the property disposal investigations which are relevant in that context. The investigation of property transactions reflects matters relating to scrutiny and culture which feature in the Best Value report.
41. I note that the Council responded quickly when the serious concerns about property disposals came to light and that senior officers are implementing remedial action for which they are accountable to elected members.
42. I am also content to allow those responsible for these matters to be held to account through the Council's investigatory and disciplinary process as appropriate. In view of the unexplained areas and the potential substantial loss that the Council may have suffered I consider it appropriate that the Council has informed Grampian Police and has made the audit reports available to assist their enquiries.
43. I will be asking the external auditors to assess the progress made and the effectiveness of revised arrangements as part of their planned audit work and

to report in the usual way. I will monitor the position and may report again in due course.

**CAROLINE GARDNER
CONTROLLER OF AUDIT
22 April 2008**