

AUDIT AND RISK ASSURANCE COMMITTEE

26 July 2018

Subject:	Council update on allegations of fraud, misconduct and related issues
Director:	Executive Director – Resources – Darren Carter
Contribution towards Vision 2030:	
Contact Officer(s):	Peter Farrow Audit Services and Risk Management Manager peter_farrow@sandwell.gov.uk

DECISION RECOMMENDATIONS

That Audit and Risk Assurance Committee:

- 1 Considers the attached summary in order to gain assurance that the issues identified in the report are being comprehensively and promptly addressed.
- 2 Monitors progress in the implementation of all agreed recommendations through the consideration of a regular progress report/action plan.

1 PURPOSE OF THE REPORT

- 1.1 The report updates the Audit and Risk Assurance Committee on the ongoing investigations into allegations of fraud, misconduct and related issues.

2 IMPLICATIONS FOR SANDWELL'S VISION

- 2.1 Internal Audit operates across the council and helps it accomplish its vision by bringing a systematic, disciplined approach to evaluating and improving the effectiveness of risk management, control and governance processes.

3 BACKGROUND AND MAIN CONSIDERATIONS

- 3.1 This report brings the Audit and Risk Assurance Committee up to date on a number of investigations and reviews relating to concerns that have been raised alongside the Wragge & Co (now Gowling WLG) report, some of which go back several years and only came to light following more recent investigations.
- 3.2 These investigations and this subsequent report to the Audit and Risk Assurance Committee underline the council's commitment to investigate any allegations in an open and transparent way. The council is determined to deal with any allegation properly, professionally and appropriately.
- 3.3 In order to address these issues, officers have conducted thorough internal reviews and investigations across the council.
- 3.4 Issues being raised as a result of the continuing investigations work that relate to the council's risk, governance and internal control environment, and therefore fall under the remit of the Audit and Risk Assurance Committee, will be reported back to the committee with any recommendations as appropriate. It is important to the council that the committee, council members, staff, taxpayers, the wider public and the media can see these matters are being dealt with comprehensively and promptly, even when they relate to issues some years in the past. The council continues to need to draw a line under these matters, taking action where necessary, so the whole organisation can look to the future.
- 3.5 For this report, a review has been completed on concerns raised over:
 - The disposal of land at Plant Street
 - The disposal of Farley House and Langley Hall

- 3.6 The findings from these two reviews have been shared with the Monitoring Officer. Following due consideration a decision based on the evidence available was arrived at, that there was insufficient evidence to amount to any breach of the Members Code of Conduct.
- 3.7 The committee will recall that at previous meetings it has referred a number of matters to the council's Monitoring Officer for consideration under the arrangements for dealing with complaints of breach of the Member Code of Conduct.
- 3.8 Following this the council's Monitoring Officer considered the conduct alleged, and sought assistance from the council's Independent Person before deciding that a formal Standards investigation was required in a number of cases.
- 3.9 Since that time one Standards investigation has been completed and others are ongoing.
- 3.10 There are also a number of other audit reviews and investigations under way. Once completed, the outcomes of these investigations will also be reported back to the committee where appropriate.

4 THE CURRENT POSITION

- 4.1 The report does not require a decision and therefore, no position analysis is necessary.

5 CONSULTATION (CUSTOMERS AND OTHER STAKEHOLDERS)

- 5.1 The outcomes of individual reports issued are, where appropriate, discussed with the relevant stakeholders and reported to the respective Director.

6 ALTERNATIVE OPTIONS

- 6.1 The report does not require a decision and therefore, alternative options do not need to be considered.

7 STRATEGIC RESOURCE IMPLICATIONS

- 7.1 There are no direct financial and resource implications arising from this report.

8 LEGAL AND GOVERNANCE CONSIDERATIONS

8.1 Legal and Governance considerations have been taken into account in producing this report.

9 EQUALITY IMPACT ASSESSMENT

9.1 It was not necessary to undertake an Equality Impact Assessment.

10 DATA PROTECTION IMPACT ASSESSMENT

10.1 It was not necessary to undertake a Data Protection Impact Assessment. Data gathered during audit reviews is used and retained in accordance with current legislative requirements.

11 CRIME AND DISORDER AND RISK ASSESSMENT

11.1 The report does make reference to a number of issues that were reported to the Economic Crime Unit of the West Midlands Police.

12 SUSTAINABILITY OF PROPOSALS

12.1 There are no direct sustainability issues arising from this report.

13 HEALTH AND WELLBEING IMPLICATIONS (INCLUDING SOCIAL VALUE)

13.1 There are no direct health and wellbeing implications from this report.

14 IMPACT ON ANY COUNCIL MANAGED PROPERTY OR LAND

14.1 A number of the issues raised in this report relate to concerns over the historic disposal of council owned land.

15 CONCLUSIONS AND SUMMARY OF REASONS FOR THE RECOMMENDATIONS

15.1 The purpose of the report is to update the Audit and Risk Assurance Committee on the ongoing investigations into allegations of fraud, misconduct and related issues. As such, no decision is required.

