



Gourlaw /Newbigging /Shewington Opencast Community Fund – Administrative Arrangements

Report by John Blair, Director, Corporate Resources

1 Purpose of Report

This report advises the Committee on progress with the Management Action Plan arising from the Internal Audit report relating to the Gourlaw/Newbigging/ Shewington Opencast Community Fund which was considered by the Councils Audit Committee on 19 April 2011.

Secondly the report provides an update on the outcome of the Police investigation.

Finally the report advises of the arrangements for disbursements for projects submitted for consideration by the Gourlaw Sub Committee.

2 Background and Update

2.1 Internal Audit Committee Update

The Audit Committee on 19 April 2011 agreed the following:

- (a) To note that the report had been passed to Lothian & Borders Police on 18 April 2011 to investigate whether any fraudulent activity may have taken place;
- (b) To request the Police to expedite the investigation in view of the public interest in the matter;
- (c) That advice be provided to elected Members on what they could and could not say during the ongoing Police investigation;
- (d) To endorse the management action plan;
- (e) **To agree that pending the outcome of the Police investigation only these aspects of the management plan relating to internal control, processes and procedures be taken forward at this stage;**
- (f) To agree that Scottish Coal be advised of the anomalies found during the audit once the Police investigation had been concluded, but in the meantime they be advised of the Council's intention to undertake a review of the Community Funds;
- (g) To note that on 4 April 2011 the General Purposes Committee had established a Short Life Working Group to examine a number of issues relating to the smaller trusts, bequests etc;
- (h) To request the General Purposes Committee to widen the remit of the Short Life Working Group to include an examination of the broader issues in internal control, processes and procedures across the Council to ensure compliance with "Following the Public Pound" requirements in all cases;
- (i) That accounts relative to the Community Funds be made available quarterly to elected Members; and

- (j) To endorse the recommendation that the administrative arrangements for the Community Funds be transferred to a section within the Council that had experience in providing funding to external bodies.

The Crown Office on 3 September 2012 advised the Council:-

“Information relating to the procuring of a grant by Bonnyrigg Rose Junior Football Club from Midlothian Council was submitted by the police to the Procurator Fiscal. The information provided did not disclose a crime and there are no proceedings in contemplation in relation to this matter”.

In view of the foregoing Council is now able to publish The Internal Audit Report titled – Investigation of the Gourlaw/Newbigging/Shewington Opencast Community Fund a Report by the Council’s Risk and Audit Manager dated 12 April 2012.

This report was previously presented to the Audit Committee on 19 April 2011.

These papers are included as an Appendix to this report.

2.2 Internal Audit Report

The following table provides a detailed update on each of the recommendations made in the Internal Audit Report.

It should be noted with regard to the first four recommendations the Audit Committee at its meeting on 19 April 2011 specifically decided

- (e) To agree that pending the outcome of the Police investigation only these aspects of the management plan relating to internal control, processes and procedures be taken forward at this stage;

Therefore it is now the intention of the Director Corporate Resources to meet with the football club in the near future following notification of the decision of the Crown Office dated 3 September 2012.

Ref	Recommendation	Responsibility	Target Date	Comments
1	The Council should liaise with the club and seek an explanation for the additional invoices provided during the audit investigation and answers to the queries raised by the independent surveyors (see Appendix 16, page 11).	Director, Corporate Resources	31 May 2011	The Director, Corporate Resources intends meeting with the club following the decisions of the Crown Office.
2	Should it be confirmed that an overpayment has arisen, this should be recovered by the Council. In addition, funding paid to BRAJFC should be recovered if completion/ availability of the car park for public use is not carried out to the standard required and within a reasonable timescale.	Director, Corporate Resources	31 May 2011	The Director, Corporate Resources intends meeting with the club following the decisions of the Crown Office.
3	Should the car park at BRAJFC become available for public use, suitable publicity, including reference to the contribution provided by Scottish Coal from the Community Fund, should be undertaken.	Director, Corporate Resources	31 Dec 2011	The Director, Corporate Resources intends meeting with the club following the decisions of the Crown Office.
4	Planning should continue to monitor the planning and building warrant issues at BRAJFC and ensure the necessary actions are taken.	Development Management Manager	30 Nov 2011	The Director Corporate Resources intends meeting with the club following the decisions of the Crown Office.

