

West Park Centre Closure

Internal Audit review findings

Briefing Note to Alan Gay, Director of Resources and Deputy Chief Executive

16th November 2012

Introduction

Internal Audit has been asked to carry out an independent review of the circumstances surrounding the closure of the West Park Centre in November 2012 on health and safety grounds.

The key findings from the work carried out by Internal Audit are summarised below.

Key findings

A timeline of events from the Asset Management perspective has already been compiled by Christine Addison (Acting Chief Asset Management Officer) and sent by email to Alan Gay, Tom Riordan and Martin Farrington. In addition, Sarah Sinclair (Chief Officer, Strategy, Commissioning and Performance) has compiled a chronology of actions relating to the West Park Centre. These are attached as appendices to this briefing note.

Further information and evidence has been obtained through discussions with key staff.

The key issues are as follows:

1. The building has been in a poor condition for several years.
2. No formal testing was carried out on the building when it was transferred to Corporate Property Management in August 2012.
3. Although health and safety concerns were raised on 15/10/12 these were not immediately escalated to the Acting Chief Asset Management Officer or Asset Management Board.
4. Users were allowed in the building on 3/11/12 after the decision was made to close it on 2/11/12.

Further information about each of these issues is provided below, along with details about the processes in place for ensuring that other council buildings are meeting the required health and safety standards. Recommendations for improvements are also provided at the end of this report.

1. Building condition prior to August 2012

Issues

Prior to August 2012, responsibility for the maintenance of the building lay with Education Leeds. The building has been in a poor condition for several years as confirmed by a detailed condition survey carried out in 2009.

The 2009 condition survey details several high priority areas of electrical work required, totalling £192k, although these were all classed as category C (poor) as opposed to D (bad/urgent). There were however some other non-electrical works required, classified as category D (bad/urgent). These included issues such as trip hazards, roof damage and drainage. Overall, the condition survey identified a total of £2.2m works that would be required over a 5 year period. Anne Chambers (Head of Corporate Property Management) has advised that condition surveys indicate whether there may be problems with a building however they are not a legal requirement.

There is no evidence that the issues identified in the condition survey were addressed, and the electrical issues that prompted closure in November 2012 had previously been identified in the 2009

condition survey. There is no evidence that there has been any deterioration in the electrical issues since the 2009 survey, therefore the building has existed in its current condition for some time. A full NICEIC¹ electrical test is currently underway which will confirm whether this is the case.

Causes

The 2009 survey identified that investment of £2.2m would be required over a 5 year period to bring the building up to standard. £201k of this cost related to urgent priority works, £192k of which was urgent electrical works.

Local Councillors and community groups support a full refurbishment of the building, and have made deputations to the council to this effect in 2009 and 2011. However sale of the site would realise a significant capital receipt for the council (£3.1m). No decision has been made by the council as to the potential sale of the centre, although it was listed as an expected 2010/11 capital receipt in the 5 year capital programme approved by full council in February 2008. The site was also identified as potential housing site as part of the Strategic Housing Land Availability Assessment in 2009. Planning advice received in 2003 also advised that residential development would be appropriate for the site.

These factors have created uncertainty over the building's future and contributed to insufficient investment in the building over several years.

Asset Management is responsible for carrying out an options appraisal and consultation on the future of the building. This has been discussed at Executive Board on 1/4/09 and 22/6/11, however the follow up action and reports requested by Executive Board on both occasions were not completed within the requested timescales. Christine Addison (Acting Chief Asset Management Officer) has advised that the work is ongoing and is due to be reported to Executive Board shortly once it has been discussed with the Leader, Cllr Lewis and Cllr Blake. Further information is provided below about the reports made to Executive Board to date.

- On 1/4/09 the Director of City Development submitted a report to Executive Board in response to a deputation to the council from local community groups. Executive Board resolved that officers be instructed to undertake consultation with user groups and community organisations, and that several proposed options be explored further. Officers were asked to report back to the board in 6 months with consultation results and an options appraisal, however this did not happen.
- The West Park Centre was not discussed further at Executive Board until 22/6/11 following a deputation made to the council in April 2011 by the West Park Residents Association. The report by Neil Charlesworth (Community Asset Officer) confirms that consultation had not yet taken place because 'the uncertainties surrounding funding have meant that the Artforms service, which is now the main occupier on site, has been waiting for a decision on funding from the Department for Education. Until the status of this funding was known it was not possible to undertake a meaningful review of the centre'. The report also notes that none of the £2.2m required work identified in the 2009 condition survey has taken place. Executive Board resolved that officers should undertake an options appraisal, with the outcomes being reported back to Executive Board with recommendations later in the year.
- As at 14/11/12 there has been no further report made to Executive Board. However as noted above an options appraisal has now been carried out, and a report should be made to Executive Board shortly for a decision on the future of the West Park Centre.

2. Asset Management action between August 2012 and October 2012

Issues

Corporate Property Management (CPM) took over responsibility for the building's maintenance in August 2012. Anne Chambers (AC) has advised that she was aware that the building was in a poor condition, however there was no information provided to indicate that it was in a dangerous condition.

¹ NICEIC is the National Inspection Council for Electrical Installation Contracting

AC has advised that no paperwork about the maintenance regime for the building was provided by Education Leeds to confirm what health and safety checks had been carried out. There is no evidence that CPM had seen the condition survey until 15/10/12 when Andy McCulloch (PPM Manager, CPM) sent AC a summary of the concerns raised in it, following an initial site visit by CPM on 8/10/12.

Concerns were highlighted to Asset Management in August 2012 when an options appraisal by NPS Leeds (an LCC joint venture company) noted that the electrical system required checking. Christine Addison (CA) has advised that these concerns were first raised verbally by NPS on 8/8/12. The NPS options appraisal report on 6/9/12 confirmed that the electrical systems were generally antiquated and would require complete replacement if the building was to be refurbished.

Concerns were raised on 8/10/12 by CPM staff about the condition of the electrics. There were various email discussions between 8th October and 16th October 2012 within CPM about the issues and risks relating to the electrics. These were escalated as far as AC, however formal testing was not carried out by CPM to establish the extent of the problems. AC has advised that this was because it was expected that formal testing would highlight a number of areas where work would be required. AC has advised that by formally testing the electrics the council would have been under an obligation to either address the issues identified (the estimated cost of this was placed at £150k - £170k by CPM) or alternatively to close the building. AC decided that clarity about the future of the building was required before committing to formal testing. The building was considered safe for temporary use by AC as:

- She was unaware that the building was being used to the extent that it was.
- It had been used as it was to date.
- The future of the building was in question.
- There was a potential solution for relocation of services using the building which was being considered by Asset Management Board on 1/11/12.
- There was an options appraisal being carried out to determine the future of the building itself.

In essence, AC determined that the uncertainty over the future of the building meant that it would not be financially sensible to invest such a large amount of money (estimated by CPM at £150k - £170k) at a time when the options for the future of the building were being considered.

On 19th October Ken Morton (Head of Service – Young People and Skills) asked Paul Brennan (Deputy Director, Learning, Skills and Universal Services), Sarah Sinclair (Chief Officer, Strategy, Commissioning and Performance) and Vivienne Buckland (Head of Service, Strategic Development and Investment) whether the building was safe or should be closed. He did not receive an email response, and he has advised that he followed this up verbally one or two times. Sarah Sinclair has advised that she was on leave from 22/10/12 to 29/10/12 and so did not respond to this email. There is no evidence that other officers took any action.

On 29th October Ken Morton (KM) forwarded his question to AC, who provided advice the same day that the building was still acceptable to use on a temporary basis, based on the reasons noted previously. However the issues were not escalated further to CA as Acting Chief Asset Management Officer or a senior officer within Children's Services for consideration about the service and political implications. AC has advised that she believed that the details would have already been escalated to CA by Neil Charlesworth (Community Asset Officer) who commissioned the options appraisal. CA has advised she was not made aware of the issues until Asset Management Board held on 1st November.

On 1st November the electrical issues were discussed at Asset Management Board following a report about relocating some users of the West Park Centre. Present at this meeting were various officers including CA, Sarah Sinclair and AC. The report from Neil Charlesworth (NC) concerned the relocation of the Artforms service from West Park to alternative more suitable accommodation, rather than the safety of the building itself, however the electrical issues were discussed as a result of the report. Based on the information already noted above a decision was taken that urgent action was required to confirm the state of the electrical installation with a view to evacuating staff and closing

the building if required. The minutes of the meeting have not yet been agreed as the final version, however the draft minutes are as follows:

Sarah Sinclair expressed concern that the report described the West Park Centre's electrical installation as dangerous and stated that building users must not be put at risk of danger. It was agreed that urgent action was required and that an immediate assessment of the danger had to be made with a view to evacuating staff and closing the building if this was required. It was agreed that AC would arrange for urgent confirmation of the state of the electrical installation and any decision to close would be made by City Development Asset Management officers in consultation with the Executive Member.

As a result of the meeting, AC asked Andy McCulloch to provide further information on the condition of the building. The information was provided to NC on 2nd November by Andy McCulloch and this reiterated the concerns he had raised with AC by email on 15th October. A briefing note was prepared by NC for CA and Cllr Lewis (Executive Member for City Development) which recommended immediate closure and that weekend activities be cancelled or where possible relocated. Cllr Lewis was sent the briefing note on 2nd November and following consultation with him CA made the decision to close the building.

Causes

Testing was not carried out by CPM when the building was handed over in August 2012 in order to identify if the building posed any health and safety risks. Uncertainty over the future of the building contributed to this delay as formal testing would place an obligation on the council to either carry out remedial works or potentially close the building.

There is a lack of clarity as to which officers are responsible for deciding whether to keep a building open or to close it where there are health and safety concerns. In particular it is not clear how this responsibility is allocated between the roles of the Head of CPM and the Chief Asset Management Officer, and therefore how concerns about the health and safety of the West Park Centre should have been escalated. Procedures were not in place to cover the information that should be taken into account when assessing the risk, for example the level and type of use.

The decision in October 2012 for the building to remain open was not escalated to a level where the risks in terms of service provision, users and political implications could be fully considered.

3. Opening of the building in November 2012 after the decision had been made to close

Issues

The decision to close was made on 2nd November 2012 however Ken Morton (Head of Service – Young People and Skills) allowed a group of approximately 150 users to use the building on 3rd November 2012.

Asset Management officers took the decision to close the building, however it is Children's Services (the tenants) who have mainly managed the practical aspects of the closure rather than CPM (acting as the landlord).

- This has led to officers in the service making decisions about access to the building which were not consistent with the decision on 2nd November to close the building immediately.
- In addition this meant that CPM was not involved with practical aspects of the closure, such as securing the building or identifying whether there was any need to cut the electrics off.

Causes

There are no procedures in place that state which officer or service should manage the closure of a building.

AC has advised that there is no business continuity plan in place for the West Park Centre. Such a plan may have detailed how the closure of the building would be managed.

There was a lack of communication about how the closure of the building would be managed, for example whether the building should be closed immediately or on a phased basis.

- On 1st November a decision was taken Asset Management Board that urgent action was required to confirm the state of the electrical installation with a view to evacuating staff and closing the building if required.
- An email on 1st November from Sarah Sinclair to Ken Morton (Head of Service – Young People and Skills) advised that the building needed to be closed and the staff and services relocated as soon as possible. KM was the officer who allowed a group to use the building on 3rd November.
- The closure decision was taken on 2nd November after details about the condition of the building had been shared and Cllr Lewis (Executive Member for City Development) had been briefed. The briefing note to Cllr Lewis recommended immediate closure and that weekend activities should be cancelled or where possible relocated. Cllr Lewis confirmed on 2nd November that the building should be closed.
- The briefing note by Neil Charlesworth to Cllr Lewis states that attempts were being made to relocate the Russian School Baltika event on 3rd November to nearby Lawnswood School, but that they may ultimately need to be turned away. However there is no evidence that this information was shared with KM who was responsible for diverting users to Lawnswood School on 3rd November and who allowed the Russian School Baltika group to use the West Park Centre that day.
- A discussion also took place on 2nd November 2012 between AC and KM which led KM to believe that a group could be allowed to use the building on 3rd November. AC was on leave on 2nd November so was not aware of the decision to close immediately. AC has advised that she commented that she was surprised that the closure was not left until Monday, and after discussions about issues moving one of the groups she commented that she did not think it would be a problem to let them use the building. She believed however that he was referring to a small group and she was not aware that there would be a group of 150 people using the building.

KM's involvement with the West Park Centre as Head of Service is that his service is the tenant of the building, he is not actually responsible for closing the building, and he feels that the decision he took to allow one group to remain was proportionate in the circumstances.

- KM has advised that the group were unhappy with being told that they would need to move to Lawnswood School when they arrived on site, and that attempting to escort them to another site under these circumstances would have created unnecessary tension and constituted a risk in itself.
- KM took the decision that a restricted opening of the site (only the main hall and toilets) with an LCC staff presence was a proportionate response and an acceptable level of risk. He had attempted to call Sarah Sinclair to advise her of his decision but he could not get through to her. He therefore sent her an email to explain once the decision had been taken.
- No other areas of the building apart from the main hall and toilets were available to the public. At all times two caretakers and the building manager were on site, in addition to KM making several visits between West Park and Lawnswood. Only LCC staff were involved in operating the lights and electrical equipment. KM's daughter, a sixth form student at Lawnswood, had also volunteered to help the relocated groups at Lawnswood.

Health and safety status of other council buildings

CPM manage in the region of 1500 buildings and AC has advised that they have procedures in place to ensure that the council is meeting its health and safety testing requirements, covering areas such

as electrics, gas, asbestos, legionella and fire safety. AC has advised that there may be some former Education Leeds buildings that have now been transferred to Children's Services that CPM is not aware of, and she has previously requested details of any such buildings from Children's Services so that they can be added to the CPM maintenance regime. She advised that she has not received confirmation as to whether there are any buildings she should be aware of.

AC advised that there were five buildings in total that have transferred over from Education Leeds, these were deemed to be office accommodation:

- West Park Centre – transferred to CPM responsibility in August 2012
- Blenheim Centre – transferred as a void property
- Sweet Street – CPM were already responsible for half of this building, however the remaining half transferred to them in August 2012
- Elmete Centre – transferred as a void property and since demolished
- Space in Merrion House

AC has advised that all of these except the West Park Centre have had any health and safety issues rectified or have plans in place to deal with the issues. It is only the West Park Centre where action has been delayed, due to the uncertainty over the building's future.

Future service provision for West Park users

Issues

Ken Morton has advised that alternative arrangements have already been made to relocate the majority of users. The facilities provided are more modern and have been provided at no extra cost to the council through the use of PFI school space which the council already pays for. However future consideration will be required as to whether these facilities meet the needs of the users on a long term basis.

Given the difficult circumstances surrounding the closure of the centre and relocation of users, the council staff involved have worked hard as a team to deal with the implications of the decision and to ensure that disruption to staff and service users has been minimised. There have been several instances of staff cancelling holidays and going beyond their normal duties to manage the issues caused by the closure.

Causes

There was no business continuity plan in place for the West Park Centre. This meant that the service was unclear on what action needed to be taken and this has created additional work for staff in arranging alternative facilities and the relocation of users.

Recommendations

Condition of buildings

All buildings should have up to date testing in line with best practice guidelines to ensure that issues are known about and can be dealt with. AC has advised that up to date testing is in place for all buildings that CPM is aware of, apart from the West Park Centre.

Children's Services should ensure that former Education Leeds buildings are identified and that maintenance responsibility is handed over to CPM along with evidence of the buildings' testing and maintenance regimes. This should ensure that CPM is aware of all council buildings so that full testing can be carried out and plans put in place to rectify any issues.

CPM should confirm that the condition of all council buildings is known and that CPM action is being taken to rectify issues where these exist.

Decisions about health and safety risks relating to buildings

Where there are significant health and safety issues with a building but these are considered manageable, a risk assessment should be carried out in order to ensure that the correct action has been identified which will manage the risks and allow safe continued use of the building.

If the risk assessment identifies significant concerns, these should be escalated to Asset Management Board and the relevant service for a decision as to whether the building should remain open or be closed. This should ensure that full information is obtained to inform the decision and that the impact on staff and users, as well as the political implications, can be effectively managed.

The Corporate Health and Safety team and the Peace and Emergency Planning Unit should be consulted for advice on the decision to close or remain open, and the implementation of the closure itself.

Closure of buildings

A business continuity plan should be place for all council buildings.

In order to ensure that building closures are implemented consistently in line with the original decision, a responsible officer should be agreed who will lead on the closure and relocation process. Consideration should be given as to whether the closure should be implemented by CPM (acting as the landlord) or the service (acting as the tenant).

The decision about the closure process should be clearly communicated to all staff involved, including which officer should be consulted in the event of any issues.

Where there are operational difficulties with implementing the closure decision, this should be referred to the officer responsible for making the decision, in order to ensure that the risks can be considered and effectively managed.

Future of the building

A decision on the future of the West Park Centre should be taken as soon as possible so that a long term plan can be put in place for users and staff.

The impact on staff of the closure and relocation should continue to be managed carefully to ensure that staff morale is not adversely affected.