16 BACKGROUND PAPERS

16.1 None.

17 APPENDICES:

17.1 None.

Darren Carter
Executive Director – Resources

Issue	Summary of findings	Outcome
The disposal of land at Plant Street	<p>A concern was raised over the sale of a plot of land at Plant Street, Cradley Heath in 2013. The site had previously been acquired by the council around 2000/01 via a Compulsory Purchase Order with the intention for development. However, no such development took place and the site remained unused for several years.</p> <p>Later in 2012/13 records indicate that Property Services had intended to lease the land jointly to a local Mosque and Islamic Centre and Primary School in order to allow both organisations (who both neighbour the land) to have shared use for car parking. However, following the intervention of former Councillor Hussain, David Willets – former Property Services Manager and no longer employed by the council, instructed that the arrangement be changed to that of a direct allocation to the Mosque and Islamic Centre (and that shared use was no longer to be considered) with a justification given that did not appear to be particularly strong as it indicated that the site had remained dormant for a number of years with no substantial interest.</p> <p>The plot was valued at, and subsequently sold for £6,500 to three trustees of the Mosque and Islamic Centre in November 2013. The valuation of £6,500 for the land was made for car parking use only with no apparent consideration given for other possibilities, despite planning advising the site was suitable for residential purposes which would have inevitably gained a higher capital receipt. However, the conditions of sale do include a covenant specifying if the land were to be used for an alternative use other than car parking the council would be entitled to the difference in value from the original use to the proposed use.</p> <p>There were concerns over the validity of the planning permission obtained for the land at Plant Street. The application indicated the land owner was the</p>	<p>Since the issues identified took place, the council has introduced a new protocol strengthening the controls over the sale of council owned land and buildings.</p> <p>A recommendation has also been agreed that the future sale of any land by direct award will be approved by the Chief Financial Officer.</p> <p>Legal Services have reviewed the conditions of sale for this plot and confirmed that the initial terms and conditions set out by Property Services were reflected in the final sale details. The Land Registry document contains a restriction for car parking only in accordance with planning permission and a positive covenant specifying if the land were to be used for an alternative use other than car parking the council would be entitled to the difference in value from the original use to the proposed use.</p>

	<p>mosque and had been for at least 21 days at the time of the application. However, at the time the planning permission was submitted, the land was still under council ownership.</p> <p>Despite the land being sold in 2013 it remains in a similar state to when sold. It has not been developed into its intended use as a car park and appears to be unused and dormant.</p> <p>From the information and evidence available, the overall impression is one of council officers and a Councillor working in an informal manner in order to facilitate a direct allocation to a particular organisation.</p>	
<p>The disposal of Farley House and Langley Hall</p>	<p>A concern was raised over the disposal of Farley House and Langley Hall. While a complex process lasting several years, a review of the available records confirmed that the site was sold through a sealed offer process in order to obtain the best price.</p> <p>Following the relocation of the council wardens from Farley House in 2010/11 to the Council House in Oldbury, and the ongoing differing uses of the adjoining Langley Hall going back to 1998, the 'combined' site was subject to a large amount of correspondence between the council and a number of potential organisations who expressed an interest in making use of the combined properties.</p> <p>With regards to Langley Hall this goes back nearly 20 years and due to the passage of time makes the trail difficult to follow. For a while it appears that a number of organisations had occupied the Langley Hall property. However, it is understood that there was a fire at the property in 2010 and it was, and remained in a relatively poor state of repair. Both properties were eventually identified as surplus to requirements by the Asset Management and Land Disposal Committee at their meeting of 22 November 2011.</p> <p>The site was compared to similar sized council disposals and valued by the council at £200,000 with a reserve price set of £150,000. It was then marketed in 2012 on behalf of the council by an external company and four sealed offers were received.</p>	<p>Ultimately, the site was sold through a sealed offer process in order to obtain the best available price.</p>

The highest bidder later withdrew their offer for their own commercial reasons and the second highest bidder failed to provide proof of funding. Therefore, an offer was made to the third highest bidder who following discussions with the council commissioned an external valuation of the property. This valued the property at £190,000, which was £10,000 higher than their original bid, and after negotiations with the council they subsequently purchased the site for £190,000.

As indicated above, it is understood at the time the site was vacated by the council wardens and as the move towards its disposal progressed alongside Langley Hall, various representations were made by local members of the community for its use. This included public meetings with council officers in attendance, a petition on safety concerns regarding highways issues, concerns against its potential use as a mosque and support given for another purpose. Notwithstanding the issues being raised, the site was sold in order to obtain the best available price. Following the sale, planning permission continued to be granted to the owner allowing them to continue with its current use as a place of prayer and educational facility. Petitions and representations continue to be submitted from sections of the local community opposing the planning applications.