Ref	Recommendation	Responsibility	Target Date	Comments
5	Consideration should be given to informing Scottish Coal about the anomalies found during this investigation.	Director Corporate Resources	31 May 2011	Complete
6	Monies due to the Council (£139,478) from the Community Fund bank account should be obtained with immediate effect.	Financial Services Manager	31 May 2011	The majority of the funds have now been obtained. Access issues to one account remains and is currently being pursued with the bank and the third party.
7	A review of the administrative arrangements for the Gourlaw Community Fund should be undertaken and consideration given to transferring this to a section within the Council which is experienced in providing funding to external bodies. It is noted that the General Purposes Committee established a short life working group at its meeting on 5 April 2011 to review Open Cast Funds and Small Trusts.	Director, Corporate Resources	31 May 2011	Report to General Purposes Committee being scheduled on 13 November 2012.
8	The Council's Code of Guidance on Following the Public Pound should be complied with for all relevant awards from Community Funds.	Director, Corporate Resources	Immediate	Appropriate procedures have been put in place and will be applied to all future awards of funding.
9	Formal terms and conditions and written agreement of acceptance of these should be in place for all funding awarded from Community Funds. These should include the issues stipulated in finding no 6.6.	Director, Corporate Resources	31 May 2011 (31 Aug 2011)	Appropriate procedures have been put in place and will be applied to all future awards of funding.
10	Monitoring of all funding awarded, including inspection of works completed, should be undertaken from outset and before any funds are paid out.	Director, Corporate Resources	Immediate	Appropriate procedures have been put in place and will be applied to all future awards of funding.
11	The Council should ensure that applicants for funding have secured permission from land owners and/or obtained planning permission, where required, before funding is awarded.	Director, Corporate Resources	Immediate	Appropriate procedures have been put in place and will be applied to all future awards of funding.
12	The Gourlaw Sub Committee should be advised that reasons for agreeing or declining funding requests should be given and the minutes should be updated to reflect this.	Legal and Secretariat Manager	31 May 2011	Appropriate procedures have been put in place and will be applied to all future awards of funding.
13	Where applicable, all applications for funding, submitted to the Gourlaw Sub Committee, should have associated technical officers' comments.	Director, Corporate Resources	31 May 2011	Appropriate procedures have been put in place and will be applied to all future awards of funding.
14	Responses to queries from the public should be provided promptly to ensure good customer service is provided. Appropriate action should be taken to ensure that all staff are aware of the standards of customer care/administration expected within the Council.	Director, Corporate Resources	31 May 2011	Early action taken to ensure that is in place. Additionally the Council has an ongoing programme of Corporate Customer Care training to further improve customer services.
15	The Gourlaw Sub Committee should meet as required to consider applications for funding from the Community Funds and applicants should be advised timeously of the decision made regarding their request.	Legal and Secretariat Manager	Immediate	See paragraph 2.3 below
16	Standard documentation/application forms and procedures/guidance notes detailing how to administer the Community Funds should be produced.	Director, Corporate Resources	31 May 2011	Complete

Ref	Recommendation	Responsibility	Target Date	Comments
17	Publicity over the availability of funds from the Community fund should be increased to ensure all potential applicants are aware of its existence. Consideration should be given to inserting this on the internet and also the Online Funding Database. An acknowledgment of Scottish Coal's contribution should be included.	Director, Corporate Resources	31 May 2011	The Director Corporate Resources is working with Scottish Coal on the publicity relating to Community Funds.
18	Future monies due to the Council from the Community Fund bank account should be obtained promptly after expenditure has been incurred. The responsibility for this and the process required should be clearly documented to ensure this is done.	Financial Services Manager	Immediate	Appropriate procedures have been put in place and will be applied to all future awards of funding.
19	A final audit report detailing the total amount of coal extracted from the Newbigging Farm site should be obtained and reconciled with the payments received to ensure the correct amount has been received	Financial Services Manager	30 June 2011	Appropriate procedures have been put in place and will be applied to all future awards of funding.
20	An audited certified statement of the amount of coal extracted during the preceding year should be obtained for all ongoing opencast mining. This should be reconciled with the payments received to ensure the correct amount has been received by the Council.	Financial Services Manager	30 June 2011	Appropriate procedures have been put in place and will be applied to all future awards of funding.
21	The consultants appointed by the Council to undertake quarterly site monitoring should be requested to undertake monitoring in respect of the tonnage of coal/fireclay extracted. Once received, these reports should be reconciled with the payments received to ensure the correct amounts have been received by the Council.	Development Management Manager	31 May 2011	Appropriate procedures have been put in place and will be applied to all future awards of funding.
22	It should be clarified with Scottish Coal whether there has been any extraction of fireclay and if so payment should be obtained.	Financial Services Manager	31 May 2011	Complete

