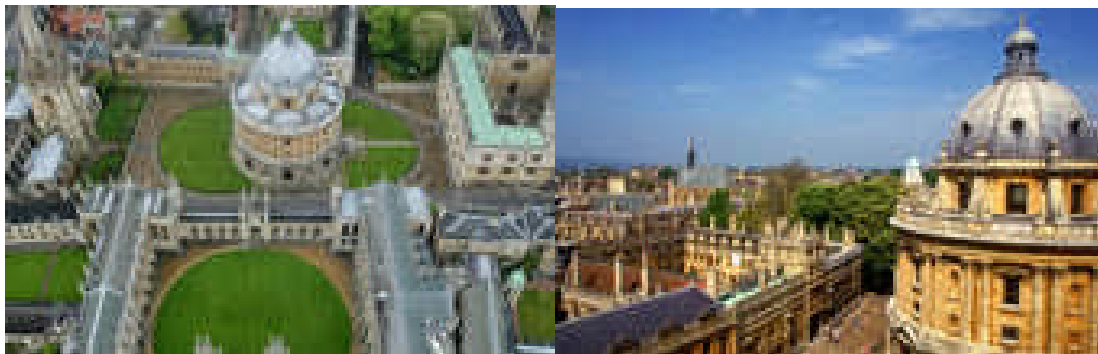


# Oxford City Council

## Leisure Centre Contract

### Internal Audit Final Report 09/10 2.2



<b>Assurance rating this review</b>	<b>Moderate Assurance</b>
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#### Distribution List

Peter Sloman - Chief Executive  
Penny Gardner / Sarah Fogden - Heads of Finance  
Ian Brooke – Head of City Leisure  
Nigel Pursey – Interim Executive Finance Director  
Lucy Cherry – Leisure Manager  
Performance Board



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# Background and scope

## Introduction

This review was undertaken as part of the 2009/10 Internal Audit Plan agreed by the Audit and Governance Committee.

This report has been prepared solely for Oxford City Council in accordance with the terms and conditions set out in our letter of engagement. We do not accept or assume any liability or duty of care for any other purpose or to any other party. This report should not be disclosed to any third party, quoted or referred to without our prior written consent.

## Background

In response to issues noted with the cost and performance of the Council's leisure facilities, the Authority undertook market testing in 08/09 to establish whether the cost of leisure facilities would be minimised through outsourcing the services. Detailed testing indicated that this would be the case and Fusion Lifestyle was appointed to the contract after a competitive tendering process.

The Council's 2009-12 corporate plan states:

***We have carried out a fundamental service review of our under-performing leisure service. As a result, in future we will be working in partnership with a not-for-profit trust, which we expect will deliver a much improved leisure service for the people of the City and generate annual savings of around £700k.***

The contract in place is for the operation of the following Council facilities:

- Barton Pool
- Blackbird Leys Leisure Centre
- Blackbird Leys Pool
- Ferry Sports Centre
- Hinksey Pool
- Oxford Ice Rink
- Temple Cowley Pool and Fitness Centre

Our audit noted a number of areas of best practice which included:

- ✓ Defined governance arrangement with key stakeholders at all levels
- ✓ Excellent contract management performed by a dedicated contract manager
- ✓ Review of risks in relation to the contract and inclusion in Risk Registers
- ✓ Through arrangements around non compliance and risk sharing

## Approach and scope

### Approach

Our work is designed to comply with Government Internal Audit Standards [GIAS] and the CIPFA Code.

### Scope of our work

In accordance with our Terms of Reference (Appendix 1), agreed with the Head of City Leisure we undertook a limited scope audit of the Council's leisure contract.

This limited scope audit involved a review of the design of the key controls together with detailed testing to determine whether the controls are operating in practice.

Our initial fieldwork was carried out in October 2009. During this period we reviewed the core documentation for the contract and assessed the control environment in place. Follow up of issues raised during our fieldwork was performed in November 2009. This report will outline the status of these issues.

### Limitations of scope

The scope of our work was limited to those areas identified in the terms of reference.

During our review however we noted a number of issues in relation to the financial accounting arrangements for the Leisure contract. Although these areas were not directly covered by our scope, we felt it necessary to bring these to management's attention. This has been reflected in our opinion as detailed in the Executive Summary.

### Staff involved in this review

We would like to thank all client staff involved in this review for their co-operation and assistance.





Name of client staff
Lucy Cherry – Leisure Manager
Ian Brooke – Head of City Leisure
Anna Hedges – Management Accountant

# Our opinion and assurance statement

## Introduction

This report summarises the findings of our review of the leisure centre contract.

Each of the issues identified has been categorised according to risk as follows:

Risk rating	Assessment rationale
 Critical	Control weakness that could have a significant impact upon, not only the system, function or process objectives but also the achievement of the <b>authority's objectives</b> in relation to: <ul style="list-style-type: none"> <li>• the efficient and effective use of resources;</li> <li>• the safeguarding of assets;</li> <li>• the preparation of reliable financial and operational information; and</li> <li>• compliance with laws and regulations.</li> </ul>
 High	Control weakness that has or is likely to have a significant impact upon the achievement of key <b>system, function or process</b> objectives.  This weakness, whilst high impact for the system, function or process does not have a significant impact on the achievement of the overall authority objectives.
 Medium	Control weakness that: <ul style="list-style-type: none"> <li>• has a low impact on the achievement of the key system, function or process objectives; and</li> <li>• has exposed the system, function or process to a key risk, however the likelihood of this risk occurring is low.</li> </ul>
 Low	Control weakness that does not impact upon the achievement of key <b>system, function or process</b> objectives; however implementation of the recommendation would improve overall control.

# Executive Summary

<p><b>Department:</b> City Leisure</p> <p><b>Audit Owner:</b> Ian Brooke</p> <p><b>Date of last review:</b> -</p>	<p><b>Overall Opinion:</b> <b>Moderate Assurance</b></p> <p>There are some weaknesses in the understanding of the accounting treatment of the leisure scheme which could impair the achievement of the objectives of the leisure outsourcing process.</p> <p>Our work found some low impact control weaknesses around contract management which, if addressed would improve overall control. However, these weaknesses are unlikely to impair the achievement of the objectives of contract. Therefore we can conclude that the key controls have been adequately designed and are operating effectively to deliver the objectives of the leisure contract</p>	<p><b>Direction of Travel</b></p> <p>No previous review has been conducted by PwC. A recommendation tracking system has been introduced and all issues raised will be formally followed up.</p>	<p><b>Number of Control Design issues outstanding</b></p> <p><b>0</b> Critical <b>0</b> High <b>2</b> Medium <b>1</b> Low</p>	<p><b>Number of Controls Operating in Practice issues outstanding</b></p> <p><b>0</b> Critical <b>0</b> High <b>0</b> Medium <b>0</b> Low</p>																				
<p><b>Issues implemented following initial fieldwork</b></p> <table border="1"> <thead> <tr> <th>Rating</th> <th>Implemented or no longer relevant</th> <th>Outstanding or Partially implemented</th> </tr> </thead> <tbody> <tr> <td>Critical</td> <td>0</td> <td>0</td> </tr> <tr> <td>High</td> <td>0</td> <td>0</td> </tr> <tr> <td>Medium</td> <td>0</td> <td>3</td> </tr> <tr> <td>Low</td> <td>5</td> <td>1</td> </tr> </tbody> </table>			Rating	Implemented or no longer relevant	Outstanding or Partially implemented	Critical	0	0	High	0	0	Medium	0	3	Low	5	1	<p><b>Other Considerations</b></p> <table border="1"> <tr> <td><b>Use of Resources-related</b> None noted</td> <td><b>Corporate Plan- related</b> None noted</td> </tr> <tr> <td><b>VFM-related</b> None noted</td> <td><b>Financial Reporting related</b> Further investigation should be undertaken into accounting for the leisure contract to mitigate against the risk of misstatement</td> </tr> </table>		<b>Use of Resources-related</b> None noted	<b>Corporate Plan- related</b> None noted	<b>VFM-related</b> None noted	<b>Financial Reporting related</b> Further investigation should be undertaken into accounting for the leisure contract to mitigate against the risk of misstatement	<p><b>Scope of the Review</b></p> <p>To ensure that contract management arrangements are in place to enable the effective delivery and oversight of the Council's leisure centre contract.</p>
Rating	Implemented or no longer relevant	Outstanding or Partially implemented																						
Critical	0	0																						
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# Limitations and responsibilities

## Limitations inherent to the internal auditor's work

We have undertaken a review of the Council's leisure centre contract, subject to the following limitations.

### Internal control

Internal control, no matter how well designed and operated, can provide only **reasonable** and not absolute assurance regarding achievement of an organisation's objectives. The likelihood of achievement is affected by limitations inherent in all internal control systems. These include the possibility of poor judgement in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

### Future periods

The assessment of controls relating to the Council's leisure centre contract is that historic evaluation of effectiveness is not relevant to future periods due to the risk that:

- the design of controls may become inadequate because of changes in operating environment, law, regulation or other; or
- the degree of compliance with policies and procedures may deteriorate.

## Responsibilities of management and internal auditors

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems.

We shall endeavour to plan our work so that we have a reasonable expectation of detecting significant control weaknesses and, if detected, we shall carry out additional work directed towards identification of consequent fraud or other irregularities. However, internal audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected.

Accordingly, our examinations as internal auditors should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist, unless we are requested to carry out a special investigation for such activities in a particular area.

# Findings & recommendations – Outstanding Issues

The following issues were identified during our initial fieldwork and remained outstanding during our follow up visit in November 2009.

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
<b>Control Design</b>						
1	Financial accounts may not be compliant with accounting guidelines leading to an increased risk of an adverse audit opinion.	The leisure centre scheme may qualify as a Public Private Partnership under International Financial Reporting Standards (FRIC 12). This would require specialised accounting treatment of the scheme based on the level of control over the leisure centres by both parties.	● Medium	The Council should undergo a full review of the leisure contract with reference to relevant accounting standards. Emphasis should be placed on the level of control held by both parties in the following areas: <ul style="list-style-type: none"> <li>• Payment structure;</li> <li>• ownership of assets;</li> <li>• responsibility for maintenance and insurance costs; and</li> <li>• risk sharing arrangements</li> </ul>	<b>Agreed</b>  The leisure centre contract will be reviewed by finance to establish the correct accounting treatment.  The contract has been reviewed in light of IRFIC12, and the contract is caught by this arrangement. Further investigation needs to go into this, as it may be that we should be 'group accounting' for this contract. It is anticipated to have an agreed approach to accounting for this contract by the end of Mar 2010.	<b>Kelly Whitehead</b> <b>1<sup>st</sup> April 2010</b>



Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
2	Financial accounts may not be compliant with accounting guidelines leading to an increased risk of an adverse audit opinion.	<p>Since 2007/08, the Council has been required to account for those contracts which are linked to an external source (e.g. Retail Price Index) as embedded derivatives. These cases require particular treatment in the Council's accounts based on fluctuations in payments.</p> <p>Payments made by the Council for the leisure contract are linked to RPI and therefore the contract may require treatment as an embedded derivative.</p>	<p>● Medium</p>	The terms of payment for the contract should be reviewed under Financial Reporting Standard 25, 26 and 29 guidance and consideration given to the correct accounting treatment. PwC can provide advice with this process if required.	<p><b>Agreed</b></p> <p>The leisure centre contract will be reviewed by finance to establish the correct accounting treatment.</p> <p>The contract has been reviewed for an embedded derivative. We believe that because the prices within the contract move fairly in line with RPI (eg most costs are salaries), and that is the arrangement on the contract, we will not need to separately account for an embedded derivative. Finance have put together a working paper to support our findings on this for the auditors.</p>	<p><b>Kelly Whitehead</b> <b>1st April 2010</b></p>

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
3	Meaningful management information is within some areas of the contract not provided. Management and members may not be aware of adverse performance or risks.	The Head of Service is required to report to Performance and Transformation Boards on a periodic basis on the leisure contract. The nature and frequency of the information to be provided has not been agreed with key stakeholders within the Boards.	● Low	Conversations should be held with key stakeholders within Performance and Transformation Boards to ascertain the detail and frequency of information that is required on the leisure contract. This should then be included as a regular agenda point.	<p><b>Agreed</b></p> <p>The Council is establishing new management boards. When these are finalised the Head of Leisure will agree with the director of City Services the most appropriate way to report information from the leisure contract.</p> <p>Fusions monthly client reports now include all required performance data. The only gaps attain to areas that they need a full years operating data to enable comparisons, which will be in place on the 1<sup>st</sup> April 2010</p> <p>A six monthly report is submitted to the VFM scrutiny to keep members updated and the Fusions annual service plan is coming to CEB on the 31<sup>st</sup> of March</p>	<p><b>Ian Brooke</b></p> <p><b>1st April 2010</b></p>

# Findings & recommendations – Implemented Recommendations

The following issues were identified during our initial fieldwork and were implemented ahead of our follow up visit in November 2009.

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
<b>Control Design</b>						
1	Officers may be unaware of their roles and responsibilities.	Regular meetings are held with stakeholders to monitor process/issues regarding the leisure centre contract.  No Terms of Reference are in place for the Client/Contract Performance Review Group and the Leisure Contract Management Team.	● Low	Terms of Reference should be drawn up for the Client/Contract Performance Review Group and the Leisure Contract Management Team.	<b>Agreed</b>  Terms of Reference will be drawn up for the aforementioned group and circulated to all members.	<b>Lucy Cherry</b> <b>1<sup>st</sup> November 2009</b>

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
<b>Operating Effectiveness</b>						
2	The Council may not be aware of their contractual obligations.	The leisure contract is not currently included on the Council's online contract register	● Low	Key information on the leisure contract should be provided to procurement to ensure inclusion on the Council's contract register,	<b>Agreed</b> Information will be provided to procurement for inclusion on the contract register,	<b>Lucy Cherry</b> <b>31<sup>st</sup> October 2009</b>

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
3	<p>Meaningful management information is not provided.</p> <p>Management and members may not be aware of adverse performance or risks that occur.</p>	<p>The Council receives performance information from Fusion on a monthly basis. The following issues were noted when reviewing the information provided:</p> <ul style="list-style-type: none"> <li>No targets are included for performance indicators nor is any comparison included against previous periods. The information therefore has limited use for viewing progress and tracking performance.</li> <li>Commentary on financial performance is limited. Whilst some annotation is provided on variances, the effect of factors (e.g. lower than expected participation levels) is not quantified. In addition, no threshold is set to determine which variances which are explained</li> </ul>	<p>● Low</p>	<p>Further performance detail should be requested from Fusion to cover the following:</p> <ul style="list-style-type: none"> <li>Agreed upon performance targets;</li> <li>Performance against targets and comparison between periods;</li> <li>Further detail on variances against budget. Explanations should be quantified where possible</li> </ul>	<p><b>Agreed</b></p> <p>Further detail will be requested from Fusion for future performance monitoring reports. In addition, the Councils responsible officer will be provided with access to Fusion's performance monitoring system. This will enable the Council to obtain 'real time' data for performance monitoring.</p>	<p><b>Lucy Cherry</b> <b>1<sup>st</sup> November 2009</b></p>

Ref	Specific risk	Control weakness found	Risk rating	Recommendations	Management response	Officer responsible & implementation date
4	Correct partnership protocols may not be in place. Full benefits of the contract may not be realised.	The leisure partnership is not included on the Council's partnership register.	● Low	The leisure contract should be included on the Council's partnership register to ensure that correct protocols are followed.	<b>Agreed</b> The officer responsible for maintenance of the Council's partnership register will be provided with details of the contract for inclusion on the register.	<b>Lucy Cherry</b> <b>1<sup>st</sup> November 2009</b>
5	Officers may not be aware of the budget position.	The Council sets budgets for the leisure contract in relation to income and expenditure. At the time of audit, these budgets had not been uploaded onto the General Ledger.	● Low	All budgets should be uploaded onto Agresso to facilitate regular budget monitoring.	<b>Agreed</b> All budgets will be uploaded as a matter of urgency.	<b>Anna Hedges</b> <b>1<sup>st</sup> November 2009</b>

# Appendix 1 - Terms of Reference

## Objectives and deliverables

### Objectives

Contract management arrangements are in place to ensure the effective delivery and oversight of the Councils Leisure Centre contract.

### Deliverables

Our deliverable will be a report detailing our findings with regard to our assessment of the level of control in place regarding the Councils Leisure Centre contract and the level of assurance we can place on the contract arrangements.

### Scope and approach

Our work will focus on identifying the guidance, procedures and controls in place to mitigate key risks through:

- Documenting the underlying guidance, policy and processes in place and identifying key controls;
- Considering whether the policies and procedures in place are fit for purpose; and
- Testing key controls.
- Formal up to date policies and procedures exist for the contract
- The respective roles and responsibilities of staff are clearly defined, understood and adhered to.
- Policies and procedures are up to date and reflect actual practices
- Key performance indicators/performance targets for the leisure contract are clearly laid down and incorporated into contract metrics.
- Performance management and monitoring processes are in place and are robust enough to ensure compliance with performance standards.
- Contract clauses, such as penalties and deductions, are outlined and enforced.
- Payments are made accurately in line with contractual arrangements
- Management information on contract performance is provided and regularly reviewed at the appropriate levels
- Adequate budget controls are in place and exercised

We will discuss our findings with the Leisure Manager or nominated representative to develop recommendations and action plans. A draft report will be issued to all relevant officers for review and to document management responses.

### Limitation of Scope

The scope of our work will be limited to those areas identified above.

Stakeholders and responsibilities

Role	Contacts	Responsibilities
Leisure Manager	Lucy Cherry	<ul style="list-style-type: none"> <li>Review draft terms of reference</li> <li>Review and meet to discuss issues arising and develop management responses and action plan</li> <li>Review draft report.</li> <li>Implement agreed recommendations and ensure ongoing compliance.</li> </ul>
Head of Service	Ian Brook	<ul style="list-style-type: none"> <li>Receive agreed terms of reference</li> <li>Receive draft and final reports.</li> </ul>
Heads of Finance (s151 officers)	Penny Gardner Sarah Fogden	
Chief Executive	Peter Sloman	<ul style="list-style-type: none"> <li>Receive final report</li> </ul>

**Our Team and Timetables**

**Our team**

Chief Internal Auditor	Chris Dickens
Audit Manager	Katherine Bennett
Auditor	Katherine Bennett

**Timetable**

Steps	Date
TOR approval	October 2009
Fieldwork commencement	12 <sup>th</sup> October 2009 (T)
Fieldwork completed	T + 2 weeks
Draft report of findings issued	T + 4 weeks
Receipt of Management response	T + 6 weeks
Final report of findings issued	T + 7 weeks





**Budget**

Our budget for this assignment is 5 days. If the number of days required to perform this review increases above the number of days budgeted, we will bring this to management attention.

**Terms of Reference Approval**

These Terms of Reference have been reviewed and approved:

.....

Ian Brooke  
Signature

.....

Chris Dickens  
Signature (Chief Internal Auditor)

## Appendix 2 - Assurance ratings

Level of assurance	Description
<b>High</b>	<p>No control weaknesses were identified; or</p> <p>Our work found some low impact control weaknesses which, if addressed would improve overall control. However, these weaknesses do not affect key controls and are unlikely to impair the achievement of the objectives of the system. Therefore we can conclude that the key controls have been adequately designed and are operating effectively to deliver the objectives of the system, function or process.</p>
<b>Moderate</b>	<p>There are some weaknesses in the design and/or operation of controls which could impair the achievement of the objectives of the system, function or process. However, either their impact would be less than significant or they are unlikely to occur.</p>
<b>Limited</b>	<p>There are some weaknesses in the design and / or operation of controls which could have a significant impact on the achievement of key system, function or process objectives but should not have a significant impact on the achievement of organisational objectives. However, there are discrete elements of the key system, function or process where we have not identified any significant weaknesses in the design and / or operation of controls which could impair the achievement of the objectives of the system, function or process. We are therefore able to give limited assurance over certain discrete aspects of the system, function or process.</p>
<b>No</b>	<p>There are weaknesses in the design and/or operation of controls which [in aggregate] could have a significant impact on the achievement of key system, function or process objectives and may put at risk the achievement of organisation objectives.</p>



*In the event that, pursuant to a request which Oxford City Council has received under the Freedom of Information Act 2000, it is required to disclose any information contained in this report, it will notify PricewaterhouseCoopers (PwC) promptly and consult with PwC prior to disclosing such report. Oxford City Council agrees to pay due regard to any representations which PwC may make in connection with such disclosure and Oxford City Council shall apply any relevant exemptions which may exist under the Act to such report. If, following consultation with PwC, Oxford City Council discloses this report or any part thereof, it shall ensure that any disclaimer which PwC has included or may subsequently wish to include in the information is reproduced in full in any copies disclosed.*

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