As indicated above the majority of the recommendations arising from the Internal Audit have been either implemented or will be actioned as future applications for funding are assessed by officers for consideration by the Goullaw Sub Committee.

In addition the Director Corporate Resources has established a group of relevant officers to consider each application prior to presenting the details to the Goullaw Sub Committee.

2.3 Goullaw Sub-Committee

Goullaw Sub-Committee of the General Purposes Committee has the following terms of reference and membership.

Business

The Sub-Committee shall make recommendations to the General Purposes Committee in respect of the administration of the Trust Funds arising from the Goullaw Farm, Newbigging and Shewington Farm Opencast Coal sites.

Meetings

The Sub-Committee will meet as required.

Quorum

The quorum for meetings of the Sub-Committee will be 2 Members.

Minutes

The Minutes of the Sub-Committee will be submitted to the next meeting of the Sub-Committee for approval. They will also be submitted to the General Purposes Committee for both information and to allow the Committee to consider any recommendations contained in them.

At its statutory meeting on 22 May 2012 the Council made the following appointments to the Gourlaw Sub-Committee.

Gourlaw Sub-Committee of the General Purposes Committee

(6 elected members)

<i>Councillor Russell</i>	Chair
<i>Councillor Baxter</i>	
<i>Councillor Constable</i>	
<i>Councillor Coventry</i>	
<i>Councillor Imrie</i>	
<i>Councillor Thompson</i>	

The Audit Committee are requested to note that the Director, Corporate Resources intends to establish a regular cycle of meetings of the Sub-Committee as part of the Council's approved meeting schedule..

Furthermore at the next meeting of the Gourlaw Sub-Committee the Director, Corporate Resources will provide a financial update together with costed details of emerging projects.

4 Report Implications

4.1 Resources

The main resources associated with implementing the Internal Audit actions relate to staff time. This has been and will continue to be achieved via the reprioritisation of projects and tasks and will be overseen by the Director Corporate Resources and relevant Heads of Service.

4.2 Risk

Following the Internal Audit Report the Director Corporate Resources has ensured that the Management action plans be progressed as detailed in this report.

4.3 Policy

Strategy

This report in part is consistent with the Council's corporate priority of "providing suitable infrastructure for the efficient and effective delivery of services to the full range of community needs".

Consultation

In preparing this report the Director Corporate Resources has consulted and met with colleagues across a range of services within the Council.

Equalities

This report is not proposing any new strategies or policies therefore have not been assessed for equalities implications.

Sustainability

This report is not proposing any new strategies or policies therefore have not been assessed for sustainability implications.

4.3 IT Issues

There are no IT issues arising from this report.

5 Summary

This report updates Audit Committee on;

- a) Progress with the Internal Audit recommendations as detailed in the report.
- b) The outcome of the Police investigation.
- c) The intention to schedule regular meetings of the Gourlaw Sub Committee.

6 Recommendations

The Committee are invited to:

- a) Note the position with regard to the implementation of the Internal Audit Plan.
- b) Note the intention of the Director Corporate Resources to meet with the Bonnyrigg Rose Junior Football Club to progress outstanding issues following completion of the Police investigation.
- c) Note the intention to implement and introduce a schedule of regular meetings of the Gourlaw Sub Committee.

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Background Papers: