



**NOTIFICATION TO ATTEND MEETING OF THE FINANCE SPC
TO BE HELD IN THE COUNCIL CHAMBER, CITY HALL, DAME STREET, DUBLIN 2.,
ON THURSDAY, 20 NOVEMBER 2014 AT 3.30 PM**

AGENDA

THURSDAY, 20 NOVEMBER 2014

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Finance & Emergency Services Strategic Policy Committee

Schedule of Meetings For 2014/2015

DATE	LOCATION	TIME
Thursday 20 th November 2014	Council Chamber	3.30 pm
Thursday 15 th January 2015	Council Chamber	3.30 pm
Thursday 19 th March 2015	Council Chamber	3.30 pm
Thursday 21 st May 2015	Council Chamber	3.30 pm
Thursday 17 th September 2015	Council Chamber	3.30 pm
Thursday 19 th November 2015	Council Chamber	3.30 pm

Please note that all future meetings will be held in the Council Chamber

Meetings will, as usual, take place on 3rd Thursday of the month.

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Finance Strategic Policy Committee

Minutes of Meeting Held On 20th November 2014

1. Welcome

Cllr. McGinley welcomed the sectoral members to the inaugural meeting of the Committee. **Agreed:** It was agreed that consideration should be given to the holding of an official function to acknowledge the work of the past sectoral members over the term of the last council 2009-2014. This issue would be raised with the Lord Mayor.

Schedule of Meetings 2015 – noted and agreed.

2. Terms of Reference of Committee – Noted.

Agreed: Future meetings of the Committee would be webcast

3. Presentation from Chief Fire Officer

Pat Fleming, Chief Fire Officer, Dublin Fire Brigade, gave an overview presentation on the fire and emergency services for the Dublin Region. This presentation covered:

- Station and Staffing Resources
- Emergency Medical Services
- Fire Prevention Activity
- Community Fire Safety
- Major Emergency Management
- Dublin Fire Brigade Support Operations
- DFB Fire & Medical Incidents 2010-v-2013
- Emergency Ambulance Reviews
- Keeping Communities Safe framework
- Risk Management – systems approach
- Section 26 Plan

Brendan Hayden, SEO, Dublin Fire Brigade, gave an overview of :

- DFB budget 2009-2014
- Budget Breakdown 2014
- Income Analysis 2014
- Apportionment of costs across the four Dublin local authorities
- Croke Park & Haddington Road Agreements
- Absenteeism Rates

Following the presentation a detailed discussion took place covering some of the following issues and replies given :

- Plans to open or close Fire Stations – no current plans. Will be reviewed under Section 26 Plan
- Staff resources – considered satisfactory
- Smoke detector installations in senior citizen flats
- Payment arrangements for major events – no payments received for such events
- Impact of private ambulance services - DFB deals only with 999 calls

- Call outs to Liffey incidents – 80 occurrences in last year
- Public recording of tragic incidents
- Defibrillators in Garda cars – importance of first responders
- Necessity for recruitment drive – last recruitment drive restricted to within Dublin local authorities
- Overtime statistics – 4% of current budget
- Age of fleet – Fire tender fleet is good however ambulance fleet is of concern . Anticipated to have 3 new appliances in Quarter 1 2015
- Hoax call statistics – 5% of calls
- Call out charges for domestic users
- Advanced paramedic resources – 40 personnel
- Fire inspectors – 50 authorised officer inspectors
- Medical Incident Stats – estimate of resources lacking that limit mobilisations
- Apportionment of costs to other local authorities – very few responses to neighbouring counties.
- 3 Ambulance Reviews underway – no results available to date.
- National comparison of service – there will be a national standard and DFB service will need to be assessed.
- Message in a Bottle – issue of photo ID being taken has caused problems for some elderly people. This point was noted by CFO.
- Statistics provided on contributions from commercial entities.
- Request for review of fire station locations to be undertaken
- VFM – discretionary budget is very tight.
- Fleet Resources – 11 HSE funded ambulances and 1 DCC/Other Local Authority funded ambulance.
- Ambulance services – 11 minute target – A range of response times are detailed in the Keeping Communities Safe document.
- Risk Assessment/Hazard Analysis of the City – will be covered by Section 26 Plan
- Conclusion of Sir Ken Knight report findings - the new Community Safe document supersedes this report.

Following the questions and answers session, the Chief Fire Officer had to attend another meeting and left.

The issue of the two trade unions that represent the Fire Brigade staff making a presentation to the Committee on the issue of the future Section 26 Plan was raised by Councillors Brendan Carr and Brid Smith.

A comprehensive debate on the matter followed. A report was circulated from the Head of Finance setting out the role and function of the Strategic Policy Committee in policy development and advices were received from the Department of Environment on the possible presentation by Staff Interest Groups to the Committee. It was noted in the report that an SPC meeting was not the appropriate forum for dealing with specific service related issues as this was an executive function of the Chief Fire Officer and other forum were available to these groups.

It was considered by a number of committee members that the views and experiences of the fire fighters on the front line should be taken into account and it was a reasonable request from the unions. It was seen as a strategic issue for the city and the two unions were fully aware that no industrial relations issues could be raised. It was felt that it was necessary in order for the Council to make a fully informed decision when the Section 26 Plan is presented to them next year.

It was also noted that the Chief Fire Officer should gather these views/information when compiling the Section 26 Plan and this would be reflected in the plan.

The Chair of the Committee noted that he had concerns that a presentation could be out of order as there was a clear divide between executive and reserved functions of the Council, which needed to be respected.

To reach a compromise on the matter,

It was Agreed that a sub-committee of the Finance & Emergency Strategic Policy Committee would be formed to facilitate a presentation to Committee members by the two trade unions on policy matters pertaining to Section 26 plan and Keeping Communities Safe document.

4. Report No. 261/2014 – Temple Bar Cultural Trust Internal Audit Reports R03/13 and R01/14

B. Kenny, Asst. Chief Executive, Culture, Recreation, Amenity and Community Department attended the meeting to give an update on the winding down of Temple Bar Cultural Trust covering legislative requirements, staffing issues, legacy issues and confirmed that all recommendation of the Internal Audit Reports were addressed.

Concerns were raised by Cllr. Mannix Flynn that there had been major issues and deficient oversight by Dublin City Council during the existence of the Trust. He further noted that there had been no prosecutions as a result of the issues identified.

Cllr. N. Ring and N. Reilly as members of the Audit Committee noted that this report was discussed at length at their meeting on 17th November and would remain on their agenda until concluded to their satisfaction. Follow up with the Gardai and Director of Corporate Enforcement would be made.

5. Housing Rents Presentation

A report from Céline Reilly, Executive Manager, Housing & Residential Services Department, was circulated to the Committee. The contents of the report were noted.

C. Reilly gave an overview of the level of rent arrears in Dublin City Council. She discussed under declaration and failure to pay by tenants and the policy adopted of tenants paying what they can afford to clear their arrears figures. It was noted that there was a spike in arrears levels in 2009 corresponding with the economic downturn. The procedures for dealing with non payment were noted. Reference was made to the 6 month clear rent account record that was a requirement to facilitate a maintenance or transfer request.

Details of the proposed National Rent Scheme in contrast with the current scheme were highlighted in the report. The new scheme will lead to increased rents as the income on all adult household members will be included in the calculation. It is anticipated that a transition period of 3 years is proposed. It was noted that a presentation on the new scheme can be made when the regulations are introduced.

The work of the staff in the rent arrears unit was acknowledged by the Committee. It was noted that the staff complement in this area will be increased due to a recent competition.

The issue of credit on rent accounts was raised and it was noted by the Head of Finance that tenants often used their accounts as savings facilities. It was requested that this be regularised.

6. Protocol Committee Motion from Cllr. M. Flynn re establishment of DCC Public Accounts Oversight Committee

Report noted. As this motion had also been referred to the Audit Committee, it was agreed that a request for a report would be made to the Audit Committee and presented to the next SPC meeting.

Signed: Councillor Ruairi McGinley
Chairperson

Date: 20th November 2014

Attendance:

Members

Councillor Ruairi McGinley (Chairperson)
Councillor Paddy Bourke
Councillor Brendan Carr
Councillor Dermot Lacey
Councillor Micheál MacDonncha
Councillor Paddy McCartan
Councillor Noeleen Reilly
Councillor Nial Ring
Councillor Brid Smith
David Brennan, DCBA
Eric Fleming, ICTU
Gina Quin, Dublin Chamber of Commerce
Aidan McSweeney, IBEC
Evelyn Reilly, Dublin City Community Forum

Councillors – Non Members

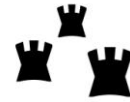
Cllr. Mannix Flynn

Officials

Kathy Quinn, Head of Finance
Pat Fleming, Chief Fire Officer, Dublin Fire Brigade
Brendan Kenny, Asst. Chief Executive, Culture, Recreation, Amenity & Community Dept.
Céline Reilly, Executive Manager, Housing and Residential Services Dept.
Brendan Hayden, Senior Executive Officer, Dublin Fire Brigade
Fiona Murphy, Senior Staff Officer, Finance Secretariat

Apologies

Councillor Tom Brabazon
Councillor Ray McAdam
Councillor Larry O'Toole
Dr. Caroline McMullan, DCU



Dublin City Council

Comhairle Cathrach Bhaile Átha Cliath

Office of the Head of Finance, Finance Department,
Civic Offices, Wood Quay, Dublin 8, Ireland

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Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8, Éire
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Finance & & Emergency Services Strategic Policy Committee

Background

The Finance Strategic Policy Committee (SPC) was introduced following major changes applied to local government. The SPC replaced the former Coisde Airgeadais and commenced with the elected members of the Council from 1999 to 2004. Following three terms, it is considered timely to now review the terms of reference of the Strategic Policy Committee as a new council of elected members and external interests are formed.

Context of the Incoming Finance Strategic Policy Committee

The current economic context will place a significant burden on local government resources in the coming year. Indications of economic recovery are emerging however economic growth is not universally experienced throughout the city. Dublin City Council's resource base has contracted sharply while service demand has increased along with the need to maintain the city's attractiveness as a place to live, work or visit.

There is greater scrutiny than ever before, from the public, media and central government on how local government uses its resources. This places an obligation on Dublin City Council and the elected members to ensure that public money is spent in the most effective and efficient manner aiming to ensure confidence in the process and effectiveness of service delivery.

Objectives of the Finance Strategic Policy Committee

The incoming SPC's role must be to ensure maximum transparency and accountability in all areas of Dublin City Council.

Elected members and the city's citizens need to understand clearly and simply where Dublin City Council's resources come from and on what they are spent. Greater transparency will ensure better decision making in resource allocation across all local government spending programmes and a more informed sense of expectation from the public on what is and what is not possible from current resources.

In addition to transparency and accountability we need a greater focus on the effective and efficient use of existing resources. The SPC also has an important role in ensuring that public expenditure results in the delivery of high quality public services that represents good value for money. Equally as changes in the level and direction of public expenditure take place, the SPC must also ensure that the overarching objectives of fostering social and economic prosperity and equality in equal measure are maintained.

Key Areas:

There are seven key strands which the Finance SPC will focus on:

1. Transparency & Accountability in Expenditure and Resourcing
2. Review collection of debts due to Dublin City Council
3. Securing Quality of Service & Value for Money
4. Promoting Social and Economic Prosperity and Equality
5. Sustainable Local Government Funding
6. Corporate Governance
7. Community Development.

1. Transparency and Accountability in Expenditure and Resourcing

The Finance SPC will scrutinise past spending and proposed future financing of the Councils ten departments. Work to ensure that elected members and the public fully understand the revenue sources and expenditure decisions of DCC. The committee will examine the Annual Financial Statement of Dublin City Council and the Statutory Report of the Local Government Auditor on the Annual Financial Statement.

2. Securing Quality of Service & Value for Money

The Finance SPC will consider value for money reviews on specific areas; such reviews will incorporate a review of all resources – labour, materials, support, buildings and information systems. Following on and in consultation with management and employees, the SPC will recommend indicators to monitor and improve all areas of Council expenditure to ensure quality of service and value for money outcomes. Additionally, in consultation with management and employees, the Finance SPC will oversee the implementation of quality of service and value for money reforms in all areas of council service provision. Internal Audit Unit will, from time to time, table VFM reports that it conducts. Presentation of reports on high level efficiency reviews in either Dublin City Council or Dublin local authorities in general.

3. Promoting Social and Economic Prosperity and Equality

The Finance SPC in consultation with management and employees will develop criteria for ensuring that changes to the level and direction of council resources, arising from the current economic climate, are made in a manner consistent with the objectives of promoting social and economic prosperity and equality in equal measure. The Committee will monitor the impact of any changes to the level and direction of council resources to ensure that they do not negatively impact on the social and economic well being of the city and all its citizens.

4. Sustainable Local Government Funding

The Finance SPC will exploit any opportunities identified to advocate for the legislative changes needed for Dublin City Council to secure enduring stable revenue streams. The Finance Strategic Policy Committee will monitor the operations of funding sources from DOELG, LPT, commercial rates and other charges to ensure that any significant trends arising are addressed.

5. Corporate Governance

The Finance SPC has a role in assessing the adequacy of corporate governance arrangements through linkages with the Audit Committee, reviewing risk management structures and the work of the External Auditor and examining companies which Dublin City Council own or in which have a shareholding

6. Community Development

The Finance SPC will consider the development of community initiatives under the framework of Sections 109 and 110 of the Local Government Act 2001. The purpose of such initiatives to be the development of community assets, the use of local resources (labour, trade etc.) where possible.

Meetings

The Finance SPC will meet every two months or at least four times per year. The quorum necessary for the transaction of business shall be six members, at least four of whom must be elected members.

A schedule of meetings will be agreed at the start of each year.

Meeting documentation (agenda, minutes and reports) will, where possible, be circulated to Committee Members no later than one week in advance.

Committee Membership

The Finance SPC will consist of eighteen members, twelve of whom will be elected members of the City Council and six will be external members. Appointments to the Committee, where possible, shall be for the duration of the elected council.

Working Procedures

The Committee will adopt its own working procedures and standing orders. The Committee will adopt a multi-annual work programme linked to the Council's Corporate Plan, which will be updated as necessary.

A copy of the breviat of the business of each meeting will be included on the agenda of the next meeting of the City Council.

Induction Training

New members will receive all relevant information training and briefings on their appointment to enable them to meet their Committee responsibilities.

Cllr Ruairi McGinley

Chairperson

Finance & Emergency Services Strategic Policy Committee

November 2014

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Temple Bar Cultural Trust

The Temple Bar Area Renewal and Development Act 1991 established Temple Bar Properties Limited as a Development Company for the Temple Bar area. The Taoiseach through his nominees was the sole shareholder of the company. Under the Local Government Act 2001 the sole shareholder of Temple Bar Properties Limited became the City Manager (or his nominees). In 2006 under the Companies Act the name of the company was changed to the Temple Bar Cultural Trust.

As part of the 2012 City Council audit plan the then City Manager requested an internal audit review of the corporate governance arrangements in respect of two companies owned by Dublin City Council, the Dublin City Sports and Leisure Services Ltd. (swimming pool/leisure centre at Rathmines) and the Temple Bar Cultural Trust Limited. The audit report on Temple Bar Cultural Trust was completed in March 2013. On 5th July 2013 a formal request was made by the Board of Temple Bar Cultural Trust to Dublin City Council to undertake a further internal audit review in this case focussed on the Rainscreen Project at Meeting House Square. This audit commenced in October 2013 and was completed in May 2014. **Both audits referred to the periods 2010, 2011, 2013 and both audits exposed serious deficits on a range of governance issues in the Temple Bar Cultural Trust.** I am arranging to have copies of both audit reports sent to Members.

Subsequent to the initial internal audit report the Board of the Temple Bar Cultural Trust unanimously agreed on 10th April 2013 to wind down the company and for its functions, responsibilities and assets to be transferred to Dublin City Council. An appropriate transition process was put in place at that stage. Prior to this the Board has significantly altered its Board membership in 2012, a new Chairman was appointed and a new (interim) Chief Executive was appointed in November 2012.

Earlier this year as the transition to Dublin City Council was further progressed all external members of the trust resigned and were replaced with Dublin City Council representatives as follows;

- Philip Maguire Assistant Chief Executive – Chairperson/Director
- Brendan Kenny Assistant Chief Executive – CEO/Director
- Kathy Quinn Head of Finance - Director
- Mannix Flynn, Councillor - Director

A small Temple Bar project team was appointed which is headed up by John Durkan (DCC) and is based in the Culture Box premises in Temple Bar. Its role is to deal with all the legacy (including property) issues from the Temple Bar Cultural Trust and to progress all transition matters in light of the upcoming dissolution of the Company.

The "Heads of the Bill" providing for the dissolution of the Company of the Temple Bar Cultural Trust are currently being formulated by the Department of the Environment Community and Local Government and it is intended that the necessary legislation for dissolution will be passed before the end of this year.

Staffing.

At the time of the March 2013 internal audit report there were 18 staff working in the Temple Bar Cultural Trust including the Chief Executive Officer. It also included one permanent and one temporary staff working on the Arts Audience project (hosted by TBCT) which was and is fully funded by the Arts Council of Ireland.

Following subsequent resignations and departures through voluntary redundancy arrangements there now remains six staff who are permanent employees of Temple Bar Cultural Trust and they now work in conjunction with the Dublin City Council Temple Bar project team.

Discussions are ongoing with these staff in relation to their future employment with the Temple Bar Cultural Trust/ Dublin City Council.

Dublin City Council is very conscious of the importance of the Temple Bar Cultural Quarter to the economic and cultural well being of Dublin City and the region. We are very conscious of the need to cater for the three main stakeholders in the area i.e. the residents, the traders and the cultural institutions.

To this end Dublin City Council has initiated a consultation process (by Genises) with a view to the development of a new vision for the Temple Bar area. We will shortly publish the outcomes of this initial consultation process which involved all the key stakeholders in the area and we will set out our response to the recommendations and issues that were submitted.

The two audit reports and issues that arose through the work of the Board of Temple Bar Cultural Trust **have exposed serious instances of weak governance and administration during its term** and this has caused reputational damage to the otherwise transformational work carried out by Temple Bar Properties Limited since it was established in 1991.

All the weaknesses and deficits identified in the two interim audit reports have been attended to and critical lessons have been learned.

We will report on a regular basis to the South East Area Committee and to the City Council on the progress of the transitional process and on all other relevant issues arising in Temple Bar.

Brendan Kenny
Assistant Chief Executive
25th August 2014

Dublin City Council
Internal Audit Unit

**Temple Bar Cultural Trust Ltd.
Meeting House Square - Rainscreen
Project**

Internal Audit Report R01/14

August 2014



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Disclaimer:

This report is for the use of Temple Bar Cultural Trust Ltd & Dublin City Council only. It may contain information of a commercially sensitive & confidential nature. This report should not be copied/ redistributed to third parties or quoted from without the prior written consent of the Dublin City Council Internal Audit Unit.

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APPENDIX 1 – Management Response from Brendan Kenny Assistant City Manager

Appendix 2 - Correspondence with Fáilte Ireland.

APPENDIX 3 – Breakdown of budgeted costs deemed ineligible for Fáilte Ireland funding.

APPENDIX 4 – Extract of Internal Audit report R03/13 Re: Board Approval of Ulster Bank financing.

APPENDIX 5 & 5A – IT event which led to the loss of financial data from the SAGE Financial System.

APPENDIX 6 – Post audit correspondence with Fáilte Ireland.

Mr. Brendan Kenny,
Assistant City Manager,
Culture, Recreation & Amenity Dept.

Date: 1st May 2014.

Temple Bar Cultural Trust Ltd. Meeting House Square – Rainscreen Project
Internal Audit Report R01/14

1.0 INTRODUCTION

In March 2013, the Dublin City Council (DCC) Internal Audit (IA) Unit published a comprehensive audit of Temple Bar Cultural Trust (TBCT). As part of the audit process, IA reviewed the Meeting House Square (MHS) Rainscreen Project. During the audit process and following initial enquiries IA was informed that Fáilte Ireland were auditing the project as part of the grant drawdown process. On foot of this, IA decided to forego testing in this area and place reliance on the Fáilte Ireland audit and findings. The Fáilte Ireland grant agreement with TBCT referred to *“Claim checking will include the examination of invoices..... It will also include a review of procurement procedures”*.

Following the publication of the internal audit report there were questions raised at meetings of the City Council regarding the Rainscreen Project, specifically requesting the project to be audited.

On the 14th May 2013, IA wrote directly to Mr. Aidan Pender¹, Director of Strategic Development in Fáilte Ireland requesting confirmation that all the terms, conditions, procedures and reviews associated with the grant offer and drawdown were adhered to (See [Appendix 2](#)). This letter specifically requested clarification if a review of procurement procedures was followed and of compliance with statutory obligations relating to the project.

Mr. Pender’s reply on the 17th June 2013 did not provide IA with conclusive assurances that Fáilte Ireland had carried out processes that IA could place reliance on. The letter mentioned:

“Fáilte Ireland places reliance on the Grantee’s obligation to comply with all applicable public procurement regulations. By submitting each claim, the grantee is automatically reasserting compliance with all relevant regulations”

“In relation to procurement, it is our understanding that Temple Bar Cultural Trust complied with technical advice provided by a Project Manager appointed by them to support this process”

“Our review of project execution by Temple Bar Cultural Trust would suggest that the project was delivered in a satisfactory manner.”

On the 5th July 2013 a formal request was made by the Board of Directors of TBCT to the Head of Internal Audit to undertake an audit of the project. On the 16th July 2013 IA agreed to the request. TBCT were asked to provide a large amount of key project information prior to the audit commencing. On the 25th October 2013 IA

¹ Mr. Pender is now serving on the Board of Directors of TBCT since 13th July 2012.

were provided with enough extensive information to commence the audit. Among the information provided was a report from Davis Langdon Ltd who was appointed by Fáilte Ireland to prepare a report reviewing the costs and procurement of the project. The Davis Langdon report was dated 28th October 2011 and they concluded:

“The project has been significantly delayed from the original programme. This is due to the additional archaeological works carried out. The procurement process for the umbrellas is contrary to Department of Finance public procurement guidelines. The use of 3 quotations for such a large value of works is in direct contradiction of the procurement guidelines. We recommend that Fáilte Ireland review this procurement choice with Temple Bar Cultural Trust.”

IA notes that Mr. Pender’s letter failed to mention this review of procurement carried out for the project.

2.0 BACKGROUND

The Rainscreen Project was officially opened on the 15th Dec 2011. The project involved the design and installation of 4 inverted umbrellas which enables the popular square to be transformed into an outdoor space available for use in all types of weather. In 2013, The Rainscreen Project was awarded the prestigious *International Architecture Award*.

Fáilte Ireland provided €1.54m in grant funding for this project. TBCT were advised in section 8 of the agreement that they “must comply with EU and National public procurement procedures, the core principles of which are that procurement policy and practice should be accountable, competitive, fair and transparent, non-discriminatory, provide for equality of treatment and be conducted with probity and integrity.”

3.0 OVERALL AUDIT OBJECTIVE

The overall audit objective is to establish that the project was conducted to high governance standards and in line with the core principles of public procurement policy. In addition, it should be noted that Internal Audit did not review the rationale behind the commissioning of the Rainscreen Project and therefore does not have any opinion on the overall impact or merits of the project in the Temple Bar area.

4.0 MAIN CONCLUSIONS

- 4.1 The cost to deliver the project is in excess of €2.7m (+ VAT). The original budget for the project was €2.0m (+ VAT).
- 4.2 A significant event occurred in 2012 which led to the deletion of a large volume of financial information from TBCT’s financial package (SAGE). While carrying out a routine update of the system, a representative from a software company accredited by SAGE pressed the ‘restore’ button instead of the ‘backup’ button. Ordinarily this would not cause a problem, however, when TBCT contacted their IT support consultants it was discovered that they had failed to correctly backup the system. This led to the deletion of 3 months of entries in 2012 and some year-end 2011 entries. The then Financial Controller of TBCT worked with a representative from the software company to re-enter the lost data. IA notes that the re-entered data relating to the MHS project was in a summarised form and encountered difficulty tracing them back when trying to validate the final project costs. For example, 28 line items (made up of invoices and journal entries) deleted from the system were re-entered gross as one figure totalling €121,781.

IA has worked closely with TBCT to validate the re-entered data for the MHS project. While the testing carried out provided comfort to IA that the MHS financial information is accurate, we cannot provide complete assurance. Also see [Appendix 4](#).

- 4.3 A funding gap of €120,090 has been identified between the amount owed to TBCT from Fáilte Ireland and the corresponding amount owed by TBCT to Ulster Bank for bridging finance provided.
- 4.4 A 'certified extract' of board minutes was fabricated and provided to Ulster Bank to support creating a charge over two TBCT properties with a combined value of €3m.
- 4.5 Each drawdown claim (eight in total) was supported by a **Directors' Statement of Claim** which is a declaration of compliance with warranties and declarations in the letter of offer. None of these forms were signed by a Director of TBCT. In each case they were completed by the Financial Controller/Interim Financial Controller² of TBCT, in accordance with the **Letter of Offer**. IA notes that given the title of these forms and the declarations made in the forms are of such a serious nature that it would be appropriate that a Director of the company signed them.
- 4.6 Seán Harrington Architects (SHA) were appointed to carry out a six week Feasibility Study at a cost of €25,000. It is unclear how this appointment progressed to SHA being engaged as Project Manager/Architect. Seán Harrington Architects were paid €169,160 (Plus €25,000 for the Feasibility Study & granted ten uses of MHS valued at €35,000). TBCT have not provided Internal Audit with assurances or documentation to verify any competitive procurement process for this appointment took place.
- 4.7 Weslin Construction Ltd was appointed as the Main Contractor for the project. The procurement process was not conducted in line with Public Procurement Policy. However, IA found a satisfactory effort was made to obtain value for money for this contract. A competitive and transparent tendering process was adopted.
- 4.8 MDT Tex was appointed to fabricate and install the rainscreen. The procurement process was not conducted in line with Public Procurement Policy. IA accepts that this element of the project is specialist and unique, however, advertising to the market in the first instance (via E-Tenders) would have been more transparent and open. IA found a satisfactory effort was made to obtain value for money for this contract.
- 4.9 Brian King Engineering Ltd (BKE) was appointed to carry out Electrical Service Works for the project. The procurement process was conducted in line with Public Procurement Policy and a satisfactory effort was made to obtain value for money for this contract.
- 4.10 Some minor contractors were proposed by Seán Harrington Architects in the original fee proposal as consultants that were required for the project. TBCT accepted this proposal and each one was appointed after providing a reasonable quote.
- 4.11 The procurement processes for archaeology works were conducted in line with Public Procurement Policy and a satisfactory effort was made to obtain value for money for these contracts.

RATING: Unsatisfactory

² In Interim Financial Controller was in place to cover a period of leave.

DEFINITIONS OF INTERNAL CONTROL EVALUATION GRADE:

Strong: A strong system of control and / or compliance with related regulations was evident.

Satisfactory: Minor internal control weaknesses and / or technical violations of regulations were noted.

Needs Improvement: One major control weakness or substantive violation of a regulation was noted. Other minor weaknesses may have been noted.

Weak: Two or more major control weaknesses were noted and represent a need to improve controls immediately.

Unsatisfactory: The overall number and extent of control weaknesses and / or regulatory violations represent unacceptable exposure and risk.

THIS EXECUTIVE SUMMARY SHOULD BE READ IN CONJUNCTION WITH THE FULL REPORT

CONFIDENTIAL

5.0 METHODOLOGY/SCOPE

Information was gathered from the staff and contractors of TBCT.

The following areas were chosen to form the scope of the audit:

- (6.1) Project Background/ Proposal
- (6.2) Financials
- (6.3) Procurement of major contractors
- (6.4) Procurement of other contractors/suppliers

These areas were tested through a combination of requesting backup documentation, sample testing of items and discussions.

6.0 DETAILED FINDINGS

6.1 Project Background/ Proposal

6.1.1 Project timeline

The initial proposal to cover MHS with a rainscreen dates back to 2004. TBCT (then Temple Bar Properties) commissioned a discussion document: *A Future for Temple Bar, Urban Framework 2004*³. The document set out a number of options and possibilities for the Temple Bar area and the rainscreen idea was one of many ideas put forward to improve the area.

In 2008, TBCT commissioned another report: *Meeting House Square Rain-Screen Roof, Feasibility Study*⁴. This report explored, amongst other things, the various rainscreen options available, management issues, the impact on neighbours/stakeholders, conclusions, recommendations and cost estimations. This report estimated that the rainscreen (i.e. The 4 inverted umbrella option chosen) would cost in the region of €1.9m to €2.1m.

Planning permission for the project was awarded in May 2010. In 2010 & 2011 the project was a regular item on the agenda of the TBCT Board meetings and regular updates and discussions took place. The project was completed in late 2011 and the square was officially reopened on the 15th Dec 2011 by the Minister for Transport, Tourism & Sport, Mr Leo Varadkar TD.

³ The authors of the report were Howley Harrington Architects, Alan Sherwood (Economic and Tourism Advisor) and Dorothea Burger (Landscape Architect).

⁴ The authors of the report were Seán Harrington Architects, in association with Hardesty and Hanover LLP (Specialist Opening Roof Designers and Structural Engineers), Austin Reddy & Company Ltd. (Quantity Surveyors), Delap & Waller Ltd. (Services and Environmental Engineers) and OLM Consultancy (Health and Safety, and Fire Consultants).

6.1.2 Project timeline table

<u>Event:</u>	<u>Date:</u>
Urban Framework Plan for Temple Bar published.	Feb-04
Rainscreen Feasibility Study published.	Nov-08
Seán Harrington Architects (SHA) appointed as Architects/Project Manager.	Jul-09
SHA recommended various consultants to work on the project.	Sep-09
Application made to Fáilte Ireland for project funding.	Feb-10
Fáilte Ireland approve the project funding.	Apr-10
Planning Permission is awarded.	May-10
Fáilte Ireland formally award the project grant funding and make public procurement a condition of this financial aid.	Nov-10
MDT Tex appointed to fabricate & install the Rainscreen.	Nov-10
Brian King Engineering Ltd appointed as Electrical contractor.	Dec-10
Weslin Construction Ltd appointed as Main Contractor.	Jan-11
Franc Myles appointed to carry out Archaeological Works.	Feb-11
Fáilte Ireland approve additional project funding.	Jun-11
Fáilte Ireland formally award the project additional grant funding due to the significant archaeological works on site.	Sep-11
The project is completed and the square is officially re-opened.	Dec-11

6.2 Financials

N.B: All figures are presented net of Value Added Tax (VAT) unless otherwise stated.

6.2.1 Original funding of the project

In February 2010, TBCT formally wrote to Fáilte Ireland to seek funding of €1.32m (66% of the then budget of €2m). This application included a detailed project background, business plan, feasibility report and a market feasibility study. In November 2010, Fáilte Ireland wrote to TBCT to formally offer grant assistance of €1,317,557 (67% of the projected eligible costs of €1,966,503). This assistance was provided under the National Development Plan 2007-2013.

The remainder of the projected project costs was to be funded through a bank loan of €680,000 with TBCT offering the bank TBCT property as collateral.

Budget at this point:

Fáilte Ireland Funded (67%)	€1,317,557
TBCT Funded (33%)	€648,946
Total Eligible Costs	€1,966,503
Ineligible Costs	€35,408
Total:	€2,001,911

6.2.2 Additional funding (costs associated with archaeological finds)

In September 2011, Fáilte Ireland awarded additional funding to TBCT in respect to additional unforeseen costs incurred due to archaeological works required on site. The additional assistance granted was €224,088 (67% of the projected eligible costs of €334,459).

Budget at this point:

Fáilte Ireland Funded (67%)	€1,541,645
TBCT Funded (33%)	€759,317
Total Eligible Costs	€2,300,962
Ineligible Costs	€334,182
Total:	€2,635,144

For a full breakdown of the budgeted costs deemed ineligible for Fáilte Ireland funding see [Appendix 3](#).

6.2.3 Breakdown of capitalised asset value

The capitalised project costs to date are €2,578,336. This is broken down as follows:

<u>By Expenditure Type:</u>	
Rainscreen Fabrication & Installation	€1,386,420
Main Contractor (& their sub-contractors)	€734,093
Architects , Quantity Surveyors & Engineers	€285,937
Toilet Facilities	€29,936
Bank Interest	€36,161
Solicitors	€23,768
Archaeology	€23,155
Market Refunds	€11,482
Misc	€43,359
Unknown journals	€4,025
Total	€2,578,336

By Supplier:	
MDT Tex (Germany)	€1,386,420
Weslin Construction Ltd	€627,598
Brian King Engineering Ltd	€40,340
Archaeological Projects Ltd	€66,155
	€734,093
Seán Harrington Architects	€169,160
Seán Harrington Architects (Use of MHS agreement) Note 1	€35,000
Brian King Engineering Ltd	€22,709
Fearon O'Neill Rooney	€20,335
Austin Reddy & Co	€18,000
Delap & Waller Ltd	€10,000
Stage Lighting Centre Ltd	€4,220
Brian O'Connell & Associates	€3,875
Margaret Gowen & Co	€2,188
Eamon O'Boyle & Associates	€450
	€285,937
Elenfield Contractors Ltd	€29,936
Ulster Bank	€36,161
Patrick F O'Reilly & Co	€15,858
Denis O'Driscoll & Associates	€4,000
Gartlan Furey Solicitors	€3,910
	€23,768
Archaeological Projects Ltd	€23,155
Various Traders	€11,481
Fleet Street Car Park Ltd Note 2	€10,138
Dublin City Council	€10,000
Mr & Mrs Stevens Related Creatives	€3,212
Safety Solutions Skillnet Ltd	€3,088
Conway Communications	€2,900
Vertical Platform Hire	€2,900
Integrated Acoustic Solutions	€2,500
Digital Dimensions Ltd	€1,700
Aer Lingus	€1,660
Smith & Williamson Freaney	€1,250
Lenmar Service Location & Mapping (Lenmar Group)	€1,250
Datum Surveys Ltd	€1,150
Conor Steenson	€700
HSS Hire Shop	€600
Louis Grace Electrical	€312
	€43,359
Unknown Journal Note 3	€4,025
Total	€2,578,336

Note 1:

TBCT availed of additional architectural services from SHA. An agreement was made that allowed SHA the use of MHS on 10 occasions in lieu of a cash payment. The value of this transaction is €35,000 (+ VAT). This transaction was comprehensively investigated and regularised by Penelope Kenny, Arts Governance⁵. A detailed report on the matter was presented to the board of TBCT in June 2013.

Note 2:

Due to the deep archaeological excavations there was a considerable amount of earth removed in MHS. It was not feasible to have a truck parked at the entrance. An agreement was made with the Olympia Theatre to use their car parking spaces as storage for the earth until it could be removed by truck. TBCT paid for alternative car parking for the Olympia Theatre.

Note 3:

Among the MHS costs is a journal posted for €4,025. This journal has no backup documentation/invoices. IA cannot determine if this manual journal posting is a genuine cost relating to the project. The journal is described as a write off of trading licences.

6.2.4 Other additional costs (retentions held)

Retention is money held by the employer/client as a safeguard against defects which may subsequently develop and which the Contractor may fail to remedy. Retention has been held by TBCT for Weslin Construction Ltd. The value of this retention is €26,023. Retention of €63,600 has also been held for MDT Tex (Germany). These retentions increase the project costs by a total of €89,623.

6.2.5 Other additional costs (revenue expenditure)

IA has identified additional MHS related expenditure charged to the Income & Expenditure Account of TBCT. These items total €33,706 as follows:

<u>Supplier</u>	<u>Description of Invoice:</u>	<u>Value:</u>
1 Brian O'Connell & Associates	Shortlisting and selection for Feasibility Study	€4,000
2 Seán Harrington Architects	Feasibility Study	€12,500
3 Seán Harrington Architects	Feasibility Study	€12,500
4 Seán Harrington Architects	Entry to "European prize for urban public space"	€101
5 Seán Harrington Architects	Entry to "European prize for urban public space"	€170
6 Seán Harrington Architects	Fees for assistance with internal audit	€1,080
7 MDT Tex (Germany)	Additional service charges	€3,355
		€33,706

Conclusion

The cost to deliver the project in full is in excess of €2.7m (+ VAT) as follows:

Capitalised expenditure	€2,578,336
Retentions held	€ 89,623
Other miscellaneous items	€ 33,706
Total	€2,701,665

⁵ Arts Governance is an organisation contracted by TBCT, they specialise in governance in the arts sector. Penelope Kenny is a consultant and Executive Director of Arts Governance.

IA has endeavoured to identify project related expenditure by analysing customer accounts and general ledger listings. Given the large volume of transactions and invoices in TBCT spread across a number of years, IA cannot provide assurance that this is the final total of project related expenditure.

6.2.6 Amounts paid -v- amounts quoted

Company	Paid	Tendered/Quoted	Difference
MDT Tex (Germany) *	€1,386,420	€1,427,000	€40,580
Weslin Construction Ltd*	€627,598	€288,108	-€339,490
Brian King Engineering Ltd (Sub-contractor of Weslin)	€40,340	€32,848	-€7,492
Archaeological Projects Ltd (Sub-contractor of Weslin)	€66,155	€49,801 (+ Add ons)	-€16,354
Seán Harrington Architects	€204,160	€150,000	-€54,160
Brian King Engineering Ltd	€22,709	Not Available	Not Available
Fearon O’Neill Rooney	€20,335	€15,000	-€5,335
Austin Reddy & Co	€18,000	€18,000	€0
Delap & Waller Ltd	€10,000	€10,000	€0
Brian O’Connell & Associates	€3,875	Not Available	Not Available
Margaret Gowen & Co	€2,188	€3,120	€932
Elenfield Contractors Ltd	€29,936	Not Available	Not Available
Archaeological Projects Ltd	€23,155	€11,350	-€11,805
Safety Solutions Skillnet Ltd	€1,887	€2,250	€363

*These “paid” amounts do not include the retentions held.

Further information on procurement is detailed in Section 6.3 & 6.4 of this report.

6.2.7 Funding of the project

The project was funded by:

Fáilte Ireland Grant Aid **	€1,541,645
Ulster Bank Loan (20 Yr Term)	€ 680,000
Ulster Bank Overdraft Facility	€ 356,691
Total	€2,578,336

** TBCT have drawn down €1,533,565 to date from Fáilte Ireland, the balance yet to be claimed is €8,080.

The original business plan presented to Fáilte Ireland proposed the sale of 2 apartments from the TBCT property portfolio to partially fund the project. The apartments proposed for sale were:

1. The Wooden Building, Cows Lane, Dublin 2 (Current Value on TBCT Balance Sheet: €265,000)
2. 8 Scarlet Row, Essex Street West, Dublin (Current Value on TBCT Balance Sheet: €115,000)

These properties were never sold.

Board approval of the Ulster Bank loans and overdraft facility was examined as part of the original DCC internal audit report “Temple Bar Cultural Trust Ltd. Corporate Governance Arrangements R03/13”, published on the 8th March 2013. See [Appendix 4](#) for an extract of the report.

6.2.8 Bridging finance/funding gap

TBCT obtained bridging finance from Ulster Bank. This finance was required to fund the Rainscreen Project until successful drawdowns of Fáilte Ireland funds were made. The initial bridging finance awarded to TBCT was €1,320,000 in June 2011. An additional facility of €330,000 was awarded in November 2012 to part fund the cost over-runs.

The terms of the bridging facility was for repayments to be made “in stages by way of drawdown of the Fáilte Ireland grant facility directly into the loan facility account” i.e. as soon as Fáilte Ireland paid TBCT, TBCT were to repay the loan by the corresponding amount.

As of December 2013, TBCT have withdrawn €1,425,632 from Ulster Bank and repaid €1,305,542. An outstanding balance of €120,090 exists. Also see Graph below:

Ulster Bank Bridging Loan			
	Withdrawn	Repaid	Outstanding Balance
02/08/2011	€508,000		- €508,000
12/08/2011		€163,011	- €344,989
02/09/2011	€321,222		- €666,211
19/09/2011	€13		- €666,223
11/10/2011	€318,943		- €985,166
13/10/2011		€722,108	- €263,058
13/10/2011	€396		- €263,454
10/01/2012		€263,454	-
25/05/2012	€63,629		- €63,629
29/05/2012	€928		- €64,557
11/01/2013	€212,502		- €277,059
16/05/2013		€156,969	- €120,090
	€1,425,632	€1,305,542	

Two properties were provided as security on the Ulster Bank loans:

1. The Urbana Building, 43-44 Temple Bar, Dublin 2. (Current Value on TBCT Balance Sheet: €2,100,000)
2. The Sycamore Building, Sycamore Street, Dublin 2. (Current Value on TBCT Balance Sheet: €1,375,000)

The bridging finance should have been repaid by the 30th May 2013

The amount outstanding from Fáilte Ireland is €8,080. A funding gap of €112,010 exists between the amount owed to Ulster bank and the corresponding amount owed to TBCT from Fáilte Ireland.

6.2.9 Security on the Ulster Bank loans

The terms of the Ulster Bank loans required TBCT to provide commercial properties as security. Ulster Bank requested the security to be “a combination of standard commercial units in the Temple Bar area which are currently let. The security provided to the bank is to have a minimum value of two times the value of the bank borrowings.....”. The bank nominated their own solicitors (Gartlan Furey Solicitors) to act on their behalf regarding the perfection and acceptance of the security, with the fees being borne by TBCT.

On the 18th Oct 2010, Gartlan Furey Solicitors wrote to TBCT’s Solicitors (Patrick F O’Reilly & Company) requesting certified copies of board minutes to approve the creation of a legal charge over The Urbana Building and the Sycamore Building.

On the 19th November 2010, the TBCT Company Secretary replied to this request by providing certified extracts of board meetings to ratify the decision to use the two properties as security. IA noted a significant discrepancy between the certified extract provided to Ulster Bank and the actual signed board minutes for the September 2010 board meeting.

Extract provided to Ulster Bank:

“10-26 Meeting House Square

The CEO outlined the timescale and work programme for the development of MHS and confirmed that works should be completed and the rainscreen in place by April 2011. Following a full discussion, the board again affirmed its support for the project noting that planning permission was in place, noting that Fáilte Ireland funding was confirmed and noting that financing was in place with Ulster Bank, this funding being secured against The Sycamore Building and Urbana as previously agreed.”

Actual Extract of Signed Board Minutes:

“10-26 Meeting House Square

The CEO outlined the timescale and work programme for the development of MHS and confirmed that works should be completed and the rainscreen in place by April 2011. Director Mannix Flynn questioned the plan to proceed in the current economic climate and Director Martin Harte raised the issue if the funds could be better spent in other areas. There followed a full discussion to which all board members contributed resulting in the board reaffirming its support for the project.”

Conclusion

This matter requires an immediate review by the TBCT Board and the company solicitors.

6.2.10 Drawdown of Fáilte Ireland funding

The €1,533,565 of Fáilte Ireland funding was drawn down as follows:

Drawdown #:	Date Requested:	Amount Requested by TBCT:	Amount Paid by Fáilte Ireland:
Drawdown 1	10/11/2010	€135,572	€115,515
Drawdown 2	08/12/2010	€403,288	€403,288
Drawdown 3	14/12/2010	€20,435	€20,435
Drawdown 4	17/06/2011	€181,757	€181,590
Drawdown 5	07/09/2011	€259,320	€259,319
Drawdown 6	31/10/2011	€291,765	€288,141
Drawdown 7	23/03/2012	€122,810	€122,810
Drawdown 8	05/12/2012	€137,859	€142,467
		€1,552,806	€1,533,565

Each drawdown claim was supported by an **Independent Accountant's Report** to Fáilte Ireland & the Directors of TBCT, prepared by Smith and Williamson Freaney Ltd. The accountants carried out processes in accordance with Miscellaneous Technical Statement M45-Grant Claims. The report certified that each grant claim "is consistent with the records we inspected and has been prepared, in all material respects, in accordance with the requirements set out in the letter of offer or grant agreement".

Each drawdown claim was supported by a **Directors' Statement of Claim**. This form includes the claim amount with attached supporting documentation. The form includes a declaration of compliance with warranties and declarations in the letter of offer and confirmation of compliance with all appropriate statutory and other regulations. IA noted that none of these forms were signed by a Director of TBCT. In each case they were completed by the Financial Controller/Interim Financial Controller⁶ of TBCT, in accordance with the **Letter of Offer**. IA notes that given the title of these forms and the declarations made in the forms are of such a serious nature that it would be appropriate that a Director of the company signed them.

Each drawdown claim was supported by a **Project Architect's Report**. This report was completed by Seán Harrington and gave a percentage completion, a completion summary and an anticipated completion date of the project.

6.3 Procurement of Major Contractors

6.3.1 Architect/Project Manager (Seán Harrington Architects)

Seán Harrington Architects were appointed on 29th July 2009 as Architect/Project Manager for the Rainscreen Project. This appointment was made following a "Fee and Methodology Proposal" that was accepted by TBCT.

An advertisement was placed in the Irish Times on the 30th May 2008. This called for "expressions of interest from a practice or team to produce an Architectural Feasibility Study" and this study was to be "delivered in six weeks from date of appointment". Eight valid applications were received by the 18th July 2008 deadline and one late application was received that was deemed ineligible.

Shortlisting took place with the aid of Brian O Connell Architects. Notes on the criteria used in the assessment of the applicants were retained. A shortlist was formed of 5 applicants who would be brought forward to interview stage:

1. Alan Mee Architects
2. Seán Harrington Architects
3. Murray O'Laoire Architects
4. Burdon Craig Dunne Henry (BCDH) Architects
5. Foster + Partners

Each candidate was informed of the decision by letter. Successful candidates were called for interview on the 9th September 2008. An interview panel of five was formed. The interview panel held a pre-interview meeting to discuss and set out the assessment process and the characteristics expected from the successful candidate. Five interviews took place and notes were retained for each. Scores were assigned under four separate headings (Architectural Approach, Relevant Experience, Strategic Approach and Value).

Seán Harrington Architects were deemed the successful candidate with a mark of 35/40 and were engaged to carry out the feasibility study (See 6.1.1). The price quoted was €25,000 which was the second cheapest price offered by the five shortlisted candidates. The feasibility study was published in November 2008.

⁶ In Interim Financial Controller was in place to cover a period of leave.

Conclusion

TBCT has demonstrated a rigorous, documented and transparent procurement approach for the appointment of Seán Harrington Architects to carry out a six week Feasibility Study at a cost of €25,000.

However, it is unclear to Internal Audit how this appointment progressed to SHA being engaged as Project Manager/Architect. An e-mail exchange between TBCT and Fáilte Ireland briefly explains this by noting “It was decided by the panel after that process that SHA (Seán Harrington Architects) was the strongest candidate and team in place. It was decided that he would complete the Feasibility Study and indeed the whole project such was the strength of the feasibility study that followed”⁷. Seán Harrington Architects were paid €169,160 (Plus €25,000 for the Feasibility Study & granted ten uses of MHS valued at €35,000) to act as Project Manager/Architect and TBCT have not provided Internal Audit with assurances or documentation to verify any competitive procurement process for this appointment took place.

6.3.2 Main Contractor/groundworks (Weslin Construction Ltd)

Weslin Construction Ltd was appointed on the 24th January 2011 as main Contractor for the Rainscreen Project. SHA carried out the procurement process and followed the following procedure:

On the 26th November 2010, six contractors were advised of the proposed tender process and were invited to forward pre-qualifying information prior to inclusion on the select tender list. The contractors contacted were:

1. Cunnane & Donaghy Construction Ltd
2. Ganson Building & Civil Engineering Contractors Ltd
3. MJ Duncan & Sons Ltd
4. Purcell Construction Ltd
5. M& J Wallace Ltd
6. Weslin Construction Ltd

All six applicants satisfied the pre-qualification criteria and on the 6th December 2010 were forwarded a complete tender package and were asked to provide a tender response by the 23rd December 2010. All applicants returned responses. SHA engaged Austin Reddy & Company Ltd (ARC) to carry out an assessment of the six applicants. On the 6th January 2011, ARC issued a comprehensive tender report to SHA detailing the results of the process and placing Weslin Construction Ltd as the preferred bidder based on a M.E.A.T (Most Economically Advantageous Tender) assessment.

The tender prices quoted were:

- | | |
|--|----------|
| 1. Weslin Construction Ltd | €288,108 |
| 2. MJ Duncan & Sons Ltd | €308,018 |
| 3. Cunnane & Donaghy Construction Ltd | €324,396 |
| 4. M& J Wallace Ltd | €331,707 |
| 5. Purcell Construction Ltd | €399,533 |
| 6. Ganson Building & Civil Engineering Contractors Ltd | €511,013 |

Weslin Construction Ltd was appointed on the 24th January 2011 using an RIAI (The Royal Institute of the Architects of Ireland) form of contract.

⁷ This quotation is taken from an e-mail exchange between the TBCT Head of Finance, Business Development & Property and Fáilte Ireland in September 2010. Among other ad hoc queries, the procurement process was summarised and explained in the e-mail.

Conclusion

The procurement process was not conducted in line with Public Procurement Policy. The competition was not openly advertised to the market in the first instance, which could have attracted more competition from other market players. The form of the contract used (RIAI) was not the type prescribed in Department of Finance Circular 33/06⁸, however the RIAI form of contract is widely used, well known and well understood within the industry.

A satisfactory effort was made to obtain value for money for this contract. ARC and SHA carried out a competitive and transparent tendering process and the winning tenderer was selected using the M.E.A.T assessment.

6.3.3 Rainscreen fabrication/installation (MDT Tex)

MDT Tex was appointed on the 10th November 2010 to fabricate and install the rainscreen. SHA carried out the procurement process and followed the following procedure:

SHA examined the worldwide market to find suitable fabricators for the project. Eight fabricators were identified and contacted:

1. MDT Tex (Germany)
2. Tenara Architectural Fabrics (Germany)
3. Ferrari Textiles (France)
4. Intension (UK)
5. Architen Landrell (UK)
6. Ney & Partners (Belgium)
7. Glatz (Switzerland)
8. Skyspan (Australia)

Each company was given a project brief & a conceptual design and asked if they could assist in designing a solution. Based on the information provided and following initial enquiries, expressions of interest were received from three fabricators:

1. MDT Tex (Germany)
2. Architen Landrell (UK)
3. Skyspan (Australia)

Architen Landrell eventually backed out citing that the project was “not like anything we have taken on previously and therefore we would have extensive design, research and testing costs”. Skyspan were eliminated from the process by SHA due to their lack of experience in the area and also due to their proposed sub-contracting of various elements of the structures.

MDT Tex, while being the only remaining candidate, impressed SHA with their responsiveness, experience in the field and innovative design solution. MDT Tex continued to work with SHA and provided an acceptable cost estimate. Their quote of €1,272,000 tied into SHA’s original cost estimate of €1,350,000.

⁸ Circular 33/06 (Construction Procurement Reform – Revision of arrangements for the procurement of public works projects and for the engagement and payment of construction consultants. This circular introduced reforms to public works contracts. A new suite of standardised contracts was introduced. These contracts apply to all Government Departments and all projects with exchequer funding of more than 50%.

Conclusion

The procurement process was not conducted in line with Public Procurement Policy. The contract should have been advertised on the E-Tenders website as a minimum. The process adopted may have excluded companies who could have tendered for the work. While IA accepts that this element of the project is specialist and unique, advertising to the market in the first instance would have been more transparent and open. If the E-Tender advertisement returned no interest it would have only supported the restricted procurement route which followed.

The contract price obtained did tie in to the original cost estimation. MDT Tex was the only fabricator that provided a quote.

6.4 Procurement of other contractors/suppliers

6.4.1 Electrical Service Works (Brian King Engineering)

Brian King Engineering Ltd (BKE) was appointed in December 2010 to carry out Electrical Service Works for the Rainscreen Project. The procurement was carried out by Delap & Waller Ltd (D&W) on behalf of SHA. They followed the following procedure:

A list of six contractors was agreed between SHA and D&W. These were:

1. Brian King Engineering Ltd
2. J Vaughan Electrical Contractors Ltd
3. Seamus Byrne Electrical Ltd
4. Ratoath Electrical
5. Designer Electrical Ltd
6. William Farrell Ltd

Tender documents, drawings and specifications were sent to each contractor on the 3rd December 2010. Priced tenders were returned to D&W from each of the 6 applicants by the deadline of 22nd December 2010. The tender submissions were analysed and the preferred bidder was based on the lowest price received. D&W summarised their process and findings on a tender report issued to SHA.

The tender prices quoted were:

1. Brian King Engineering Ltd	€32,848
2. J Vaughan Electrical Contractors Ltd	€35,870
3. Seamus Byrne Electrical Ltd	€38,442
4. Ratoath Electrical	€38,700
5. Designer Electrical Ltd	€49,646
6. William Farrell Ltd	€52,313

D&W recommended acceptance of the tender submitted by Brian King Engineering Ltd.

Conclusion

The procurement process was conducted in line with Public Procurement Policy. Due to the low value nature of the contract (below €50,000) the procedure of requesting quotes/tender submissions from 5+ known

competent firms is acceptable and agrees with the procedures set out in Department of Finance Circular 10/10.

A satisfactory effort was made to obtain value for money for this contract. D&W and SHA carried out a competitive and transparent tendering process and the winning tenderer was selected based on the lowest price quoted.

6.4.2 Quantity Surveyors (Austin Reddy & Company Ltd) & Structural Engineers (Fearon O’Neill Rooney)

In the original fee proposal of SHA (to act as Architect/Project Manager) it was made clear that SHA would require other consultants to work on the project at a cost of €45,000.

TBCT agreed to this proposal. In September 2009, SHA wrote a letter to TBCT. This letter identified the 5 consultants that SHA required for the project and the quotes obtained from each one. SHA asked TBCT to write a letter to each consultant confirming acceptance of their quotations (providing they were satisfied with them).

The quotes were as follows:

1. Austin Reddy & Company Ltd (Quantity Surveyors)	€18,000
2. Fearon O’Neill Rooney (Structural Engineers)	€12,000
3. Delap & Waller (Services Engineers)	€10,000
4. Safety Solutions (Health & Safety Consultants)	€ 2,250
5. Margaret Gowan & Co Ltd (Archaeologists)	€ 3,120
Total	€45,370

TBCT appointed each consultant to work on the project. The consultants were paid directly by TBCT. See 6.2.3 for the breakdown of the amounts paid to each one.

Conclusion

The declaration of SHA that these consultants were required was made from the outset and built into the initial fee proposal. This was agreed 5 months prior to applying to Fáilte Ireland for funding and the project having the obligation to follow Public Procurement Procedures.

6.4.3 Toilet facilities (Elenfield Contractors Ltd)

Elenfield Contractors Ltd were paid €29,936 to renovate the toilet facilities in Meeting House Square. This element of the project was not reclaimable from Fáilte Ireland. No further procurement information has been provided to IA.

6.4.4 Archaeological works

Margaret Gowen & Co had initially been selected to carry out archaeological works on site but resigned mid-project as they were due to cease trading. They were one of the consultants required by SHA (as per the initial fee proposal).

SHA invited quotes from 3 other archaeologists in February 2011. The quotes were:

- | | |
|--------------------------------|---------|
| 1. Franc Myles | €10,200 |
| 2. Archaeological Projects Ltd | €11,350 |
| 3. Edmond O'Donovan | €22,904 |

Franc Myles was appointed in February 2011 but immediately sub contracted the job to Archaeological Project Ltd without the approval of SHA. At this point the full extent of the archaeological works was unknown.

In March 2011, the full extent of the excavations became apparent and SHA consulted with the City Archaeologist and made an agreement for a more extensive scope of archaeological works. Archaeological Projects Ltd quoted €49,801 for the full cost of excavation on the 12th March 2011. The quote also included an estimate of the cost of post excavation work of between €12,500-€17,400 and monitoring of €180 per day.

In total, Archaeological Projects Ltd were paid €23,155 directly by TBCT and an additional €66,155 under a separate sub contracting arrangement with Weslin Construction.

Conclusion

The procurement process was conducted in line with Public Procurement Policy. Due to the low value nature of the contract (services below €25,000) the procedure of requesting quotes/tender submissions from 3 known competent firms is acceptable and agrees with the procedures set out in Department of Finance Circular 10/10.

7.0 RECOMMENDATION

7.1 This report should be presented to the Board of TBCT for consideration as soon as possible.

8.0 MANAGEMENT COMMITMENT

In order to ensure the timely implementation of the recommendations in this report the following timeframe has been agreed with management.

Rec. No	Timescale	Risk Rating	Responsibility
7.1	Immediate	H	Mr. Brendan Kenny, ACM, CRA Dept.

Risk Rating Key:

H	Major control weakness or no system of control present. Management need to take urgent action in response to the recommendation.
M	Significant control weakness found though other controls may compensate to some degree. Management action is required as there is a risk that the system's objectives might not be achieved.
L	Minor control weakness identified. The weakness is unlikely to lead to significant risk of error, omission or and may be largely compensated for by other controls. Nevertheless the recommendation still merits consideration.

Internal Audit would like to thank the staff in Temple Bar Cultural Trust, Ray Yeates and Penelope Kenny (Arts Governance) for their courtesy and co-operation shown throughout the course of the audit.

Gerry Macken

Head of Internal Audit

Copies of this report will be forwarded to :

Owen Keegan, Dublin City Manager
Brian Norton, (Chairman) and
the Members of the Dublin City Council Audit Committee
Kathy Quinn, Head of Finance & ICT
Richard Murphy, Principal Local Government Auditor

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Appendix 1 – Management Response from Brendan Kenny, Assistant City Manager

Temple Bar Cultural Trust - Response to the Rainscreen audit:

The Board and Current Executive of the Temple Bar Cultural Trust wishes to acknowledge the excellent work of the Dublin City Council Internal Audit Team and the comprehensive findings of the Rainscreen audit report.

The Board and Executive acknowledge the seriousness of the findings and the overall rating of the Audit as unsatisfactory. The Board is particularly concerned with the audit in 3 areas:

- 1) Public procurement
- 2) Alteration of Board minutes
- 3) Failures in documentation.

It is important to stress that these matters are historical and refer to the periods 2010, 2011, 2012.

This Rainscreen report and the previous Audit report by Dublin City Council's Internal Audit Team have exposed very serious deficits on a range of Governance issues in the Temple Bar Cultural Trust which has led to the Board unanimously agreeing on 10th April 2013 to wind down the company and for its functions, responsibilities and assets to be transferred to Dublin City Council. The necessary transition process is nearing completion.

It is important to note that this audit highlighted many strong points in the management of the Rainscreen project and that these could be overshadowed by negative findings. It is also important to note that the Board significantly altered its membership in 2012, appointed a new Chairman and subsequently appointed a new (interim) Chief Executive in November 2012. All this resulted in the development of new financial procedures and a comprehensive overhaul of governance within The Temple Bar Cultural Trust. *All of the audit findings should be viewed in this context.*

We note most importantly that under the new system of financial procedures, board governance and oversight, as well as the ongoing transition to Dublin City Council of the Temple Bar Cultural Trust, that errors, oversights, and omissions of the kind found in the report are now under much greater control.

The Board and Executive notes that the amount of Government subsidies involved through Failte Ireland at €1.5 M are significant and that the highest standards of transparency of accountability and internal financial control should always apply to such projects.

In conclusion, this Audit Report and the excellent investigative work of the Dublin City Council Audit Team have highlighted very important lessons, for the future, in the management of such projects.

Brendan Kenny
CEO Temple Bar Cultural Trust/Assistant Dublin City Manager
August 2014

Appendix 2 - Correspondence with Fáilte Ireland.

LETTER 1

Mr Aidan Pender
Director of Strategic Development
Fáilte Ireland
88 Amiens Street
Dublin 1

14th May 2013

Re: Grant to Temple Bar Cultural Trust (TBCT) – ID 11731, Rainscreen Project

Dear Mr Pender,

As you may be aware, earlier this year, Dublin City Council's Internal Audit Unit published an audit of Temple Bar Cultural Trust on instructions from its sole shareholder, the City Manager.

During the course of the audit, we became aware that Fáilte Ireland, in April 2010, had approved a grant offer of €1,317,557 (67% of eligible costs) in respect of the above project. In addition, we were also informed by TBCT, that Fáilte Ireland, as part of the grant drawdown process would conduct the necessary checks and controls pertaining to the grant offer.

To that end, I would greatly appreciate if you could confirm that all the terms, conditions, procedures and reviews associated with the grant offer and drawdown were adhered to, in particular the following:

- Each claim was fully supported, at the time of submission, by the appropriate invoices
- Evidence of payment and other relevant documentation, or documentation at TBCT offices will be or was subsequently inspected, either on a comprehensive or sample basis.
- Claim checking included the examination of invoices and the tracing of payment through to bank
- Evidence of statements, via supplier accounts and EFT listings as relevant.
- That a review of procurement procedures was followed and of compliance with statutory obligations relating to the project.

In the meantime, I look forward to hearing from you and if you require any further information or assistance, please feel free to contact me at the above or on my mobile at 087 2615332.

Yours sincerely,

Gerry Macken
Head of Internal Audit

LETTER 2

Mr Aidan Pender
Director of Strategic Development
Fáilte Ireland
88 Amiens Street
Dublin 1

12th June 2013

Re: Grant to Temple Bar Cultural Trust (TBCT) – ID 11731, Rainscreen Project

Dear Mr Pender,

I refer to my letter dated 14th May last, (copy attached) regarding the above. I would be grateful if you could let me know if you had received the communiqué and had an opportunity to consider my request regarding the conditions associated with the grant offer and drawdown.

In the meantime, I look forward to hearing from you with regard to my request and feel free to contact at any time regarding the above.

Yours sincerely,

Gerry Macken
Head of Internal Audit

REPLY

Mr Gerry Macken,
Head of Internal Audit,
Internal Audit Unit,
Dublin City Council
Civic Offices,
Wood Quay,
Dublin 8



17 June 2013

Re: Temple Bar Cultural Trust – Meeting House Square (Rainscreen Project)

Dear Mr Macken,

I refer to your letter dated 14th May 2013 on the above matter.

Under the Tourism Capital Investment Programme, Fáilte Ireland seeks to support product and infrastructure investment in tourism destinations of strategic importance. It was within this context that an application for grant support submitted by Temple Bar Cultural Trust in respect of the Rainscreen Project in Meeting House Square was evaluated.

Following evaluation by the executive, the Fáilte Ireland Authority at its meeting on 22/04/2010 approved a capital grant award for this project up to a maximum of €1,317,557. This grant award was made conditional on the requirement that "the grantee must demonstrate a clear operational emphasis on the promotion of cultural tourism activities within Dublin which are not currently served by similar, pre-existing venues/operators". At its meeting on 30/06/2011, the Fáilte Ireland Authority approved a further award of €224,088 in response to a supplementary application submitted by TBCT relating to the costs associated with unforeseen archaeological works on the site which were encountered during construction.

In general, all matters relating to the execution of a project are the responsibility of the Grantee. Fáilte Ireland exercises subsequent project oversight through its Post Grant Monitoring Unit. The terms and conditions governing projects supported by Fáilte Ireland, and the manner in which grant support may subsequently be drawn down, are set out in a Letter of Offer which includes a section entitled "Acceptance of Grant Offer" to be signed by the Grantee. Among the standard conditions set out in the Letter of Offer is a provision relating to drawdown of grant which states "Grant payments will be made only to the body specified as the Grantee, based on expenditure incurred and paid by the Grantee" A copy of the Letter of Offer relating to the MHS Rainscreen project, and the signed Acceptance of Grant Offer, is attached for information.



...../.....2

Further guidance on Fáilte Ireland's official policy and procedures relating to the drawdown of grant was provided to the Grantee at a meeting on 30/06/2010 prior to submission of the first claim on 29/11/2010. At that meeting it was pointed out that Fáilte Ireland places reliance on the Grantee's obligation to comply with all applicable public procurement regulations. By submitting each claim, the Grantee is automatically reasserting compliance with all relevant regulations (please see attached copy of sample signed claim).

In relation to the specific points raised in your letter, I can confirm that the claim procedure, as advised and agreed with Temple Bar Cultural Trust, was that invoice and payment records would be checked on a sample basis after payment of grant claims. I can further confirm that claim checking including the examination of invoices and tracing of payments through to the bank was completed in respect of each grant claim submitted. This included the tracing of payments via supplier accounts and EFT lists, and as appropriate and necessary, through to bank statements. In relation to procurement, it is our understanding that Temple Bar Cultural Trust complied with technical advice provided by a Project Manager appointed by them to support this process.

Our review of project execution by Temple Bar Cultural Trust would suggest that the project was delivered in a satisfactory manner and that the necessary ground works were completed, and the Rainscreen installed, within budget.

If you have any further queries, please do not hesitate to contact me.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Aidan Pender'.

Aidan Pender
Director of Strategic Development
Secretary to the Fáilte Ireland Authority

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Appendix 3 – Breakdown of budgeted costs deemed ineligible for Fáilte Ireland funding.

Original Budget

Cost Type	Total		Ineligible	Eligible	Grant %	Grant €
Preliminaries	€20,400	€1,787,730	NIL	€20,400	67%	€13,668
Civil Works	€240,070		NIL	€240,070	67%	€160,847
Rainscreen Installation	€1,427,000		NIL	€1,427,000	67%	€956,090
Additional Electrical Requirements	€100,260		NIL	€100,260	67%	€67,174
Fees*	€214,181	€214,181	€35,408	€178,773	67%	€119,778
Total	€2,001,911	€2,001,911	€ 35,408	€1,966,503	67%	€1,317,557

* A limit is imposed on Professional Fees equivalent to 10% of total eligible expenditure.

Revised Budget

Cost Type	Total	Ineligible	Eligible	Grant %	Grant €
Preliminaries	€20,400	NIL	€20,400	67%	€13,668
Civil Works	€240,070	NIL	€240,070	67%	€160,847
Rainscreen Installation	€1,427,000	NIL	€1,427,000	67%	€956,090
Additional Electrical Requirements	€100,260	NIL	€100,260	67%	€67,174
Fees*	€214,181	€35,408	€178,773	67%	€119,778
Weslin Construction (including archaeology)	€543,310	€ 208,851	€334,459	67%	€224,088
Extra MDT Costs	€23,723	€23,723	NIL	67%	-
Architects Costs	€20,000	€20,000	NIL	67%	-
Car Parking Costs	€7,200	€7,200	NIL	67%	-
Arbitrator	€4,000	€4,000	NIL	67%	-
Fearon O'Neill Rooney	€6,000	€6,000	NIL	67%	-
Soil Testing	€4,000	€4,000	NIL	67%	-
Extra costs for back fill	€25,000	€25,000	NIL	67%	-
Total	€2,635,144	€334,182	€2,300,962	67%	€1,541,645

Appendix 4 – Extract of Internal Audit report R03/13 Re: Board Approval of Ulster Bank financing.

IA Report

6.2.3 Loan Agreement (Meeting House Square Rainscreen Project)

Financing was required in 2010 from Ulster Bank in order to fund the Rainscreen Project. This financing included:

- €1,320,000 bridging finance loan. This loan was used until Fáilte Ireland Grant income was received.
- €680,000 term loan (20 year term until 2031). This loan was used to part fund TBCT's portion of the project costs.
- €500,000 overdraft.

The Ulster Bank Loan Facility Letter contains a "certified extract" of TBCT minutes of the meeting of the board of directors. The extract certifies that the board considered the terms of the facility letter (which incorporates all of the financing listed above), resolved that it was in the best interests of the company to avail of the facility and the form of the facility letter and the general conditions produced at the meeting be approved. The extract also certifies that the Company Secretary and Financial Controller were authorised to sign the Facility Letter by way of acceptance. The Company Secretary certified for Ulster Bank that the "certified extract" was "a true extract of the minutes of a meeting of the board".

This extract is for a meeting held on the 29th of June 2010. No meeting took place on this date. The Financial Controller advised that the extract related to the meeting of the 23rd of June 2010.

Internal Audit examined the board meeting minutes of the 23rd of June 2010 and found that no minutes matched the "certified extract" submitted to Ulster Bank. Internal Audit queried this with TBCT and was advised that the board approval of the financing is contained in the minute #10-17 of this meeting which states: "Later in the meeting Dara Connolly delivered a presentation showing the current project timelines, final design solutions and finances (including the decision to change the Company's Bankers)".

Internal Audit queried the disparity between the actual board minutes and the certified extract of board minutes provided to Ulster Bank. Internal Audit was advised by the Company Secretary that the minutes were "a summary of the meeting".

Internal Audit requested a copy of the e-mail sending out the board papers prior to the meeting of the 23rd of June 2010 in order to seek assurance that the board members had been presented with the facility letter. This could not be provided.

Internal Audit also noted that the Ulster Bank Facility Letter that was signed had an issue date of the 28th June 2010, 5 days after the board meeting of 23rd June 2010 at which Internal Audit was advised that the facility was approved.

Recommendation 9: Company Minutes should record all major decisions of the board in detail. No declarations should be made to third parties that certify extracts from company minutes that do not exist in the board meetings to which they relate to.

Recommendation 10: The TBCT Board should re-examine the Loan facility and board approval to determine if proper authorisation was given to proceed.

Recommendation 11: Legal advice should be obtained on earlier declarations to Ulster Bank and any further declarations required.

[Management response from the TBCT Executive \(R03/13\)](#)

Recommendation No. 9, and 10 and 11: We agree that company minutes should record all major decisions of the Board in detail; however these recommendations imply that the Board was not informed of a large project, and its' financing. This is not correct. The Board recorded that they supported the project (Board minutes of September 2010) having had a detailed presentation of the project in June 2010. The Board further recorded the review of a special report on the financing of the project (January 2013), reaffirming their prior approval. Therefore we would request that Internal audit record in the report that this recommendation refer to recording in the Board minutes rather than any substantive issue (of the Board not approving large projects).

Recommendation No.10: We request that you note in the report that "The board's intention was to approve the loan facility in June 2010. The board's subsequent actions show its clear sign off for the approval of the facilities." We would request that the above information be added to the report. Otherwise please note in the report "This recommendation refers to recording in the Board minutes rather than any substantive issue".

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Appendix 5– IT event which led to the loss of financial data from the SAGE Financial System

A significant event occurred in 2012 which led to the deletion of a large volume of financial information from TBCT's financial package (SAGE). While carrying out a routine update of the system, a representative from a software company accredited by SAGE pressed the 'restore' button instead of the 'backup' button. Ordinarily this would not cause a problem, however, when TBCT contacted their IT support consultants it was discovered that they had failed to correctly backup the system. This led to the deletion of 3 months of entries in 2012 and some year-end 2011 entries. The then Financial Controller of TBCT worked with a representative from the software company to re-enter the lost data. IA notes that the re-entered data relating to the MHS project was in a summarised form and encountered difficulty tracing them back when trying to validate the final project costs. For example, 28 line items (made up of invoices and journal entries) deleted from the system were re-entered gross as one figure totalling €121,781.

IA has worked closely with TBCT to validate the re-entered data for the MHS project. While the testing carried out provided comfort to IA that the MHS financial information is accurate, we cannot provide complete assurance.

Appendix 5A Communication between IA and DCC IS Department

From: Brian Curtis
Sent: 01 April 2014 10:07
To: Gerry Macken
Cc: Kathy Quinn
Subject: RE: TBCT

Gerry,

I have reviewed the attached information and following consideration I do not think that there is any chance of the lost material been retrieved by a specialised data recovery service. I outline below the reasons why.

- The backups that would be required were not actually taken in the first place and so cannot be used or recovered. If backups had been done but deleted they could be recovered but they were not done in the first place.
- The server would appear to have been physically changed and so may not be available.
- Action would have been required immediately and as it has been a number of years since the incident then now the recovery would not be successful.
- The incident and technical implementation would indicate a low level of professional IS practices which would make any recovery difficult to stand over.

To reconstruct the information unfortunately the best approach would be to go back to the paper records that should have been archived and independently complete a corrected set of accounts for that period.

Regards
Brian Curtis
ICT Manager

From: Gerry Macken
Sent: 28 March 2014 13:15
To: Brian Curtis
Cc: Kathy Quinn
Subject: TBCT

Brian,

As discussed earlier, please see below a précis of what occurred in TBCT.
During this morning's TBCT Board meeting Philip McGuire suggested that the lost material could possibly be retrieved, if examined by the right/competent people.
Kathy suggested that the IS Team could investigate if this would be possible.
Please revert when you have had a chance to review same.

Regards

Gerry

IA were carrying out routine testing of financial transaction in TBCT's General Ledger (On the SAGE Financial System).

During this testing an anomaly was noticed. The anomaly related to a journal entry of €121,781 in SAGE which appeared to have no backup or explanation. Following extensive exchanges with TBCT (and their external auditors) it was decided that TBCT would contact the former Financial Controller (Nikki Jacques) to explain the transaction.

On 27th Feb 2014, Nikki Jacques submitted a report of the event which led to the journal entry as follows:

“Background

*Nikki Jacques Processed year end close off for 2011 in March 2012 as normal.
Just after this time she noticed missing entries on accounts and contacted sage helpdesk.
It was noticed that when a sage representative was on the network installing an update, they pressed the restore button instead of the backup button. This restored back to the last backup that was taken by IT (CIC).
This would not normally have caused a problem, however when CIC was contacted it was discovered that they had not taken backups correctly when they had changed over servers so the system restored to year end/just before year end 2011. This resulted in the deletion of 3 months of entries in 2012 and some year end 2011 entries.
Sage sent a representative into TBCT to work with Nikki and re-enter Journals/Invoices etc.*

When testing to ensure all re-ries were completed, account 6210 MHS HO (Meeting House Square Fixed Asset unclaimable) and account 9500 (accumulated profit) were not matching year end balance as per management accounts 2011, €113,985.86

Action

Sage representative advised that one journal should be posted to fix this, being a Dr to Fixed asset account and credit Acc profit account.

Nikki processed this journal, which was made up of journal Cr €121,780.77 (J000002368) as per audit query and Dr €7794.91 (J000002369). (Highlighted in attached Sp/Sh 9500 Acc - NJ Feb 2014)

Detail

The detail to this €113k journal can be seen on the attached spreadsheet/drawdown from sage. (6210 MHS not claimable - NJ Feb 2014)

It is made up of a number of fixed Asset Invoices regarding the Rainscreen. They are posted to this account 6210 MHS HO as they are not covered under the Failte Ireland contract as claimable, so these were costs taken by TBCT.

Under the reference Column, the invoice code can be seen clearly i.e. 13069, 13079 etc and these invoices should be filed in the purchase invoice folders that are on the top floor. These would have been audited as part of the year end audit 2011 and detail on the error as described above also explained.

Conclusion

Under no circumstances should this amount be written off, they are legitimate fixed asset expenses regarding the rainscreen construction and back up Invoices should be held within TBCT and as mentioned, audited during the 2011 year end audit.

I obviously do not have access to my emails but I'm sure there were emails explaining this and possibly also a note filed under L:accounts/Dara/2011/Audit folder (I possibly have this folder incorrect but I am sure you know the folder I am referring to)

There should also be a spreadsheet filed listing the supplier name beside the transactions in account 6210 MHS HO for ease of reference. However a quick look up on sage will show the supplier detail. ”

Gerry Macken | Head of Internal Audit

Dublin City Council | Finance Department | Block 1, Floor 8, Civic Offices, Fishamble Street, Dublin 8

T. +353 1 222 4561 | F. +353 1 222 2070 | M. 087 2615332 | email: gerry.macken@dublincity.ie | www.dublincity.ie

Household Charge - Funding Local Services - Avoid interest and penalties by registering and paying for your household charge before 31st March on www.householdcharge.ie

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Smaoinigh ar an timpeallacht sula ndéanann tú an ríomhphost seo a phriontáil. Please consider the Environment before printing this mail.

Appendix 6– Post audit correspondence with Fáilte Ireland.

E-MAIL

From: Gerry Macken [mailto:gerry.macken@dublincity.ie]
Sent: 04 March 2014 15:55
To: Deborah Nolan
Cc: Kathy Quinn; Aidan Pender; Peter O'Brien
Subject: RE: TBCT Rainscreen Project

Deborah,

Good to talk to you and your colleague Anthony Guy yesterday re: above. I have taken on board all your comments (see below) and I will incorporate them into the final report. However, following yesterday's TBCT Board Meeting, your colleague Mr Aidan Pender gave a commitment to fellow Board Member and Head of Finance at DCC, Ms Kathy Quinn to formally respond in writing to the redacted report I sent to Fáilte Ireland.

Verbal response to TBCT Rainscreen Report:

- Fáilte Ireland (FI) informed Internal Audit (IA) that the Davis Langdon report, which was commissioned by FI dated 28th October 2011, was not received by FI until March 2012
- That the Prescribed Directors' Statement of Claim on each drawdown did not form part of FI's paperwork. They relied solely on signed statements from the Financial Controller of TBCT
- FI was of the opinion that Works Contracts below the €5 million ceiling did not have to go through the EU & National Procurement process (IA refute this view)
- Minor changes to the Project Timeline and Drawdown of FI funding timelines were accepted.

I hope this meets with your satisfaction and I would appreciate a quick response over the next few days, as I am anxious to expedite this exercise as soon as possible.

In conclusion, I would like to thank you and your colleagues for all your support and co-operation in this regard.

Gerry

Gerry Macken | Head of Internal Audit

Dublin City Council | Finance Department | Block 1, Floor 8, Civic Offices, Fishamble Street, Dublin 8

T. +353 1 222 4561 | F. +353 1 222 2070 | M. 087 2615332 | email: gerry.macken@dublincity.ie | www.dublincity.ie

RESPONSE

From: Deborah Nolan [mailto:Deborah.Nolan@failteireland.ie]
Sent: 04 March 2014 16:32
To: Gerry Macken
Cc: Kathy Quinn; Aidan Pender; Peter O'Brien
Subject: RE: TBCT Rainscreen Project

Gerry

Re the Verbal response below this needs to be corrected as follows

Fáilte Ireland requested that the following changes marked in red below

- Section 1 – “Among the information provided was a report from Davis Langton Ltd who where appointed by Fáilte Ireland to prepare a report **on the project which included** reviewing the costs and procurement of the project. The Davis Langton report was dated 28th October 2011(**One month Prior to completion of the project**) and they concluded.....”
- Fáilte Ireland (FI) informed Internal Audit (IA) that the Davis Langdon report , which was commissioned by FI dated 28th October 2011, was not received by FI until March 2012 received by FI until March 2012.

No this cannot be confirmed, as the report may have been received before then by staff who are no longer with the organisation. Our request was for the changes in red above to the wording of the report.

- That the Prescribed Directors’ Statement of Claim on each drawdown did not form part of FI’s paperwork. They relied solely on signed statements from the Financial Controller of TBCT.

This is not correct. These are the same thing. The letter of offer specified that the Directors statement of claim form (which is a standard template)was to be approved and signed by the Chief Financial officer.

- FI was of the opinion that Works Contracts below the €5 million ceiling did not have to go through the EU & National Procurement process (IA refute this view).

FI do not have a view on this. FI asked the question of you only so as to understand the findings in the redacted report.

- Minor changes to the Project Timeline and Drawdown of FI funding timelines were accepted.

regards

Deborah Nolan

Head of Finance, Risk and Central Services

| Fáilte Ireland | 88-95 Amiens Street | Dublin 1

T: 01 884 7764 | M: 0879372814

W: www.failteireland.ie

Dublin City Council
Internal Audit Unit

Temple Bar Cultural Trust Ltd. Corporate Governance Arrangements

Internal Audit Report R03/13

March 2013



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

CONFIDENTIAL

Mr. John Tierney,
City Manager,
Dublin City Council

Date: 15th March 2013

Temple Bar Cultural Trust Ltd. Corporate Governance Arrangements - Executive Summary

Overall Audit Rating: Unsatisfactory (See [Appendix 2](#) for Rating Definition)

1.0 INTRODUCTION

As part of the 2012 Audit Plan, the City Manager requested a review of the corporate governance arrangements in respect of two companies owned by Dublin City Council (DCC). Dublin City Sports & Leisure Services Ltd. and Temple Bar Cultural Trust Ltd. (TBCT) were selected for audit based on the DCC risk registers. This report relates to TBCT.

2.0 BACKGROUND

TBCT owns and manages buildings and public spaces in the Temple Bar area. The rental income from this activity and other external funding is used to organise various cultural events. TBCT is governed by a board of directors. The Dublin City Manager is the sole shareholder of TBCT on behalf of DCC. (See [Appendix 3](#) for history of TBCT)

3.0 OVERALL AUDIT OBJECTIVE

The overall audit objective is to establish that good corporate governance exists for TBCT.

4.0 MAIN CONCLUSIONS

4.1 Company secretarial records and returns to the Companies Registration Office (CRO)

- The Annual Return was filed on time 4 out of the last 6 years.
- Some statutory registers and the minute book require updating.
- Director Appointment/Resignation Forms were filed late with the CRO on 5 out of 10 occasions in 2011 & 2012.
- Director Resignations were filed with the CRO that reduced both TBCT subsidiaries to one director, in breach of the Companies Acts. The Company Secretaries of these subsidiaries are TBCT senior executives. The interim CEO has been advised of this breach.

4.2 Board Direction and Control

- Board direction and control should be in accordance with company law.
- Board Meetings were held regularly and attendance for 10 of 12 serving board members is satisfactory for 2010 and 2011.
- Statutory Financial Statements 2010 and the Budget 2010 and 2011 were approved by the Board.
- The Strategy/Business Plan was not approved by the Board for 2010 and 2011.
- There was only one acquisition/ disposal of property in the last three years (the acquiring of the Rainscreen for Meeting House Square) and this was approved by the Board.
- Board Minutes and Board Papers were not available to show that loans of €2,000,000 and overdraft facilities of €500,000 provided by Ulster Bank were approved by the Board.
- Board Minutes and Board Papers were not available to show that the Ulster Bank appointment as banker for TBCT and Ulster Bank authorised signatories in use were approved by the Board.
- Board approval exists for a loan issued to a tenant (Smock Alley Theatre) of €112,000 in 2011.
- External auditors of TBCT have been in place for over ten years in contravention of good corporate governance.

4.3 Financial Reporting

- Financial Procedures were not in place. A procedures manual is currently being drawn up by TBCT.
- Financial Reporting processes, in general, were found to be adequate (i.e. reporting types and regularity of reporting cycles).
- No segregation of duties in place for the accounting functions. The Financial Controller inputs financial data and produces financial reports.
- No significant difference in profit between the statutory and management accounts for year end 2011.
- Accounting classification of expenditure could allow more comprehensive analysis of expenditure by type.

4.4 Tax filings and payments

- Preparation of Corporation Tax (CT) Returns is outsourced to tax advisors. CT Returns were filed on time for the last 6 years.

- All 6 VAT Returns for 2011 were late and there was no segregation of duties in the preparation of these VAT returns.
- 2 out of 13 income tax returns were filed late for 2011. There was no segregation of duties in place.
- TBCT provided evidence that they adopted the correct approach in relation to accounting for RCT (Relevant Contracts Tax).
- TBCT do not deduct PSWT (Professional Services Withholding Tax). Temple Bar Properties Ltd. (renamed TBCT) is named in the Taxes Consolidation Act as being an “Accountable Person” for PSWT.
- Benefit in Kind taxation was not applied to rail and Luas tickets purchased for staff of €8,212 for 2011.

4.5 Expenditure

- No procurement policy in place, however this is currently being addressed in the new procedure manual.
- Audit trail was in place for 69% of payments and authorisation was in place for 72% of payments for a sample of 70% (€104,417 out of €148,295) expenditure relating to travel, entertainment, conferences, subscriptions and professional fees.
- Contract (including CEO contract) or other documentation was unavailable in 3 out of 4 cases for salaries paid in 2011.
- During the expenditure testing, salary advances to staff (including the CEO) of €5,857 in 2011 were noted.
- Company Credit Cards were used in 2011 for personal expenditure amounting to €2,550 and later repaid through salary deductions.
- Company Credit Cards expenditure was €49,714 for 2011 (for 4 credit card holders). The majority of the credit card expenditure sampled did not have appropriate receipts or documentation to verify the business requirement for the expenditure. 3 of the 4 credit cards are still in use in TBCT.
- No backup documentation for €703 out of €775 cash withdrawals using company credit cards in 2011.
- TBCT have a cleaning truck and approximately €1,000 worth of petrol for this truck was charged to Employee 3’s credit card in Kildare in 2011. Subsequent to the issuing of the draft report TBCT informed Internal Audit of an informal arrangement which was in place in relation to this, the CEO provided a written confirmation that he had approved the arrangement.
- A personal legal expense of the CEO of €907 was paid by TBCT in September 2011 and repaid to TBCT between July and September 2012.

4.6 Income

- Documented rental agreements or legal judgements were available for all items sampled (i.e. 36% of 2011 Rental Income).
- Bad Debt provision and Bad Debt Write Offs are not formally documented.

4.7 Banking/Investments

- 17 out of 70 (24%) bank payments sampled breached the signatory requirements of the Bank Mandate.
- It is possible for the Financial Controller to process a payment of any amount alone.
- The bank reconciliations process was quarterly only and there is no segregation of duties for this process.
- A positive difference on a bank reconciliation of €4,708 for 2011 was noted and should be investigated.
- Loan agreements for loans obtained were signed by the TBCT executive. Loan repayments are up to date.
- Both loan agreements were available for loans granted to tenants, loan repayments due to TBCT are up to date. The amount outstanding on these loans at year end 2011 was €110,000 (plus interest).
- The transfer of the 50% shareholding of the subsidiary Fishamble Music Ltd. to Contemporary Music Centre Ltd. (CMC) should be on the agenda of TBCT Board Meetings until it is resolved, as a possible liability exists for TBCT of €507,895 to the Arts Council arising from an earlier undertaking given by TBCT in the event that the shareholding does not transfer to CMC.

4.8 Assets

- Insurance cover is in place for various risks. TBCT do not formally seek confirmation of the insurance cover in place for properties owned by TBCT but insured by tenants.
- Title was inspected by the DCC Assistant Law Agent for deeds relating to three sites. No issues were discovered.

4.9 General Internal Controls

- The *Staff Handbook*, containing policies and procedures, requires updating including the inclusion of an Anti-Fraud Policy.

THIS EXECUTIVE SUMMARY SHOULD BE READ IN CONJUNCTION WITH THE FULL REPORT

5.0 METHODOLOGY/SCOPE

Meetings were held and information was gathered from the staff in TBCT. Other information was collected from the Companies Registration Office, the Office of the Director of Corporate Enforcement, The Revenue Commissioners and other sources. One area of the audit related to the title of property held by TBCT. This was conducted by the DCC Assistant Law Agent.

The following areas were chosen to form the scope of the audit:

- (6.1) Company secretarial records and returns to the Companies Registration Office
- (6.2) Board direction and control
- (6.3) Financial reporting
- (6.4) Tax filings and payments
- (6.5) Expenditure
- (6.6) Income
- (6.7) Banking/Investments
- (6.8) Assets
- (6.9) General

These areas were tested through a combination of requesting backup documentation, sample testing of items and discussions with staff in Temple Bar Cultural Trust.

6.0 DETAILED FINDINGS

This report makes repeated references to the Chief Executive Officer (CEO) of TBCT. All references to the CEO relates to the CEO who has been seconded for a year to Derry City of Culture since November 2012. Any reference to the Interim CEO relates to his temporary replacement, the DCC Arts Officer.

The Head of Finance, Property and Business Development also held the position of Company Secretary until December 2012. The Interim CEO now holds the position of Company Secretary.

The Financial Controller of TBCT was on leave from the 1st November 2010 to the 19th August 2011. A replacement held the position during this period.

6.1 Company secretarial records and returns to the Companies Registration Office (CRO)

6.1.1 Statutory Registers & Other Documents

Not all statutory registers and other documents were in place in accordance with the provisions of the Companies Acts. The Register of Directors was in place but the content did not conform to the particulars set out by Section 51 of the Companies Act, 1990.

The signed board minutes for the years 2010 and 2011 were received. The 'Minute Book' held in the offices of TBCT was incomplete and only contained signed minutes of meetings from November 2010 onwards. TBCT could not provide assurance to Internal Audit that all previous signed company minutes are retained. Signed company minutes should have been maintained for an ongoing/indefinite period since the inception of the company in 1990.

Recommendation 1: Statutory Registers and other documents should be put in place by the Company Secretary to ensure compliance with the Companies Acts. These should include Register of Members, complete Minute Book for all previous meetings, complete Register of Directors and Secretaries.

6.1.2 Companies Registration Office (CRO) Returns

Internal Audit confirmed that the following returns had been filed:

a. Change of Director/ Secretary (B10 Form)

There were 10 TBCT Director resignations/appointments in 2011 and 2012:

- 5 resignations/ appointments were registered with the CRO between 4 and 11 months late. The timeframe laid out by the CRO is “within 14 days of the change occurring”.
- 3 resignations/ retirements have conflicting dates reported to the CRO and reported in the Company’s Financial Statements. Using the dates reported to the CRO, 2 out of 3 were filed on time. Using the dates reported in the Financial Statements, 3 out of 3 were filed late.
- 2 resignations were filed on time with the CRO.

b. Change of Director/Secretary (B10 Form) TBCT Subsidiary Companies

TBCT has two 100% subsidiary companies:

1. Fishamble Music Ltd.
2. Irish Film Centre Development Ltd.

Director resignations for each of the subsidiary companies in 2012 were filed in November 2012 and resulted in both subsidiary companies being reduced to just one Director. As all Irish Companies are required to have a minimum of two Directors, this represents a breach of Section 174 of the 1963 Companies Act. The Head of Finance, Property and Business Development advised that they did not receive CRO notifications of these breaches. These forms should have been returned to the presenter by the CRO but instead were registered.

c. Annual Return (B1 Form). The 2011 Annual Return was filed on time with the CRO. Internal Audit tested the B1 returns for the previous 6 years (2006-2011) and found that the B1 was filed late on 2 occasions.

d. Creation of a Charge (C1 Form). 2 notifications of the creation of a charge were filed within the required 21 day period. These were in relation to loans for financing the Meeting House Square Rainscreen Project (**See 6.2.3**). These charges were secured against two properties: Sycamore Building, Sycamore Street, Dublin 2, and Urbana Building, 43/44 Temple Bar, Dublin 2, and were in favour of Ulster Bank.

Recommendation 2: All future B10 Forms should be filed by the Company Secretary with the CRO within 14 days of the change occurring.

Recommendation 3: Directors should be immediately appointed to the TBCT subsidiary companies (Fishamble Music Ltd. & Irish Film Centre Development Ltd.) to comply with the Companies Acts. Internal Audit has already advised the Interim CEO of this matter in January 2013.

Recommendation 4: All CRO returns should form part of the KPIs (Key Performance Indicators) submitted to the board each quarter. The KPIs should specify the applicable timeframe for the notifications to the CRO and the actual outcome.

6.1.3 Board Meeting Papers

Board papers were requested for two meetings. In both cases IA received the agenda for the current meeting, the board minutes of the previous meeting and copies of the documents for discussion at those meetings. The Board Papers could be improved to enable the board to make more informed decisions.

Recommendation 5: The Board Papers should be amended to include the detail in [Appendix 1](#).

6.2 Board Direction and Control

6.2.1 Board Direction and Control in Compliance with Company Law

The purpose of the internal audit is to provide assurance to the shareholder that the company is being run satisfactorily. Board direction and control should be in accordance with company law.

Recommendation 6: Board direction and control should be in accordance with company law.

6.2.2 Board Decision/Authorisations

Board Authorisation on significant matters was examined (mainly in 2010 & 2011):

- The Board discussed and agreed draft budgets, management accounts and the Financial Statements. The 2010 and 2011 budgets were not approved prior to the beginning of the year to which they relate. On each occasion they were approved in February. **(See 6.3.4 for detail on the budget process).**
- A sub-committee of the board, *The Finance & Audit Committee* is in place since April 2012.
- The matter of rent reductions, write offs, bad debts and legal proceedings were documented as being discussed at many of the meetings of the Board during 2010 and in early 2011. Discussions on these matters were not documented in the board minutes for the rest of 2011.
- Strategy/Business Planning process at board level did not take place in 2010 and 2011 due to internal board issues. This process previously took place during the November prior to the beginning of the financial year to which it relates to. This process recommenced in 2012.
- The Board approved the advancing of a short term loan to Smock Alley Theatre in 2011 **(See 6.7.5)** and agreed to guarantee a long term loan should it be required. The Articles of Association of TBCT permits the loaning of money.
- The Meeting House Square Rainscreen Project was approved in 2009. In 2010 and 2011 the Board was kept updated on progress of the project.
- Board Minutes and board papers were not available to show that the financing of the Meeting House Square Rainscreen Project was approved by the Board. This financing included a €1,320,000 bridging finance loan, a €680,000 term loan (over 20 years) and a €500,000 overdraft. **(See 6.2.3 for detail & recommendations)**
- Board Minutes and board papers were not available to show that the appointment of Ulster Bank to act as TBCT's company bankers was approved by the Board. **(See 6.2.4 for detail & recommendations)**

Recommendation 7: All future budgets should be approved in principle by the Board prior to the beginning of the financial year to which it relates.

Recommendation 8: Rent reductions, write offs, bad debts and legal proceedings should be discussed, approved by the board and documented in the board minutes.

6.2.3 Loan Agreement (Meeting House Square Rainscreen Project)

Financing was required in 2010 from Ulster Bank in order to fund the Rainscreen Project. This financing included:

- €1,320,000 bridging finance loan. This loan was used until Fáilte Ireland Grant income was received.
- €680,000 term loan (20 year term until 2031). This loan was used to part fund TBCT's portion of the project costs.
- €500,000 overdraft.

The Ulster Bank Loan Facility Letter contains a "certified extract" of TBCT minutes of the meeting of the board of directors. The extract certifies that the board considered the terms of the facility letter (which incorporates all of the financing listed above), resolved that it was in the best interests of the company to avail of the facility and the form of the facility letter and the general conditions produced at the meeting be approved. The extract also certifies that the Company Secretary and Financial Controller were authorised to sign the Facility Letter by way of acceptance. The Company Secretary certified for Ulster Bank that the "certified extract" was "a true extract of the minutes of a meeting of the board".

This extract is for a meeting held on the 29th of June 2010. No meeting took place on this date. The Financial Controller advised that the extract related to the meeting of the 23rd of June 2010.

Internal Audit examined the board meeting minutes of the 23rd of June 2010 and found that no minutes matched the “certified extract” submitted to Ulster Bank. Internal Audit queried this with TBCT and was advised that the board approval of the financing is contained in the minute #10-17 of this meeting which states: “Later in the meeting Dara Connolly delivered a presentation showing the current project timelines, final design solutions and finances (including the decision to change the Company’s Bankers)”.

Internal Audit queried the disparity between the actual board minutes and the certified extract of board minutes provided to Ulster Bank. Internal Audit was advised by the Company Secretary that the minutes were “a summary of the meeting”.

Internal Audit requested a copy of the e-mail sending out the board papers prior to the meeting of the 23rd of June 2010 in order to seek assurance that the board members had been presented with the facility letter. This could not be provided.

Internal Audit also noted that the Ulster Bank Facility Letter that was signed had an issue date of the 28th June 2010, 5 days after the board meeting of 23rd June 2010 at which Internal Audit was advised that the facility was approved.

Recommendation 9: Company Minutes should record all major decisions of the board in detail. No declarations should be made to third parties that certify extracts from company minutes that do not exist in the board meetings to which they relate to.

Recommendation 10: The TBCT Board should re-examine the Loan facility and board approval to determine if proper authorisation was given to proceed.

Recommendation 11: Legal advice should be obtained on earlier declarations to Ulster Bank and any further declarations required.

6.2.4 Bank Mandate

The bank mandates in force were sought to ensure that there was adequate Board sign off. The mandate was co signed by the Company Secretary and a Director. There was no record of the bank mandate approval in the Board minutes of 2010. A document was provided to Ulster Bank containing a “true excerpt from the minutes of the meeting of directors of the company” held on the 23rd day of June 2010. This document resolved that Ulster Bank be requested to act as bankers for TBCT. This excerpt does not match the minutes of this board meeting. The minutes of the board meeting state “Later in the meeting Dara Connolly delivered a presentation showing the current project timelines, final design solutions and finances (including the decision to change the Company’s bankers)”.

Recommendation 12: The TBCT Board should re-examine the bank mandate and board approval to determine if proper authorisation was given to proceed.

Recommendation 13: Legal advice should be obtained on earlier declarations to Ulster Bank and any further declarations required.

6.2.5 Investment Mandate

Temple Bar Cultural Trust own two 100% subsidiaries (Fishamble Music Ltd. & Irish Film Centre Development Ltd.). No investment mandate exists that governs investment decisions by the company.

Recommendation 14: An investment mandate should be put in place detailing parameters (including restrictions) on investment activities.

6.2.6 Board Meeting and Director Attendance

Internal Audit reviewed the board meetings of 2010 and 2011. There were 13 meetings in this period.

TABLE A: Board Meeting Attendance 2010 & 2011

2010	2011
Board Member A - 66% non attendance	Board Member A - 100% non attendance up to retirement in July 2011
Board Member B – 66% non attendance	Board Member B – 71% non attendance
Board Member C – 83% non attendance	Board Member C – 43% non attendance
8 members had full attendance	8 members had full attendance
2 members had 1 absence	2 members had 1 absence

*N.B. - Board Members B & C remain on the board of TBCT.

Recommendation 15: To ensure Directors give the required duty of care to their role, Board attendance figures should be provided to the Shareholder each year.

6.2.7 Director Rotation

The Articles of Association of TBCT state that “the Directors of the Company shall not be required to retire by rotation”. The Latitude Report ^a recommends on page 44 that steps are taken to refresh the board. The Shareholder has taken steps to do this with the appointment of new Directors during 2011 and 2012.

Recommendation 16: The process of refreshing the board should be continued. The Articles of Association should also be amended by special resolution to outline formal rules regarding the rotation of Directors.

6.2.8 Statutory Audit

Smith and Williamson Freaney have been the statutory auditors of Temple Bar Cultural Trust since 2002.

Recommendation 17: The external auditors should be rotated as a term of over ten years is contrary to best practice.

6.3 Financial Reporting

6.3.1 Financial Management System (SAGE)

There is a double entry accounting system in place. The management accounts (produced from the trial balance) and the subsequent audit adjustments agreed to the Financial Statements at year end 2011.

6.3.2 Financial Procedures Manual

At the time of audit there was no financial procedures manual in place. However, in January 2013, Internal Audit was forwarded a copy of the final draft version of the *TBCT Ltd. Financial Regulations and Procedures*.

Recommendation 18: The *TBCT Ltd. Financial Regulations and Procedures* should be presented to the *TBCT Finance & Audit Committee* (a sub-committee of the board) for final sign off.

6.3.3 Segregation of Duties on the accounting function

The Financial Controller is the only person who inputs information onto the SAGE Financial Management System. The Financial Controller produces the Financial Reports.

^a In March 2011 DCC passed a motion “that the Manager in conjunction with the Board would review the remit of TBCT and its operations with a view to ensuring that the Company is operating to international best practice standards in all its affairs on behalf of DCC, in order to enhance the reputation of Dublin City.” The consultants engaged were Latitude and this report is commonly known as the Latitude Report, which was published on 27th June 2011.

Recommendation 19: The TBCT Ltd. Financial Regulations and Procedures should address weaknesses identified to ensure segregation of duties within the Finance function.

6.3.4 Budgeting/Forecasting

Every October, the draft budget is drawn up and submitted to the Board for discussion and approval. There are budget holders who have responsibility for various budget areas. The original budget is reviewed at least every quarter when the Financial Controller meets with each budget holder and the position is reforecast as required.

6.3.5 Actual versus Budget Outturn

Internal Audit reviewed the quarterly reporting folders. Internal Audit examined the quarterly actual versus budget reporting supplied to both management and the Board in 2011. The reports have no narrative for budget variances arising. The Financial Controller reviews the actual outturn versus budget with all budget holders. The overall position is then discussed with the Head of Finance, Property and Business Development and the CEO. Previously the actual versus budget outturn was presented to the board. Since 2012 it is now presented to the sub-committee of the board *The Finance & Audit Committee*.

Recommendation 20: The budget reporting supplied each quarter should include relevant commentary on major variances.

6.3.6 Profit & Loss 2011

The following is summary of the Profit and loss Account of TBCT for 2011.

This excludes depreciation of assets (€1.080m) and the corresponding deferred income of Capital Grants (€1.080m) released over the useful life of assets.

Table B: Summary of the TBCT Profit & Loss Account 2011

		Actual 2011	Budget 2011
Income			
Rentals, Leases & Cultural Contributions		1,619,695	1,562,078
Production Income	Grants/Contributions	131,651	111,000
	Insurance Recharge	53,721	54,241
	Venues	5,005	-
	Markets	102,905	90,000
	Artists Apartments	3,285	7,000
	Income Audit Adjustment	10,081	-
	Total Income 2011	1,926,343	1,824,319
Expenditure			
Programmes and Services		341,023	335,000
Estate Mgt & Property		280,273	274,092
Head Office & Admin		322,566	332,781
Bad Debts Written Off		48,705	40,000
Payroll		851,262	854,135
Director's Pay		23,391	25,141
Expenditure Audit Adjustments		5,249	-
Total Expenditure 2011		1,872,469	1,861,149
Profit 2011		53,874	-36,830

6.3.7 Debtors Reporting and the Bad Debt Provision

The Debtor figure for 2011 is €534,382, broken down as follows:

€740,986	Trade Debtors
-€331,918	Bad Debt Provision
€125,314	Other Debtors/Prepayments (<i>Including: Smock Alley Theatre Loan of €56k, Project Arts Centre Loan of €54k and other Miscellaneous Sundry Debtors & Prepayments</i>)
€534,382	Total

An aged trade debtor listing (€740,986) was requested for the year end 2011 and following analysis of this, it was established that:

- 65% of the debt outstanding at 31st December 2011 was debt of 120 days length or more.
- 5 of the 65 debtors listed, had become a legal matter. These customers represent 48% of the outstanding trade debt and owed a total of €353,533 at year end 2011:

-Debtor A: €169,702

-Debtor B: €154,905

-Debtor C: €16,515

-Debtor D: €7,197

-Debtor E: €5,214

The bad debt provision (BDP) of €331,918 is 38% of total debtors. The BDP is set by management and provided to the board with the budget for approval. The external auditors of the company may suggest an increase. Aged Debtor reports are run on a minimum monthly basis.

6.3.8 Statutory and Management Accounts

Internal Audit noted no significant difference in the profit recorded in the management accounts and the statutory accounts at year end 2011. The profit increased from €49,042 to €53,874.

The largest adjustments to the management accounts were an increase in the Bad Debt Provision of €99,713 (from €232,205 to €331,918) and the write-back of a provision for retention costs of €125,224. The Bad Debt Provision was increased at the recommendation of the TBCT's external auditors. The retention cost write-back is explained as follows:

- A retention clause is a provision in a contract that allows the customer (in this case TBCT) to withhold a portion of the contract price until the determination that the project/goods meet a predetermined or standard specification.
- The Head of Finance, Property and Business development advised that TBCT had an accrual in the accounts for the expenditure that was put through the Profit & Loss Account at the time relating to the retention left over from the development of the Wooden Building in the West End of Temple Bar. TBCT were not satisfied with the work carried out (TBCT's architects would not sign off on the invoice).
- The Head of Finance, Property and Business development advised that the statute of limitations ended 2 years ago and this amount can no longer be claimed by the contractor. As the funds due are no longer owed the accrual was advised to be reversed by TBCT's external auditors.

6.3.9 Cash Flow Monitoring

The cash flow forecast for 2011 was examined. It is reviewed every 6 months.

Recommendation 21: A Cash Flow forecast should be reviewed on a monthly basis.

6.3.10 Accounting Classification of Expenditure

TBCT operate an "Account Code/Cost Centre/Department" system of coding income and expenditure. While analysing the General Ledger Expenditure accounts Internal Audit found that some of the coding of expenditure could be changed to give greater detail. For example, Repairs and Maintenance does not have its own cost centre. At present it has an account code only in the Property Estate cost centre. There is a high level of expenditure (over €84,000 in 2011) and a broad range of expenditure type (Petrol, Work wear, Building Materials, Tools, Motor Vehicle

Parts, Entertainment, etc) in this account code and it would be useful if this expenditure could be analysed by type. Internal Audit also noted from the trial balance that not every income and expenditure account code had an allocated cost centre and department

Recommendation 22: The Account Code/Cost Centre/Department system of coding income and expenditure should be reviewed. The new system of coding should give a more comprehensive breakdown of income and expenditure.

6.4 Tax Filings and Payments

6.4.1 Value Added Tax (VAT)

Internal Audit tested 2 out of 6 VAT returns for 2011 and found that Sales and Purchases VAT declared matched the underlying records. Bi-monthly VAT reconciliations are in place. Sales and Purchases VAT amounts entered on the return are as per the VAT control accounts on General Ledger, along with manual journal adjustments from the cash receipts from markets.

The VAT return and reconciliation process is carried out in full by the Financial Controller. There is no segregation of duties or review by another member of management.

The external auditors noted in their management letter for the year ended 31st of December 2011 that, "The company has been late returning its VAT on two occasions". During the audit, Internal Audit found that the bi-monthly returns had been submitted late to the Revenue Commissioners on all 6 occasions for 2011.

Recommendation 23: The Head of Finance, Property & Business Development should review and sign off on the VAT return and reconciliation.

Recommendation 24: The VAT filings should be submitted on time.

Recommendation 25: The compliance for all tax areas should be reported to the board (See [Appendix 1](#)).

6.4.2 Income Tax returns to The Revenue Commissioners

Monthly P30's and the Annual P35 for 2011 were reviewed. The P30 is the form used to return monthly PAYE and PRSI deductions made and the P35 is the yearly return of same to the Revenue Commissioners. For 2011 the company was late in filing the income tax returns for 2 of the 13 returns.

Recommendation 26: The P30 returns should be submitted on time.

6.4.3 Benefits in Kind

TBCT provided annual commuter rail tickets to 5 members of staff during 2011. These tickets were paid for in full by TBCT as part of a benefit package. The total value of the 5 tickets was €7,550. Application of income tax (Benefit in Kind) is a legal requirement for staff benefits. TBCT did not apply Income Tax to these staff benefits.

TBCT paid for Dublin Luas tickets for the CEO totalling €662 for 2011. TBCT did not apply Income Tax to this expense.

Recommendation 27: TBCT should liaise with their tax advisors in relation to clarifying these matters, establish if any amounts are due to the Revenue Commissioners and ensure that all tax liabilities are expedited.

6.4.4 Corporation Tax

The Corporation Tax forms (CT1) for 2006 - 2011 were examined and found to have been filed on time. Corporation Tax matters are outsourced to TBCT's tax advisors *Smith & Williamson Freaney*.

6.4.5 Relevant Contracts Tax (RCT)

Relevant Contracts Tax (RCT) applies to payments made by a principal contractor to a subcontractor under a relevant contract. Public Bodies, including local authorities, who receive construction services, are principal contractors for RCT purposes.

TBCT provided evidence that they adopted the correct approach to accounting for RCT for payments to Weslin Construction in 2011 in relation to the Meeting House Square Rainscreen Project.

6.4.6 Professional Services Withholding Tax (PSWT)

PSWT applies to payments made by certain public bodies for professional services provided to them. TBCT do not deduct PSWT. Temple Bar Properties Ltd. is listed in the Taxes Consolidation Act, 1997 as an "Accountable Person" for PSWT and according to the Act should be deducting PSWT where applicable. TBCT do not deduct PSWT at present.

Recommendation 28: TBCT should liaise with their tax advisors in relation to clarifying these matters, establish if any amounts are due to the Revenue Commissioners and ensure that all tax liabilities are expedited.

6.5 Expenditure

6.5.1 Procurement

There was no written procurement policy in place (i.e. number of quotes to obtain, tender route, tender thresholds).

The Financial Controller advised that there was only one acquisition/ disposal of property in the last three years (the acquiring of the Rainscreen for Meeting House Square). This was presented as a cultural property in the Statutory Financial Statements of TBCT at a cost of €2,300,422.

In January 2013, Internal Audit was forwarded a copy of the final draft version of the *TBCT Ltd. Financial Regulations and Procedures*. This document puts in place regulations and procedures over procurement. Internal Audit had initially selected the Meeting House Square Rainscreen Project to assess the procurement policy in place, however after initial enquiries we were informed that Fáilte Ireland was auditing the project. Internal Audit decided to forego testing in this area and place reliance on the Fáilte Ireland audit and findings.

Recommendation 29: The findings from the Fáilte Ireland audit should be presented to the board as soon as they become available.

6.5.2 Expenditure Audit Trail & Authorisation

The basis for the expenditure recorded in the SAGE Financial System is as follows:

- **Invoices:** The Financial Controller distributes invoices to the various Budget Holders for their budget areas for approval and cost centre designation. Once they are returned with the budget holder's approval, the Financial Controller stamps each invoice with a unique number stamp and enter this number into SAGE^b along with the rest of the invoice details.
- **Staff Expense Claim Forms:** Staff claim expenses back through a Staff Expense Claim Form and attach the relevant receipts.
- **Credit Card:** The charges are incurred in the first instance by each credit card holder of the 4 company credit cards. The Financial Controller distributes the credit card statement to each card holder for account code/cost centre designation of the expenditure.

Internal Audit sampled expenditure in the following areas for 2011:^c

1. Travel (account code 2050)

^b SAGE is the accounting software package used by TBCT.

^c It should be noted that these expenditure samples included a number of credit card transactions (approx 25%) and as this area showed internal control weaknesses it brought down the compliance rates across the board (See 6.5.7 for further credit card detail).

2. **Entertainment (account codes 2320 - staff) & (account code 2330 - corporate)**
3. **Subs & Conferences (account code 2150)**
4. **Professional Fees (account code 2080)**

The total number of items tested in these areas was 49 out of 209 (i.e. 23%). The total spend in these areas was approximately €148,295 and the sample chosen represented 70% of this spend. This sample is derived from transactions allocated to the above account codes. If the budget holder has recorded this expenditure type under different account codes it will not show up in this sample.

1. Travel

15 expenditure charge entries to General Ledger were examined out of 98 (i.e. 15%) or €15,558 out of €24,847 spend (i.e. 63%). The 15 expenditure charges were derived from 8 credit card transactions, 2 staff expenses claim rebates and 5 invoices. Of the 8 credit card transactions, 2 had adequate audit trail and 6 had no receipts or only merchant copy receipt which does not provide the details of the transaction. Of the 2 staff expenses claims rebate, both had adequate audit trail and receipts (including staff claim forms). Of the 5 invoices, all 5 invoices provided full detail of each transaction. Of the 15 charges for travel, 9 had appropriate approval that indicated authorisation had taken place to incur the charges.

2. Entertainment

7 expenditure charge entries to General Ledger were examined out of 21 (33%) or €1,100 of €2,602 (i.e. 42%). The expenditure charges were 5 credit card transactions and 2 staff expenses claim forms. Of the 5 credit card transactions, none had adequate audit trail. Of the 2 staff expenses claim rebates, both had adequate audit trail and receipts, including staff expense claim forms. For all 7 charges for entertainment, authorisation had not taken place to incur the charges.

3. Subs & Conferences

11 expenditure charge entries to General Ledger were examined out of 37 (i.e. 30%) or €26,146 out of €35,315 spend (i.e. 74%). The expenditure charges were made up of 11 Invoices. All 11 charges had authorisation and audit trail.

4. Professional Fees

16 expenditure charge entries to General Ledger were examined out of 53 (30%) or €61,613 out of €85,531 (i.e. 72%). 4 of the 16 charges were internal journal entries posted reallocating expenses to this account from another account. Of the 12 expense charges 11 had approval. All 12 charges had audit trail.

6.5.3 Company Credit Card Expenditure

During testing on the expenditure samples (see 6.5.2) Internal Audit determined that 4 company credit cards exist. These credit cards were assigned to:

1. Employee 1
2. Employee 2
3. Employee 3
4. Employee 4

The total expenditure on these credit cards for 2011 was €49,714. All credit card balances are paid in the first instance by the company via direct debit each month. €2,557 of this amount was declared by 2 staff members as being personal expenditure and was later repaid to the company. €2,077 was expenditure relating to the TBCT staff social fund which was funded by deductions from payroll. The remaining €45,079 was declared as valid business expenditure and was charged to various expenditure codes.

Internal Audit analysed the expenditure on each credit card and itemised each charge into major expenditure areas as follows:

1. Table C – Employee 1 Credit Card Summary 2011

Value	Expenditure Type
€1,943.94	Air Travel
€513.52	Car Rental
€575.74	ATM Cash Withdrawals
€800.00	Charitable Donations (National Campaign for the Arts <u>€500</u> & Fundit.ie contribution to an arts project in Temple Bar <u>€300</u>)
€1,446.83	Hotel (including food & drink)
€2,843.81	Entertainment (excludes social fund element)
€404.72	Taxi
€662.00	Dublin LUAS
€481.10	Train Travel
€1,058.57	TBCT Social Fund ^d
€3,383.56	Other Miscellaneous Expenditure
€14,113.79	TOTAL

2. Table D - Employee 2 Credit Card Summary 2011

Value	Expenditure Type
€1,796.80	Internet Advertising
€2,287.00	Air Travel
€3,001.50	Postage Stamps
€3,272.31	IT Equipment
€660.00	Non Principal Private Resident Tax & late fee of €60 (relates to 3 properties owned by TBCT)
€378.00	Payments to TBCT
€874.07	Training
€600.16	Equipment
€215.50	Entertainment
€694.30	TBCT Social Fund
€2,299.74	Other Miscellaneous Expenditure
€16,079.38	TOTAL

3. Table E- Employee 3 Credit Card Summary 2011

Value	Expenditure Type
€2,962.42	Building Materials/DIY/Tools
€547.03	Petrol/Diesel (Purchased in Dublin City)
€1,155.47	Petrol/Diesel (Purchased in Co. Kildare) ^e
€529.70	Entertainment
€563.05	Work wear
€2,406.17	Personal use of Credit Card
€518.88	Other Miscellaneous Expenditure
€8,682.72	TOTAL

^d TBCT Social Fund is funded by voluntary payroll deductions from staff each month. These deductions are allocated to a General Ledger Account. All Social Fund expenditure is then charged to this account.

^e In relation to the petrol/ diesel purchased in Co. Kildare subsequent to the issuing of the draft report TBCT informed Internal Audit of an informal arrangement which was in place, the CEO provided a written confirmation that he had approved the arrangement.

4. Table F- Employee 4 Credit Card Summary 2011

Value	Expenditure Type
€2,269.55	Air Travel
€200.00	ATM Cash Withdrawals
€677.49	Computer Equipment & Electronics
€1,300.00	Equipment
€1,096.25	Internet Hosting
€726.05	Entertainment
€168.80	Train Travel
€153.97	Personal use of Credit Card
€510.39	Hotel
€3,736.08	Other Miscellaneous Expenditure
€10,838.58	TOTAL

In addition to the expenditure testing for travel, entertainment, subscriptions, conferences and professional fees, Internal Audit also sampled 66 of the 485 credit card transactions in 2011 (14% sample) or €16,593 out of €49,714 , (i.e.33% of credit card expenditure 2011) to determine the business nature of each transaction and to ensure that adequate backup documentation was retained. Internal Audit found that of the 66 transactions sampled:

- 5 transactions had adequate audit trail in place which detailed the exact business nature of the transaction and gave a full breakdown on what exactly was purchased.
- 57 transactions (86%) did not have adequate backup detailing the business nature of the transaction or receipts that gave the detail of what was purchased. In the few cases where receipts were provided, these receipts were “merchant copy” or “verified by pin” receipts which provided no itemised detail.
- 4 transactions were in relation to the TBCT staff social fund and were repaid to TBCT through payroll deductions.

3 of the 4 credit cards are still in use in TBCT. Internal Audit cannot provide assurance that all credit card expenditure declared as business expenditure was business expenditure.

Subsequent to the issuing of the draft report further credit card receipts were produced by TBCT and the following are the new statistics:

- 24 transactions had adequate audit trail in place which detailed the exact business nature of the transaction and gave a full breakdown on what exactly was purchased.
- 37 transactions (56%) did not have adequate backup detailing the business nature of the transaction or receipts that gave the detail of what was purchased. In the few cases where receipts were provided, these receipts were “merchant copy” or “verified by pin” receipts which provided no itemised detail.
- 5 transactions were in relation to the TBCT staff social fund and were repaid to TBCT through payroll deductions.

Recommendation 30: An analysis of credit card expenditure by individual should be produced for 2011 and 2012 and reviewed by the Finance and Audit Committee.

Recommendation 31: A quarterly report detailing analysis of credit card expenditure should be presented at each meeting of the Finance & Audit Committee.

Recommendation 32: Personal use of company credit cards should cease.

Recommendation 33: Full supporting documentation, including itemised receipts and a Credit Card Claim Form detailing the business purpose/necessity of spend should be provided for credit card expenditure. The individual involved should be asked to cover the expenses personally if supporting documentation cannot be provided.

Recommendation 34: Charitable/Voluntary Donations (€800 in 2011 Credit Cards) should not be made without prior board approval.

Recommendation 35: A written report should be produced by Employee 3 in relation to the arrangements for the purchase of petrol/diesel in 2011 and submitted to the Finance & Audit Committee.

Recommendation 36: The Staff Social Fund should not be included in TBCT's General Ledger Accounts. A new arrangement should be put in place.

6.5.4 Petty Cash

The Petty Cash system is not in active use in TBCT since 2009. There is still a petty cash box, which was examined and found to contain euro and sterling coins equivalent to approx €275.

The company credit cards were used in 2011 to withdraw cash in Euro and Sterling in various ATM machines. The total of these withdrawals was €775. These withdrawals were documented as being for business purposes and were charged to various expenditure codes. Receipts were provided that accounted for one credit card cash withdrawal totalling €72, the expenditure related to taxis, food and drinks. All other cash withdrawals €703 had no receipts which detailed what the cash was spent on.

Recommendation 37: Petty Cash procedures should be drawn up or the petty cash should be re lodged to TBCT's bank account and closed off in the company accounts.

Recommendation 38: The practice of withdrawing cash using company credit cards should cease immediately.

6.5.5 Trade Creditors

The Trade Creditors Reconciliation was only completed at year end. The reconciliation is now completed quarterly. Creditors have increased by €125,923 since 2010. There were two contra entries on the reconciliation for 2011. These are transactions offset between TBCT's debtor and creditor accounts;

1. The Ark Contra Entry of €7,433: Internal Audit was supplied with an invoice from Temple Bar Cultural Trust charged to The Ark for insurance and an invoice from The Ark charged to TBCT in relation to events they held for Temple Bar Cultural Trust, which were offset. Neither invoice contained VAT.

2. Eden Restaurant Contra Entry of €2,494: This contra entry was the offset of rent for the Eden Restaurant due to TBCT against two meals provided by Eden to TBCT, for the 2009 and 2010 media lunches, to launch the Temple Bar Cultural Trust's Programmes of Events. TBCT could not provide invoices or breakdown of the items offset against the rent. However, a breakdown of these invoices was reported in the Evening Herald Newspaper on the 7th July 2011. Due to the lack of available backup IA cannot determine if the VAT element of this transaction was accounted for by TBCT.

Recommendation 39: The practice of using contra entries should cease. The VAT element of contra entries should be re-examined and any VAT liability should be addressed.

6.5.6 Documentation to Support Salary Payments 2011

In order to ensure salary payments 2011 match to the contracts in place for 2011 Internal Audit chose a sample of 4 out of 18 employees (22%):

Internal Audit requested signed contracts and other documentation to support the salary payments made and noted the following:

➤ Employee A

The Salary for 2011 paid to the employee was €103,730.

No contract available.

➤ Employee B

The Salary for 2011 paid to the employee was €60,350.

A signed contract from 2006 to 2014 was examined. This contract was for €50,925 per annum from 1st January 2006. A 'draft letter' from the CEO was received detailing changes to the employee's employment terms in February 2007. This letter allowed for a salary increase of 10% on gross salary, and an annual bonus of €1,500 in relation to changes to the work rota. This would have brought the employee's salary to €57,518 (inclusive of the annual bonus). This letter was signed by the staff member but not by the CEO.

The salary paid in 2011 does not match the contract and additional documentation provided.

➤ Employee C

The Salary for 2011 paid to the employee was €45,000.

A signed contract from 2005 to 2008 was examined. This contract was for €26,500 per annum from 29th March 2005. An unsigned letter dated 4th December 2006 from the CEO to the staff member was examined. The letter documented a retrospective salary adjustment to €45,000 for additional duties. This letter agreed that the expiry date of the original contract (28th March 2008) shall be extended.

The salary paid in 2011 agrees to this letter from the CEO.

➤ Employee D

Salary 2011 paid to the employee was €25,000.

The employee was hired in May 2010 on a temporary full time contract until April 2011 with an option to extend by agreement. Internal Audit received an unsigned letter dated April 2012 were the employee was given a salary increase to €29,000 for additional duties. No documentation was provided for the intervening year of 16th April 2011 to 17th April 2012. A signed letter was received from the CEO confirming full time employment status from May 2012. There is no documentation in place for the employee to cover 16th April 2011 to 31st Dec 2011.

The salary paid in 2011 matches the employment contract from 1st Jan 2011 to 15th April 2011 only.

➤ Other Salary Testing

In order to confirm that the total salaries paid matched the amount leaving the bank account, Internal Audit sampled the July 2011 payroll. The documentation supplied showed that the total amount due for salaries from the Micropay system (payroll system used by TBCT) matched the amount paid on the bank account.

Internal Audit examined the salaries and payroll deductions for the months of January and December 2011. Internal Audit confirmed that the salaries and payroll taxes matched the P30 and P35 returns.

TBCT has a total of 18 staff. The 2011 salaries total: €897,730

Table G – Salaries 2011

Staff Member	Salary €	Staff Member	Salary €
1	^f 103,730	10	40,000
2	^g 97,000	11	40,000
3	90,000	12	^h 36,150
4	65,000	13	35,000
5	ⁱ 60,350	14	32,000
6	50,000	15	29,500
7	46,000	16	29,000
8	45,000	17	^j 28,500
9	42,500	18	28,000
			€897,730

The Chairman of the TBCT board advised the board at the meeting of 3rd March 2011 that TBCT “pay, terms and conditions are not linked to any civil service or public service grade”. The company does not apply the pension levy nor are the staff members of a public sector pension scheme. The TBCT employees were not subject to the pay cuts imposed on all public servants in January 2010.

6.5.7 Staff Expense Claim Forms

Staff Expense Claim Forms are in place to reimburse staff members for expenses incurred during the course of their duties. In 2011, 15 members of staff availed of expense claims totalling €9,053. Internal Audit sample 4 out of 41 Staff Expense Claim Forms (10%), the total value of these claims came to €1,760 and found sufficient receipts to backup each claim.

Some of the items claimed include: Hotel Accommodation, Flights, Taxi/Bus/train fares and Meals, Tea, Coffee and Alcohol.

6.5.8 Miscellaneous Expenditure Findings

During expenditure testing IA found a personal expense of the CEO paid to a legal firm by TBCT in the amount of €907.50 in September 2011. The CEO was recorded as a Sundry Debtor Account of the company. This payment was paid for by TBCT in full on his behalf and was repaid to TBCT by the CEO in 2012.

During the testing of salaries Internal Audit found that TBCT paid salary advances of €4,857 to CEO in May 2011 and €1,000 to Employee 3 in September 2011. Internal Audit queried this with the Financial Controller and was advised that advances have been provided to accommodate staff until the next payday.

Recommendation 40: Personal expenses of staff should not be paid for by TBCT.

Recommendation 41: Salary Advances should not be provided to staff except in exceptional circumstances with the written approval of the Chairman of the Board.

^f This staff member is currently on secondment.

^g This salary is funded by the Arts Council

^h This salary includes an annual bonus of €1,500 paid to the employee every March

ⁱ This salary includes an annual bonus of €1,500 paid to the employee every March

^j This salary is funded by the Arts Council

6.6 Income

6.6.1 Rental Agreements

Rental Income per 2011 Rental Agreements versus rental income recorded in General Ledger 2011 was reviewed. Rental agreements for a sample of 12 properties (16% of the rental agreements in place or 36% of total rental income for 2011) were examined. The sample covered the three rental types (Lease, Licence & Cultural Use Agreement).

The findings were as follows:

- 2 of 12 (17%) have legal payment arrangements in place that, by their nature, differ from the original contracts. Internal Audit verified that the amounts billed to these customers agreed to these legal arrangements.
- 10 of 12 (83%) are being billed as per the agreements viewed.

There is no documented policy in place for the signing of these documents but it is custom and practice that the Leases and Cultural Use Agreements are signed by a Director and that Licences are signed by the TBCT executive.

6.6.2 Rental Income

Rental Income decreased from €1,703,562 in 2010 to €1,619,695 in 2011 as per the 2011 Financial Statements. This represents a decrease in income of €83,867.

Gross Trade Debtors have increased from €571,377 in 2010 to €740,987 in 2011 as per the 2011 Financial Statements. This represents an increase in debtors of €169,610.

6.6.3 Trade Debtor Accounts

Trade debtor accounts are in place for each individual customer.

6.6.4 Debtor Reconciliations

The 2011 debtor reconciliation was examined, the findings are as follows:

- The reconciliation in 2011 was only completed at year end. The reconciliation is now completed quarterly.
- There were two contra entries on the reconciliation. (See 6.5.5)

6.6.5 Recording of Cheques/Lodgements- Segregation of Duties & Audit Trail

The Financial Controller is solely responsible for lodging cash and cheques and recording these in the accounts. 18% of payments to TBCT in 2011 were made by cheque/cash. Each cheque that arrives is recorded in a workbook by the Financial Controller, with a separate spreadsheet for each lodgement. While some information was recorded in relation to the cheques not all information was available. Cash payments, although rare, are included in these lodgements.

Recommendation 42: A documented policy or Board resolution should be put in place regarding the signing of property contracts.

Recommendation 43: Name, date, cheque number, amount and description should always be recorded in the workbook for cheques.

Recommendation 44: Segregation of duties should be in place for lodging of cash/cheques and the recording of this information in accounting records.

6.6.6 Debt Collection Policy

There is a written debt collection policy in place. Internal Audit sampled 49% i.e. €365K of the outstanding debt at year end 2011 (5 Customer Accounts of 72 i.e. 7%) and found:

- 2 had legal payment plans in place which corresponds to the final stages of the debt collection policy (44% of outstanding debt).
- 2 had outstanding debt at year end (4% of outstanding debt). Internal Audit were provided with e-mail exchanges between TBCT and the debtor for 2012 which showed that TBCT made contact with the debtors as

per the policy however the 2011 e-mails could not be provided as they were on a previous employees e-mail account.

- 1 debtor had a balance at year end (1% of outstanding debt), however it was found not to be late (due to the billing frequency) and therefore not subject to the Debt Collection Policy.

Recommendation 45: The correspondence between TBCT and all debtors should be stored in a central location that can be accessed by the Financial Controller and Head of Finance, Property and Business Development at all times.

6.6.7 Bad Debt Policy

There is no written bad debt policy in place. The decision on bad debt write offs is made through discussions between the Financial Controller, Head of Finance, Property and Business Development and the Chief Executive Officer. There is no formal documentation of this process.

Recommendation 46: A documented bad debt policy should be put in place.

Recommendation 47: Written files should be kept to substantiate and document any management decision in relation to bad debts. This information should be routinely presented to the board. (See [Appendix 1](#))

6.6.8 Grant income

TBCT receive grant income for cultural events. A breakdown of the 2011 grant income awarded to TBCT as per the Statutory Financial Statements is as follows:

Table H – 2011 Revenue Grant Income Received

Event/Funding Type	Funding Body	Funding Awarded 2011:
Handel's Day & Culture Night	Dublin City Council	€23,000
Culture Night	Department of Tourism, Culture & Sport	€70,000
Culture Night	Fáilte Ireland	€14,890
Communicating Europe Initiative	Department of Foreign Affairs	€2,000
Craft Festival Funding	Crafts Council of Ireland	€3,000
Other Miscellaneous Sponsorship/Grants	Various Bodies/Establishments	€6,233
Culture Night Contributions ^k	Various Bodies/Establishments	€12,528
		^l €131,651

TBCT is also in receipt of an 'Arts Audiences Grant' from the Arts Council. This grant is to fund the *Arts Audiences Initiative*. This initiative is a partnership between the Arts Council and TBCT since 2009. This initiative promotes and addresses audience development and maximises engagement and revenue from the arts audiences. The maximum funding available to TBCT for 2011-2013 is listed below. This funding covers programme costs, salaries and overheads. TBCT have two members of staff covered by this funding at a total salary cost of €125,500.

^k Culture Night contributions are contributions from organisations involved in Culture Night. They register and pay a contribution online in order to be included on brochures, marketing, merchandise etc for Culture Night.

^l €124,206 was received at year end 2011 and booked in the Financial Statements of 31st December 2011. The remaining €7,445 was received by TBCT on 20th Jan 2012. See **Table B in 6.3.6** for breakdown i.e. total of grants, culture night grants and culture night contributions.

Table I – 2011-2013 Capital Grant Income

Year	Event / Funding Type	Funding Body	Funding Available to TBCT
2011	Arts Audiences Grant	Arts Council	^m €189,000
2012	Arts Audiences Grant	Arts Council	€262,000
2013	Arts Audiences Grant	Arts Council	€252,200

Of the €189,000 awarded to TBCT in 2011, €153,443 was recorded in the Statutory Financial Statements and spent in 2011. The surplus was carried over to 2012. An independent report provided by *Smith and Williamson Freaney* was given to the Arts Council and the Board of directors of TBCT to verify the expenditure in 2011 for this initiative. This report was prepared based on the procedures set out by the Arts Council in accordance with the letter of offer for the funding.

6.6.9 Market Income

The market income for 2011 was €102,905. This income is derived from the short term rental of market plots in Meeting House Square, Temple Bar Square and Cow's Lane. These are for the Food, Book and Designer Markets respectively. Internal Audit selected January and February 2011 market income as a sample. Internal Audit were able to match the income for each plot paid in January and February of 2011 to the total income recorded in General Ledger from that period and to the Bank Statements.

6.7 Banking/ Investments

6.7.1 Bank Reconciliations

There were two bank accounts in use concurrently in 2011 (Ulster Bank and AIB).

The Ulster Bank reconciliation showed a difference at year end 2011 of €4,708 between the general ledger and the bank statements. The Bank Balance was higher than the general ledger balance. The Financial Controller advised that this was due to cumulative unexplained difference from a number of years that would be written off.

The A.I.B. bank statement reconciled to the General Ledger at year end 2011.

Internal Audit confirmed that the two bank accounts had separate general ledger account codes. As they have separate account codes and as the Ulster Bank account was only set up in July 2010 (and balanced at year end 2010) the difference of €4,708 on the Ulster Bank therefore arose during 2011.

Two reconciliations were performed while AIB was being phased out from July 2010 till end of February 2012 and Ulster Bank became the primary banker of TBCT as of July 2010. The AIB account was only being used for customer receipts during the changeover period. TBCT advised that the bank reconciliation is carried out on a quarterly basis. Internal Audit requested the reconciliations for June 2011 and September 2011 to verify this. For Ulster Bank, TBCT could provide the reconciliation for June but September was not available. TBCT provided the reconciliation for August 2011 instead. For AIB, TBCT could provide the reconciliation for September but June was not available. The *TBCT Ltd. Financial Regulations and Procedures*, January 2013, has documented that bank reconciliations should now be performed on a monthly basis.

Recommendation 48: The Ulster Bank reconciliation positive difference of €4,708 at year end 2011 should be investigated.

Recommendation 49: Bank reconciliations should be performed on a monthly basis at all times for all open bank accounts irrespective of activity.

^m Capital Grants are recorded in the Balance Sheet and do not appear in the Income Statement of TBCT.

6.7.2 Cash Position

The 2011 combined cash position for Ulster Bank and AIB bank accounts is as follows:

Table J- 2011 Cash Position (Combined AIB & Ulster Bank Accounts)

Period Ending	Cash Out	Cash In	Cash Position Combined
End Dec 2010			42,360.36
End Jan 2011	-231,262.01	238,260.31	-35,362.06
End Feb 2011	-148,518.87	212,459.70	28,578.77
End Mar 2011	-270,916.30	227,584.20	-14,753.33
End Apr 2011	-167,037.25	163,875.14	-17,915.44
End May 2011	-408,973.52	246,542.24	-180,346.72
End Jun 2011	-319,649.12	197,817.71	-302,178.13
End Jul 2011	-182,680.45	296,366.22	-188,492.36
End Aug 2011	-547,557.57	665,158.61	-70,891.32
End Sep 2011	-359,754.21	155,607.98	-275,037.55
End Oct 2011	-1,002,425.47	1,115,598.31	-161,864.71
End Nov 2011	-195,591.13	280,104.46	-77,351.38
End Dec 2011	-344,960.15	477,947.25	55,635.72
	-4,179,326.05	4,277,322.13	

Table K – Quarterly Cash Positions 2011 versus position reported in the Management Accounts 2011

Period Ending	Actual Cash Position:	Bank figure reported to the board in management accounts:	Difference:
End Mar 2011	-14,753.33	73,413	-88,166.27
End Jun 2011	-302,178.13	81,642	-383,819.70
End Sep 2011	-275,037.55	-299,466	24,427.98
End Dec 2011	55,635.72	59,203	-3,567.56

Internal Audit noted a significant difference between the cash position reported to the board in June 2011 and the actual cash position of TBCT at that time (See above).

The Financial Controller explained “this was an adjustment made as TBCT were due Bridging Facility funds into the current account. So TBCT had paid the MHS (Meeting House Square) costs from their current account and were awaiting the refund of this” from Fáilte Ireland.

Recommendation 50: Bank position in the management accounts should always reflect the actual bank position.

6.7.3 Compliance of Bank Payment Authorisation with Mandate

The process for the payment of invoices in TBCT, as advised by the Financial Controller, is that once a batch of invoices is ready for payment they are entered onto the online banking system and gives the invoices to the Head of Finance, Property and Business Development for approval. Following this approval, the Financial Controller completes the transfer on the online banking. In order to verify this Internal Audit choose a sample of expenditure items and requested that the Financial Controller provide the details of the signatories to the bank authorisations for each one.

The bank mandate in operation for TBCT requires that on payment amounts for less than €650 only one signature is required, but amounts above that require two signatures. The signatories are the CEO, the Head of Finance, Property and Business Development, and the Financial Controller, per the mandate in operation. From the expenditure sample

chosen Internal Audit found that 24% of the seventy payments over €651 were completed by the Financial Controller alone in breach of the bank mandate in operation. The Financial Controller advised that there were no limits or restrictions set up on the Ulster Bank electronic banking system, therefore one employee could authorise payments for an unlimited amount. There is no segregation of duties enforced in the processing of bank payments.

Internal Audit has been informed by the interim CEO of TBCT in January 2013 that limits will be put in place in line with a new bank mandate and financial procedures. (See **Table B** in **6.3.6** for total expenditure for 2011)

Recommendation 51: A new bank mandate and corresponding online authorisation process should be put in place along with internal controls and procedures over banking, as a matter of urgency.

6.7.4 Loans & Overdraft Facility obtained by TBCT

TBCT have a bridging loan facility in place with Ulster Bank for a maximum of €1,320,000. The first part of this loan was drawn down on 2nd December 2010 and the period of the loan was 1 year from drawdown date. The purpose of this loan is to finance the MHS Rainscreen Project until funding from Fáilte Ireland was received. TBCT have drawn down and repaid €1,150,000 to date.

TBCT also secured a 20 year term loan of €680,000 from Ulster Bank to partially fund their portion of the MHS Rainscreen Project costs (the remainder of TBCT's portion of the project was financed through cash flow). This was drawn down on the 2nd August 2011 and is at interest only for 24 months from this date. The interest only repayments amount to approx €26,000 per annum, from August 2013 the full repayments will be approx €52,000 per annum.

A copy of the facility letter for the bridging loan and the term loan, both in relation to Meeting House Square Rainscreen project was given to Internal Audit. The document shows that the security given on the loans were the following properties; Urbana Building and Sycamore Building. An overdraft agreement was also included in the facility letter that documented the loans mentioned above. The overdraft limit allowed on TBCT's Current Account is €500,000. No security was required for the overdraft facility. Internal Audit confirmed that the overdraft was not exceeded at month end periods in 2011.

6.7.5 Loans Granted by TBCT

Two loans granted by Temple Bar Cultural Trust had balances outstanding at year end 2011.

1. Loan to Project Arts Centre (PAC)

This loan agreement was dated 13th June 2000. TBCT loaned £100,000 (punt) to PAC to assist in the fit out of the premises, which is owned by TBCT and leased to PAC. Internal Audit examined the Project Arts Centre loan documents received, these were signed by the Company Secretary and a Director at that time. Repayments were set at £606 (punt) per month for 20 years i.e. €126,973 with repayments of € 770 per month.

The outstanding balance at year end 2011 was €78,485 (€53,964 Principal and €24,521 Interest). A manual loan statement was provided by the Financial Controller and the workings carried out by Internal Audit verify the balance. PAC was up to date on their payment to year end 2011.

2. Outward Loan to Smock Alley Theatre (SAT)

Smock Alley Theatre is a tenant of TBCT and was given a loan to facilitate cash flow during the redevelopment of the premises. The redevelopment was being assisted through a grant to SAT funded by the Department of Tourism, Culture and Sport.

The Smock Alley Theatre loan documents were dated 1st June 2011 and signed by the Company Secretary and a Director at that time. The loan documents allow for a maximum loan of €300,000 to be issued and repaid on or before 31st December 2011 at interest rate of 4.65%.

Internal Audit verified that only €112,000 was borrowed by SAT, €56,000 was outstanding at year end 2011 and the loan was repaid in full in February 2012 with interest (€2,937).

6.7.6 Debtor/Investment (Fishamble Music Ltd.)

Fishamble Music Ltd. (FML) is a 100% subsidiary of TBCT. On the 26th April 1999, FML was incorporated. The purpose of the company was to acquire 19 Fishamble Street in Temple Bar from TBCT and to refurbish it to house the Contemporary Music Centre. Number 19 Fishamble Street was a property originally owned by TBCT (then: Temple Bar Properties Ltd.).

A Shareholder Agreement was signed by both parties on the 17th December 1999 in which TBCT agreed to transfer ownership of the property to FML for a selling price of IR£250,000 on 17th December 1999 (€317,433). No payment was made but the property transferred from TBCT to FML. Another company, Contemporary Music Centre Ltd. (CMC) intended to invest in FML. CMC planned to invest IR£420,000 for the purpose of renovating the property. In return CMC was to receive a 50% shareholding in FML.

The proposed investment by CMC was funded by an IR£400,000 (€507,895) Art Council Grant and an interest free loan of £20,000 (€25,395) from TBCT. The loan from TBCT was never executed.

Internal Audit were advised that CMC invested the IR£400,000 Arts Council Grant into the restoration on the basis that the transfer of 50% ownership of FML would pass to them when the restoration was completed and CMC paid over any monies owed to TBCT. FML was intended to be 50% owned by TBCT & 50% owned by CMC.

Internal Audit was advised that during the restoration of 19 Fishamble Street there were cost overruns of £64,301 (€82,235). TBCT paid for these costs in full at the time and should have been refunded 50% subject to a maximum amount of £30,000 (€38,092) from CMC as per the Shareholder Agreement. To date, CMC have not repaid TBCT the €38,092 as per the Head of Finance, Property and Business Development. The Head of Finance, Property & Business Development advised Internal Audit that TBCT still remain 100% shareholders in Fishamble Music Ltd. until agreement can be made for CMC to repay this amount owed.

The property, 19 Fishamble Street, has a current valuation of €400,000 as per the latest revaluation done on 17th July 2012 by DCC's Valuer's Office. This valuation has not been updated in the 2011 accounts which has a valuation basis for Cultural properties of cost less accumulated depreciation, which shows the property valued at a cost of €925,501 with a Net book Value €721,891.

The 2010 and 2011 audited Statutory Financial Statements of FML were inspected, which is a company limited by guarantee. A summary of the accounts is as follows:

- The company made a loss of €7,844 in 2010 and €7,844 in 2011.
- Under 'creditors' it stated that FML owed TBCT €399,670
- The net assets of the company in 2010 and 2011, as stated in the balance sheets, are not more than half of the amount of its called up share capital. In the opinion of the auditors (Smith & Williamson Freaney Audit Company) there did exist at 31st December 2010 a situation that required the convening of an Extraordinary General Meeting of the company under Section 40 (1) of the companies (Amendment) Act 1983.

Table L – Fishamble Music Ltd. Balance Sheet as at 31st December 2011

Fixed Assets	(19 Fishamble Street)	721,891
Current Assets		7,362
Creditors	(falling due within 1 year)	- 7,514
Total Assets less Current Liabilities		721,739
Creditors	(falling due after 1 year)	399,670
Government Grants		375,817
Net Liabilities		- 53,748
Capital Reserves		
Called up Share Capital		3
Profit & Loss Account		- 53,751
Equity Shareholders' Deficit		- 53,748

TBCT's 2011 accounts showed €399,670 as the amount owed by FML. As per the Shareholders Agreement, Internal Audit has determined that €317,433 is owed to TBCT by FML for the original purchase price agreed for 19 Fishamble Street. €38,092 is owed to TBCT by CMC. CMC is a separate legal entity to FML and this amount owed should not be shown as an intercompany balance/amount owed by a subsidiary. The balance of €44,143, (the cost overruns incurred by TBCT) is not a debtor.

€317,433 – Owed to TBCT by FML
 € 38,092 – Owed to TBCT by CMC
 € 44,143 – Not owed to TBCT (as per the limit on the Shareholder Agreement)
 €399,670 – Debtor in TBCT Statutory Financial Statement

Internal Audit examined the 2011 financial statements of CMC. The company reports that they invested €597,602 in the initial refurbishment of 19 Fishamble Street under the Shareholders agreement (the refurbishment was substantially completed by December 2002). CMC also reports that "although it (CMC) has performed its part of the contractual agreement it has not formally received the 50% shareholding in FML. The company is currently pursuing this transfer by legal means and it is hoped the matter will be resolved within the next financial year. The company continues to legally operate, under licence, from the premises at 19 Fishamble Music."

Internal Audit notes conflicting information regarding the amount CMC invested in the property overall and the determination that they have fulfilled their side of the agreement. As per CMC's Statutory Financial Statement 2011 where it states "Capital Grants have been received against the acquisition, refitting and conservation of the property at 19 Fishamble Street. These grants amounted to €647,566." This is in contradiction to the statement of TBCT's Head of Finance, Property and Business Development that CMC have invested IR€400,000 (€507,895).

A letter was supplied to Internal Audit. This letter is dated 9th December 1999, written by the Managing Director of Temple Bar Properties (TBCT) and addressed to the Director of the Arts Council. This letter states: "In consideration of the Arts Council paying monies up to a maximum of £400,000 (Punt) towards the reconstruction and refurbishment of the premises, I undertake to refund to the Arts Council any monies so provided (either directly or through CMC) in the event that the two shares in the Company (FML) are not allotted to CMC for any reason."

Internal Audit asked if the undertaking letter was still in force. The Head of Finance, Property and Business Development advised that it is, however there has not been a need to provide for a contingent liability as the Arts Council are aware of the situation between TBCT and CMC. He explained that TBCT have contacted the Arts Council directly to see how this wish for TBCT to proceed, as they are at an impasse with CMC as CMC have not repaid the €30,000 (€38,092) owed to TBCT for cost overruns on the project and that CMC are not willing to share the upkeep costs of the building, when the shareholding transfers.

Recommendation 52: The debtor amount owed by the subsidiary is not accurately reflected in the financial statements of TBCT & FML and should be amended.

Recommendation 53: The transfer of the 50% shareholding in FML should be on the agenda of the TBCT Board meetings until the position is resolved.

6.7.7 Debtor/Investment (Irish Film Centre Development Ltd.)

Irish Film Centre Development Ltd. (IFCD Ltd.) is a 100% subsidiary of TBCT. The principal activity of the company is the holding of the freehold interest in 6 Eustace Street, which houses the Irish Film Centre. The Irish Film Centre (aka Irish Film Institute) occupies the building as a tenant.

The sole shareholder is listed as the City Manager, Civic Offices with TBCT regarded as its ultimate holding company. The Company Directors were Dermot McLaughlin and Matt McNulty prior to 23rd November 2012. On 23rd November 2012 Matt McNulty was removed, leaving the company with only one director (see 6.1.2 b). The Company Secretary is the TBCT Head of Finance, Property & Business Development and the external auditors are Smith & Williamson Freaney.

There is no income or expenditure as per the IFCD Ltd. Statutory Financial Statements 2011. There are no inter-company balances between TBCT and IFCD Ltd. as per the Statutory Financial Statements for 2011. The company is located in 6 Eustace Street and is “dormant” as per the Financial Controller of TBCT.

The company has one asset of 6 Eustace Street valued at a cost of €2,824,596, Net Book Value of €1,751,249 with a corresponding liability (Government Grant) of €1,751,741. The Company made no profit or loss in 2010 and 2011.

6.8 Assets

6.8.1 Fixed Assets

There are three separate fixed asset lists in place in Temple Bar Cultural Trust:

1. Fixtures, fittings & motor vehicles
2. Cultural Property
3. Investment Property.

1. The fixture and fittings valuation basis is cost less depreciation. The fixture and fittings list values amounts of €514,788 at year end. Internal Audit noted a small difference of €1,061 between the asset list provided and the figure reported in the Financial Statements 2011.

2. Cultural Property valuation basis is cost less depreciation and is depreciated at a rate of 2% straight line. TBCT’s Cultural property list showed 14 properties, valued at a cost of €56,550,000. Internal Audit noted that two properties appeared on this list with unusual valuations.

- 16 Eustace Street (Value €1,386.00 -One thousand three hundred and eighty six)
- 25 Eustace Street (Value -€2,285.00 – Negative two thousand two hundred and eighty five)

The Financial Controller advised Internal Audit that these valuations were the “historical allocation at the time of construction”.

3. Investment Property valuation basis is on a revaluation basis, it is not depreciated. The Investment Property was revalued in May 2012 by Dublin City Council Valuer's Section for year end 2011. TBCT hold 31 Investment properties, revalued to €9,000,000. The previous valuation of this group of assets was €9,500,000 in the 2010 company accounts.

TBCT also own 6 public plots in Temple Bar Square. These plots appear immediately outside some business/fast food premises. TBCT rent these spaces to these businesses and yield income in excess of €20,000 per annum. These plots do not appear on the asset list of the company.

The Fixed Asset Register is maintained by the Financial Controller and the Head of Finance, Property & Business Development.

Recommendation 54: The historic valuations for 16 and 25 Eustace Street should be reviewed to ensure their accuracy.

Recommendation 55: The Temple Bar Square plots should be added to the asset list of the Company.

6.8.2 Title of TBCT Property

The DCC Law Agent inspected the title documents held at the offices of Patrick F O' Reilly & Co Solicitors in respect of the three large parcels of land acquired by TBCT relating to the following three sites:

1. The CIE Acquisition.
2. The Old City.
3. The Church/Quays Area.

The Law Agent advised that he was not "reading the title documents but merely satisfying myself that the title deeds relating to those areas exist and are held by the Solicitors for the Trust."

The deeds are held in the secure storage unit of the offices of Patrick F O' Reilly & Co Solicitors with the exception of the copy of the deed in relation to the transfer and assignment between CIE and TBCT (then "Temple Bar Properties Ltd.") which is held by Ulster Bank. The properties listed in the First Schedule to that deed, are registered land, and are contained in folios registered by the Property Registration Authority. The Law Agent carried out a search in the Property Registration Authority to establish whether the Company was still the owner of folios listed in the Schedule. The Law Agent found that three of the folios on the schedule have been disposed of and the remainder of the twenty seven folios listed remain in the ownership of TBCT.

The Law Agent also checked recent rental agreements in relation to two properties:

1. Murphy's Ice Cream, Temple Bar Square-Area o/s unit 5
2. Jonathan Burke & Eoin Foyle (Eden Restaurant), 10-12 Sycamore Street Ground Floor

In relation to Murphy's Ice Cream, the Law Agent obtained a copy of the one year license dated 3rd July 2010 for Murphy's Ice Cream, Temple Bar Square-Area o/s unit 5. Internal Audit separately obtained the more recent copy of the license incepting 3 July 2011.

In relation to Eden Restaurant, the Law Agent obtained a copy of the 25 year Lease dated 14th October 1996 between TBCT (then "Temple Bar Properties Ltd.") , Sycamore Building Management Ltd and Jonathan Bourke & Eoin Foyle.

6.8.3 Insurance Cover

Insurance covers have been purchased for the following risks:

- Property
- Employers Liability and Public Liability
- Directors & Officers Liability
- Employment Practices Liability

- Motor
- Commercial Legal Protection
- Personal Accident/Travel

Eight properties owned by TBCT were not listed on the insurance document. Internal Audit sought clarification on the insurances in place for these properties. 2 of the properties were insured separately by the tenant while the remaining 6 are insured by their respective management companies. When asked if TBCT receive any confirmation of cover for these eight properties the Financial Controller stated that they did not.

Recommendation 56: Each year TBCT should formally request confirmation from third parties of the insurance cover in place over TBCT assets.

6.8.4 Maintenance records

A Maintenance Schedule/Plan is put in place each year. Maintenance records are currently kept by the maintenance manager in a manual format. TBCT are currently changing this to a computerised format. The document didn't distinguish between the tasks scheduled to be performed and the tasks actually performed.

Recommendation 57: A maintenance plan should be prepared each year of work to be performed and a separate schedule maintained to document the work actually performed.

6.9 General

6.9.1 Policies & Procedures

Policies and procedures covering most areas are available on a TBCT central database in the *Staff Handbook* that is accessible by all staff.

Recommendation 58: TBCT to add a data protection and anti fraud policy to the *Staff Handbook*. The Holiday Saving Scheme which is no longer in use should be removed.

6.9.2 Business Continuity, I.T. Policy & Ongoing Support Arrangements

Internal Audit made enquires relating to the network supervisor and any disaster recovery policy in place. TBCT informed Internal Audit that an I.T. company look after all aspects of I.T. and provided Internal Audit with the current Support Agreement in place. This agreement detailed the disaster recovery procedure and stated that all servers have their data backed up each night.

There is no detailed I.T. policy in place just a brief document detailing correct use of email and the out of office function.

Recommendation 59: TBCT to produce a comprehensive I.T. policy.

6.9.3 Pension Arrangements for Employees

A voluntary PRSA pension scheme is available for all TBCT staff who wish to join. Ongoing reviews of the scheme are carried out by the broker and all employees have the right to review their own scheme.

At present, TBCT contribute 1% of the gross salary, each year, for any employee who joins the scheme. The Financial Controller stated that TBCT's liability in relation to pensions is limited to this 1% contribution.

Prior to the 1st July 2009 TBCT made an employer contribution of 5% to all permanent employees regardless of their personal contribution. TBCT then matched the employee's contribution, i.e. if an employee contributed 1%, TBCT contributed 6%. This was subject to a maximum employer contribution of 10%.

6.9.4 Contingent Liability

There exists a contingent liability in the 2011 Financial Statements (Note 18) to repay the European Regional Development Fund (ERDF) €27,934,237 if the buildings do not remain in cultural use. Internal Audit queried this with the Head of Finance, Property & Business Development and he stated that the period for this contingent liability was for twelve years ending in 2012 and when this period expires he will be recommending its removal from the TBCT Financial Statements.

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7.0 RECOMMENDATIONS

(SEE BODY OF REPORT)

8.0 MANAGEMENT COMMITMENT

In order to ensure the timely implementation of the recommendations in this report the following timeframe has been agreed with management.

Rec. No	Timescale	Risk Rating	Responsibility
<u>Company secretarial records and returns to the Companies Registration Office (CRO)</u>			
1	Immediate	H	Company Secretary
2	Immediate	M	Company Secretary
3	Immediate	H	Company Secretary
4	Immediate	H	Company Secretary
5	By June 2013	M	Company Secretary
<u>Board Direction and Control</u>			
6	Immediate	H	Board of Directors
7	Immediate	M	Board of Directors/ Head of Finance, Property & Business Development
8	Immediate	H	Interim CEO/ Company Secretary
9	Immediate	H	Company Secretary
10	Immediate	H	Board of Directors
11	Immediate	H	Interim CEO
12	Immediate	H	Board of Directors
13	Immediate	H	Interim CEO
14	Immediate	M	Head of Finance, Property & Business Development/Board of Directors
15	June annually	L	Company Secretary
16	Immediate	L	Board of Directors/ Shareholder
17	Immediate	H	Board of Directors

Financial Reporting			
18	Immediate	H	Finance & Audit Committee of the board
19	Immediate	H	Finance & Audit Committee of the board
20	Immediate	M	Head of Finance, Property & Business Development
21	Immediate	M	Head of Finance, Property & Business Development
22	By June 2013	L	Head of Finance, Property & Business Development
Tax Filings and Payments			
23	Immediate	M	Head of Finance, Property & Business Development
24	Immediate	H	Head of Finance, Property & Business Development
25	Immediate	H	Company Secretary
26	Immediate	H	Head of Finance, Property & Business Development
27	Immediate	H	Head of Finance, Property & Business Development
28	Immediate	H	Head of Finance, Property & Business Development
Expenditure			
29	When Available	H	Head of Finance, Property & Business Development
30	Immediate	M	Head of Finance, Property & Business Development / Finance & Audit Committee of the board
31	By June 2013	M	Head of Finance, Property & Business Development
32	Immediate	H	Head of Finance, Property & Business Development
33	Immediate	H	Head of Finance, Property & Business Development
34	Immediate	M	Head of Finance, Property & Business Development
35	Immediate	H	Maintenance Manager/ Finance & Audit Committee of the board
36	Immediate	L	Head of Finance, Property & Business Development
37	Immediate	L	Head of Finance, Property & Business Development
38	Immediate	H	Head of Finance, Property & Business Development

39	Immediate	L	Head of Finance, Property & Business Development
40	Immediate	H	Head of Finance, Property & Business Development
41	Immediate	M	Head of Finance, Property & Business Development
Income			
42	Immediate	M	Interim CEO/ Board of Directors
43	Immediate	L	Head of Finance, Property & Business Development
44	Immediate	M	Head of Finance, Property & Business Development
45	Immediate	L	Head of Finance, Property & Business Development
46	Immediate	H	Head of Finance, Property & Business Development
47	Immediate	H	Head of Finance, Property & Business Development
Banking/ Investments			
48	Immediate	M	Head of Finance, Property & Business Development
49	Immediate	H	Head of Finance, Property & Business Development
50	Immediate	M	Head of Finance, Property & Business Development
51	Immediate	H	Head of Finance, Property & Business Development
52	Immediate	L	Head of Finance, Property & Business Development
53	Immediate	H	Head of Finance, Property & Business Development
Assets			
54	Immediate	M	Head of Finance, Property & Business Development
55	Immediate	M	Head of Finance, Property & Business Development
56	Immediate	H	Head of Finance, Property & Business Development
57	Immediate	M	Head of Finance, Property & Business Development
General			
58	By June 2013	L	Interim CEO
59	By June 2013	M	Interim CEO

Internal Audit would like to thank the staff in Temple Bar Cultural Trust for their courtesy and co-operation shown throughout the course of the audit.

Gerry Macken
 Head of Internal Audit

Copies of this report will be sent to:

John Tierney, City Manager
 Kathy Quinn, Head of Finance
 Philip Maguire, Assistant City Manager, Planning & Economic Development Department
 Dáithí O’Ceallaigh, Chairman, Temple Bar Cultural Trust
 Chair and Members of the DCC Audit Committee
 Richard Murphy, Principal Local Government Auditor
 Dermot Mc Loughlin, (CEO on secondment)
 Ray Yeates, (Interim CEO)

Recommendation Rating Key:

H	Major control weakness or no system of control present. Management need to take urgent action in response to the recommendation.
M	Significant control weakness found though other controls may compensate to some degree. Management action is required as there is a risk that the system’s objectives might not be achieved.
L	Minor control weakness identified. The weakness is unlikely to lead to significant risk of error, omission or fraud and may be largely compensated for by other controls. Nevertheless the recommendation still merits management consideration.

Appendix 1 – Board Meeting Papers

Internal Audit recommends the inclusion of the following information in the Board Meeting papers (at least quarterly):

Quarterly Written Management Review to include:

- Commentary on the financial results for the period and financial position at period end.
- Commentary on any significant adjustments applied to the accounts prior to presentation to the board.
- Commentary on quarterly business activity (Events held, ongoing initiatives etc)
- A statement on regulatory compliance (Timing of Revenue filings, Revenue payments, CRO Filings; Late Fees or penalties incurred etc).
- Commentary on the Bad Debt Provision of the company and any movements (i.e. increasing/decreasing the provision or write offs that have taken place).
- Commentary on all legal proceedings taken by or pursued against the company.
- Summary information on Credit Card use
- Summary information on Employee Expenses claims.
- Any exceptional item.

Performance Indicators to include for current year and proceeding year:

- Average rent per square footage of property portfolio.
- Average days trade debtors outstanding.
- Number of employees, Total Payroll Costs, Employer PRSI and benefits (including pension contribution).
- Detail of business travel (National/Foreign) undertaken by employees, the costs and business reason for the necessity of this travel.

Rental Income analysis to include a table listing:

- Rental Property Address.
- Occupant.
- Annual Rent.
- Payment Frequency.
- Rental Type (Lease, Cultural Use Agreement, Licence).
- Rental Agreement end date.
- Rent per square footage.
- Rent Write Off (if any).
- Vacant period (if any).
- Any other information such as late/non payments, payment agreements in place etc.

Appendix 2 – Report Grading

DEFINITIONS OF INTERNAL CONTROL EVALUATION GRADE:

Strong: A strong system of control and / or compliance with related regulations was evident.

Satisfactory: Minor internal control weaknesses and / or technical violations of regulations were noted.

Needs Improvement: One major control weakness or substantive violation of a regulation was noted. Other minor weaknesses may have been noted.

Weak: Two or more major control weaknesses were noted and represent a need to improve controls immediately.

Unsatisfactory: The overall number and extent of control weaknesses and / or regulatory violations represent unacceptable exposure and risk.

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Appendix 3 - History of TBCT

TBCT was originally incorporated as Carriglea Ltd. on the 24th of October 1990. The company changed its name to Temple Bar Properties Ltd. (TBP) on the 8th of February 1991 shortly before the introduction of the Temple Bar Area Renewal and Development Act, 1991. This Act vested certain powers upon the company in relation to the regeneration of Temple Bar. At this point the sole shareholder was Charles Haughey TD, in his capacity as Taoiseach.

The Local Government Act, 2001, transferred the shareholding of TBP to Dublin City Council. This Act also repealed certain sections of the Temple Bar Area Renewal and Development Act, 1991.

On the 10th March 2006, the company was renamed Temple Bar Cultural Trust (TBCT) Ltd.

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Appendix 4 – Management Responses

1. Board of TBCT:

The Board of TBCT welcomes the Report of The Internal Audit Section of Dublin City Council. The Report is detailed and rigorous and in keeping with standards laid down in the management and Governance of public assets and finance. This Report has raised issues for the Board.

During the course of 2012 the Board put in place financial procedures that have addressed most of the issues contained in the Report. The Management Response indicates that 92% of the Report's Recommendations are being accepted and addressed.

As to the Management practices and methods of Financial Control highlighted in the Report and on which the recommendations are based; these matters are now under review and after due consideration and advice the Board will decide how these matters are to be addressed.

The Board wishes to thank the staff of TBCT for their cooperation and hard work in addressing these recommendations and wishes to express its appreciation of the work of the Internal Audit Committee of Dublin City Council on behalf of the Public.

Date: 13th March 2013

2. Dermot Mc Loughlin, CEO (on secondment):

Summary

The draft DCC Internal Audit makes a number of useful and helpful suggestions for improved ways of working; it highlights areas that I agree can be improved; it contains inaccurate and unhelpful language; overall as a draft document it requires some fact-checking, a revision of content, a revision of tone, otherwise it is to be welcomed as a digest of useful observations and recommendations for the Board who are responsible and accountable for governance, and for me as CEO because ultimate management responsibility rests solely with me. I am responsible for all of the management issues raised in the report.

CEO Response

I welcome any contribution that suggests ways that we can improve and strengthen our systems and ways of working.

The draft DCC Internal Audit document contains a range of recommendations directed at that objective; some of these have to do with changing existing procedures and processes, or with documenting long-established processes and practices that have hitherto presented no audit difficulties; some have to do with Board and Shareholder practices. Some suggest that certain practices should cease or be regulated in a different way. Overall, I see no great difficulty in trying to adjust TBCT's systems to take account of many of these.

I take a positive position towards these aspects of the draft DCC internal audit report.

I understand that the statutory audit and the statutory accounting requirements with which TBCT complies under the Companies Acts (1963-2012) take precedence over the recommendations and observations of Dublin City Council Internal Audit. With that qualification, it is my view that TBCT should aim to take as much benefit and positive input as possible from the DCC Internal Audit's observations and recommendations to provide appropriate additional assurances on top of the statutory requirements under the Companies Acts (1963-2012).

I expect that there will be differences of opinion here because DCC Internal Audit comes from a public sector, specifically from a Local Authority, perspective; it is applying its norms and standards to a body that is not a Local Authority or a public body; it is applying its norms and standards to a private limited company of which it

is Shareholder. I would expect that our external auditors will have an opinion on the DCC Internal Audit and the extent to which it challenges or supports the work and findings of successive external audits that have been approved by the Shareholder since DCC was given the Shareholding function in 2001.

If DCC's intention had been to help TBCT improve procedures and/or bring standard processes into line with the ones DCC uses then I think that DCC could easily have requested this and worked with us to attain that objective. TBCT has already changed aspects of its annual financial statements to meet requests, whenever possible, from DCC and I refer for example to meetings involving my Chairman, the City Manager, DCC Head of Finance Kathy Quinn, me and other TBCT staff. No such positive engagement and no consultation took place during this exceptionally long and intensive IA process - five DCC staff over nine months.

In simple terms, DCC applied certain process tests to TBCT and TBCT was scored low. Were DCC to apply those same tests now, TBCT would score high.

And on that basis I think it is important for me as CEO of TBCT to state that I believe that the consistent findings of our external audit, which is the one that counts in terms of Company Law and the one that the Shareholder has consistently approved and adopted since 2001, take precedence over the observations of DCC's Internal Audit. That said, there are welcome and helpful recommendations in the draft DCC Internal Audit.

I agree that there are ways in which TBCT – like any other enterprise in the private or public sector – can improve its internal systems and control procedures. From this starting point, the draft DCC Internal Audit has undoubted utility and many changes already made and existing procedures have been documented.

The IA report states incorrectly that there were no financial procedures - that is simply wrong and not credible.

TBCT has already written up many of its long-standing existing procedures, amended existing procedures and where appropriate put in place new procedures on foot of advice from TBCT's external auditors or in response to the Internal Audit process. This has been a useful and productive engagement and from my perspective as CEO it is part of a process of continuous improvement.

However I have reservations and questions about the overall tone of the draft DCC Internal Audit – I think it reads as hostile, aggressive, tabloid - and I have serious concerns about some of the contents and the process through which they appear in this draft document which has been leaked and widely published.

In light of the elapsed time involved in this DCC Internal Audit exercise which began in June 2012 and is not yet completed, I am surprised that many issues given prominence in the report were not raised in a way that would have allowed TBCT staff to assemble the required information in a timely fashion. Clearly the draft DCC Internal Audit report identifies areas where process improvement is both essential and desirable, and this point could easily have been made during the many interactions between DCC Internal Audit and TBCT staff.

The report makes no findings of wrongdoing or impropriety or financial mismanagement.

The IA process has taken place in a highly politicised context and in my view the way the whole exercise was carried out has served neither TBCT nor its Shareholder (DCC) particularly well. Most people would agree that the way to help someone pass an exam is with helpful positive supportive coaching. Looked at this way, DCC has chosen an unusual and I would say hostile approach to effecting systemic organisational change in TBCT and in the relationship DCC has with TBCT. The DCC IA exists within this broader context.

Dermot McLaughlin
Chief Executive
Temple Bar Cultural Trust

Date: 14 March 2013

3. Ray Yeates, Interim CEO:

'As Interim CEO I have cooperated fully with the Internal Audit team since my appointment on November 5th 2012. Most of the Internal Audit Study occurred before my appointment. Having read the Draft Report and helped to formulate a Management Response I will be advising the Board that certain matters referred to in the Draft Report and Management response should be the cause of review and where necessary investigation by the Board. The vast majority of the recommendations are sensible and have been implemented and I would like to commend the Internal Audit team for their oversight and the staff of TBCT for their hard work in collating the Management response'.

Date: 5th March 2013

4. TBCT Executive:

TEMPLE BAR CULTURAL TRUST
Response of the Finance team
to Internal Audit Report Recommendations

Date: 14th March 2013

Authors: Head of Property and Financial Controller



Response

- We have accepted and completed full implementation of 92% of these recommendations.
- We have accepted and commenced implementation of 8%

Detailed comments

Recommendations (totalling 46) which we accept and have implemented, (subject to some notes below):

Recommendations: 1, 2, 3, 4, 5, 6, 8, 14, 15, 16, 17, 18, 19, 20, 22, 23, 24, 25, 26, 28, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 50, 51, 52, 53, 54, 56, 58, 59, 60.

Recommendations (totalling 10) which we accept and have implemented, but request wording changes:

7, 9, 10, 11, 12, 13, 27, 35, 37 and 57.

Wording changes requested:

Recommendation No.7: We disagree with the implication that the budgets are not approved by the Board in advance. For 2013, the Budgets were presented at the November 2012 meeting, the Board discussed the budget and made changes, the budgets were finalised and approved at the Board meeting of 16th January 2013. The budget approval *process for board approval* started in November in previous years.

We request a change of wording to "The Board should document approval in principle for the budget in November, subject to its suggested budgetary changes".

Recommendation No. 9, and 10 and 11: We agree that company minutes should record all major decisions of the Board in detail; however these recommendations imply that the Board was not informed of a large project, and its' financing. This is not correct. The Board recorded that they supported the project (Board minutes of September 2010) having had a detailed presentation of the project in June 2010. The Board further recorded the review of a special report on the financing of the project (January 2013), reaffirming their prior approval.

Therefore we would request that Internal audit record in the report that this recommendation refer to recording in the Board minutes rather than any substantive issue (of the Board not approving large projects).

Recommendation No.10: We request that you note in the report that "The board's intention was to approve the loan facility in June 2010. The board's subsequent actions show its clear sign off for the approval of the facilities." We would request that the above information be added to the report. Otherwise please note in the report "This recommendation refers to recording in the Board minutes rather than any substantive issue".

Recommendation 12 and 13: We suggest that these 2 points are a repetition of 9, 10, 11 above, and you may wish to consider amalgamating 12 and 13 into 9, 10 and 11, it would strengthen your point and our responses.

Advice from the companies solicitors further clears up this point as the bank asked for a re-submission of the minutes to confirm board acceptance in October 2010 and duly confirmed all was in order. Back up attached to recommendation 9

Therefore we would request that Internal audit record in the report, that this recommendation refer to recording in the Board minutes rather than any substantive issue (of the Board not approving funding and bank mandate).

Recommendation 27: TBCT did not apply benefit-In-kind income tax to these staff benefits, following advice from External auditors and verbal advice from Revenue. We think that this recommendation should reflect the ambiguity. We are advised that No BIK is due on commuter rail tickets or Luas tickets as paid for by the employer. This is part of a revenue scheme; and this information is available on the internet on the revenue website www.revenue.ie, and our research is in file at recommendation No 27.

Recommendation no 35: Please note a requested change to the wording in your report; €120 should be €800; because South Cork Enterprise Board expense was read as a charitable donation, whereas it was in fact, a conference.

Recommendation no 37: We request that you add into your report that the amount involved is €215.24

Recommendation No 57: The report casts doubt on whether our assets are fully insured. We request a change to the wording as follows "Each year TBCT should *formally* request confirmation from third parties of the insurance cover in place over TBCT assets. *We found no instances where TBCT's assets were not fully insured*".

Recommendations (totalling 5) which we accept and implementation has commenced but is not fully complete:

22, 30, 49, 55, 57

Recommendations which we believe should be deleted (wholly or in part) in the interest of the view given by your report

Recommendation 21: We suggest that this point be deleted as it could construed that TBCT do not review cashflow. Cash flow needs to be reviewed on a daily basis in TBCT; Furthermore cash flow monitoring is done daily (Using online banking) monthly (by bank reconciliation) and half yearly (by formal cash flow statement). You have already requested at Recommendation No. 50 that the Bank reconciliation be done on a timely basis, reviewed and signed by the CEO. This is a more thorough recommendation, which encompasses the cash flow issue.

Recommendation 28: The subcontractor did not have proof that he was registered for RCT at the time of the first invoice therefore we deducted RCT. Subsequently the same subcontractor did show proof of being registered for RCT and we did not deduct. This was audited by our external auditors and we believe that we

were compliant with legal and revenue requirements at all times. We suggest that your point refers to TBCT being inconsistent in our deductions; however this is the law. We now suggest that this recommendation be deleted.

Recommendation 31: In the text of the recommendation, the report stated that “3 out of 4 credit cards are still in use in TBCT”. Whereas this is true, it implies that the situation of credit card expenses still continues. The latter is not true. Three out of four credit cards remain in use but under a rigorous purchase order system, with comprehensive procedures. Furthermore the three cards in use are not held by staff but are held by the Financial Controller. We request that you delete “3 out of 4 credit cards are still in use in TBCT”, as it is now misleading.

Relating to the NPPR tax paid this relates to 3 properties owned by TBCT. We request that this fact be inserted in your report

Conclusion

97% of the 60 recommendations are now fully implemented or implementation is underway in the company. We believe that their implementation is constructive enhances the internal controls in TBCT.

We would record that recommendation No 31 on credit cards and the group of recommendations 9 to 13 which appear to be of a material and serious of nature are in fact not substantive in that there is no misappropriation of company funds found. We have produced documentation to prove this.

Management accepts that controls over staff credit card expenditure did not require staff to produce detailed back-up receipts. There was budget control over credit card expenditure where the Financial Controller vouched each item line by line and each transaction was coded to an event (non credit card expenses did require receipts and as you note they are fully vouched). A thorough item-by-item review of all credit card expenses incurred by 3 out of the 4 credit cards for the year 2011 was carried out by management, with the assistance of the credit card holders. The highest spending company credit card has 95% of vouched business use. On these three cards no inappropriate or non-business expenses were charged to the company. Where credit cards were used for personal expenses, the expenses were repaid by deduction from salary. The view in the report could easily be construed here that staff were spending TBCT funds on non business related purposes which is not correct. At the time that this information was requested by the internal auditors the information was stored or archived but now staff has invested time and IT help (as some staff members have left the company), full back up information is now available.

The procedures for expenses are now greatly clarified and the internal controls strengthened.

We would like to further assert that following thorough investigation and examination, we have no evidence of any misappropriation of TBCT’s funds. Furthermore our auditors have asserted that the Financial statements will remain unchanged with no adjustments.

Appendix 1: Statistical analysis of Implementation of the recommendations

SUMMARY	Recommendation totals	Cumulative Subtotals	
Recommendations which we accept and have implemented	46	77%	
Recommendations which we accept and have implemented but request wording changes	6	52 or 87%	
Recommendations which we accept and implementation has commenced	6	58 or 97%	
Recommendations which are in place but we believe should be deleted	2	3%	

5. Internal Audit:



Comhairle Cathrach
Bhaile Átha Cliath
Dublin City Council

Internal Audit Unit, Finance Department,
Civic Offices, Wood Quay, Dublin 8, Ireland

Rannóg Iniúchóireachta Inmheánach, Roinn Airgeadais,
Oifigí na Cathrach, An Ché Adhmaid, Baile Átha Cliath 8, Éire
T. 222 4561 F. 222 2070 E. gerry.macken@dublincity.ie

Mr Dermot McLaughlin
Chief Executive Officer
Temple Bar Cultural Trust

15th March 2013

Re: Management Response to Draft Internal Audit Report (IA) of Temple Bar Cultural Trust (TBCT)

I am in receipt of your correspondence received by email on 14th March. It will be copied to the Audit Committee for their information. Internal Audit does not accept a number of the statements you have made in your correspondence, for example the length of time taken to conclude the audit was heavily influenced by the rate of response to audit queries by TBCT. Also it is noted that a response is awaited from you in relation to the matters of the loan agreement, a personal loan and the CEO contract of employment.

Other matters such as assumptions and conclusions that you have drawn are ultimately a matter for consideration by the Board of Temple Bar Cultural Trust.

Yours sincerely

Gerry Macken
Head of Internal Audit

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Dublin City Council
Comhairle Cathrach Bhaile Átha Cliath

HOUSING RENTS

AN OVERVIEW

Presentation to Finance SPC

**by Céline Reilly,
Executive Manager,**

Housing and Residential Services Department

Date: 20th November 2014

Background

Objectives:

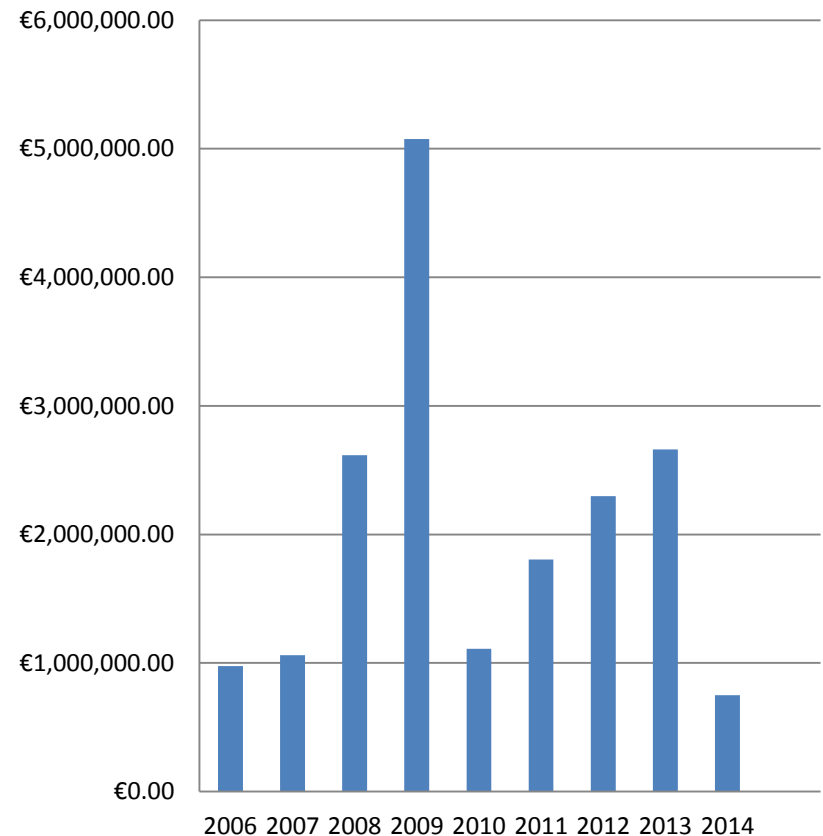
- The equitable determination of rent levels
- The efficient collection and accounting of payments from tenants
- The minimisation of rent arrears and the swift recovery of arrears when they do occur
- Main Source of funding for the management and maintenance of dwellings.
- The council operates a differential or income related system, which makes rents affordable, however problems of rent arrears still exist.

Arrears

- Arrears are caused by two reasons namely: under-declaration of income and failure to pay weekly rent.
 - The council's arrears have been predominantly caused by the former.
 - Notwithstanding, recouping rent arrears and preventing tenants falling into arrears is not an easy task since rent arrears are often symptomatic of wider socio-economic problems, particularly poverty and unemployment which the City Council cannot address on its own.
- The highest proportion of the arrears total was incurred in 2009 following the dedication of staff to retrospective assessments.
- Many Authorities do not apply retrospective assessments
 - Over €120,000 was received in 2014 from tenants with the highest arrears
 - Over €70,000 was received in 2014 from tenants longest in arrears.

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Aged Debt



Procedure for dealing with Non payment

Current Procedure

This procedure derives its legal basis from Section 62 of the 1966 Housing Act

- Warning Letters after 3, 5 and 7 weeks followed by a personal visit or telephone call to tenant.
- Failure to respond to the warning letters results in a Notice to Quit being served on the tenant
- Instruction given to Law Agent to arrange a court date and notify the tenant in question
- Any agreements subsequently made between the Executive Housing Officer & Tenant are noted once a court date has been arranged
- Court Order for recovery of possession is granted in District Court. This order may specify a period of time in which the housing authority may recover possession of the dwelling
- An appeal to the Circuit Court lies against the District Court order.
- Eviction will usually take place in the event of an agreement not being made

Proposed Procedure following commencement of provisions of Housing Act 2014

- Warning Letters after 3, 5 and 7 weeks followed by a personal visit or telephone call to tenant.
- Termination of Tenancy: :-a tenancy warning may be issued to a tenant who is in breach of a “rent related obligation”
- Tenant may request a review of the tenancy warning within 10 days of receipt of warning, a decision must be made within 20 working days
- If within two months of the tenancy warning coming into effect, the rent arrears have not been paid or a rescheduling agreement entered into, DCC may make an application for possession to the District Court.
- Not less than 10 working days before the hearing of a District Court application for a possession order the tenant must be given notice in writing of certain details of the court application.
- The court may adjourn proceedings for a period with or without imposing conditions, or grant an order for possession
- A possession order will specify a period of time in which the housing authority has a right to recover possession of the dwelling - not less than 2 months and not more than 9 months.

Annual Collection Rate excluding Arrears

Year	Debit	Payments	%
2010	€73,679,765.88	€74,338,569.80	101%
2011	€72,692,819.28	€72,487,221.76	99%
2012	€72,600,000.00	€71,715,323.55	99%
2013	€73,711,062	€ 72,777,753	99%
2014	€ 60,035,696	€ 61,746,794	103%

Current Scheme and Proposed Scheme

Current

- Rent = 15% of the principal earner's weekly assessable income which exceeds €32
- Subsidiary Earner = €19/Week, subject to a max of 4 such earners, (i.e. €76) per household/week

What is an 'Assessable Income?'
A Net Weekly Income and/or A State Welfare Payment

- Average rent = €57 per week

Proposed Scheme

- It is proposed that base rents will be introduced for all households below a certain income.
- Any household income which is in excess of the income threshold set for the base rates will be assessed in accordance with bands based on a percentage of the income above the threshold. It is intended that the regulations set a range for each band. The selection of the percentage point from the range for each band will be a reserved function.
- Income from all adult household members will be taken into consideration for the assessment of rent. There will be no separation of subsidiary earners income from total household income, meaning there will be no caps on what subsidiary earners will pay.
- What is deemed reckonable income (and what income is disregarded) will be set nationally.
- It is proposed to transition to the new scheme over a period of three years.

How can tenants pay their rent?



is210-009 fotosearch.com



- Household Budget
- Billpay
- Direct Debit
- Cash Office payments
- Pay-point outlets (Spar etc)
- On-line at www.dublincity.ie



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SPAR



Household Budget

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- Household Budget allows people who receive certain Social Welfare payments to pay a regular amount towards various household bills by direct deduction from their social welfare payment, subject to a cap of 25% of income
- ✓ **Advantage:** H.B. is an ideal method of payment since it allows rent monies to be taken at source from an individual's state welfare payment
- 7000 tenants/occupants pay towards the rent charge using Household Budget
- A total of €9.2m has been received to date in 2014 via HB.
- All new tenants are asked to sign up to Household Budget and this will be mandatory once the new regulations are signed into law.
- Tenants entering agreements to pay arrears must enter into a HB to avoid court action being taken.

Policies

Maintenance

- Tenants who are more than 6 weeks in arrears will not be entitled to have *routine* maintenance work carried out on their respective properties

✓ **Advantage:** Promotes Good Estate Management and encourages tenants to maintain their rent accounts.

Transfers

- No transfer will be offered unless the tenant has an up to date rent assessment and a clear rent account
- Exceptions will apply in de-tenanting and in Exceptional Social Circumstances
- ✓ **Advantage:** Rewards good tenant behaviour and encourages tenants to maintain their rent accounts.

Measures Implemented since 2010 that are stabilising arrears

- Key vacancies within Rent Collection filled
- Full-time Solicitor assigned to pursue rent arrears cases in court.
- Deepening and strengthening of relationship with Department of Social Protection, MABS
- Implementing Maintenance and Transfers policies
- Direct Debit and Household Budget promoted
- Early Intervention unit set up
- Improved communications with tenants
- Improved co-ordination with all other elements of City Council Housing

Plans for the future

- To continue to raise and collect over €70m and to further consolidate arrears
- To continue to encourage the use of Direct Debits and Household budgets as primary methods of rent payment
- To achieve further value for money for all expenditure
- Encourage tenant participation in the review of the rents service
- To introduce a Customer Online Rents Service in 2015
- To improve communications with tenants
- Identify performance indicators which will help to assess the quality of the service
- To migrate towards the New National Rent Scheme which is due to be operational by the 1st July 2015. However, regulations have yet to be signed.

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Motion

Extract from Minutes of Protocol Committee dated 3rd April 2014

Motion in the name of Cllr. Mannix Flynn

“That this protocol committee initiate the setting up of a Dublin City Council public accounts oversight committee. The recent contraversies surrounding the expenditure of public monies at the Poolbeg Waste to energy site and the financial contraversies surrounding the Temple Bar Cultural Trust make it imperative that we as Councillors and directors of Dublin City Council make every effort to safeguard the public purse and to that end to ensure full accountability where matters of financial irregularity are found.”

Report from Kathy Quinn, Head of Finance, circulated and noted.

The Members discussed the issue and were in agreement on the importance of financial accountability and transparency. However, it was noted that the Dáil PAC has significant powers in terms of privilege which a City Council oversight committee would not have.

Order: Motion Agreed. The matter to be referred to the Finance SPC and Audit Committee for their response and input.

Motion

Mr. Vincent Norton
Executive Manager
City Manager's Department
Block 4, Floor 4

FÓGRAÍ TAIRSCINTÍ

Motion to Protocol Committee: 3rd April 2014

COUNCILLOR MANNIX FLYNN

“That this protocol committee initiate the setting up of a Dublin City Council public accounts oversight committee. The recent contraversies surrounding the expenditure of public monies at the Poolbeg Waste to energy site and the financial contraversies surrounding the Temple Bar Cultural Trust make it imperative that we as Councillors and directors of Dublin City Council make every effort to safeguard the public purse and to that end to ensure full accountability where matters of financial irregularity are found.”

Report:

The Audit Committee, as provided for in the Local Government Reform Act 2014 (further details below), has a remit to review all local authority activities whether locally or centrally funded. The Public Accounts Committee as operated through the Dail, has a remit of all public sector activities which are centrally funded from voted programmes. The National Oversight and Audit Commission will be established arising from provisions of the Local Government Reform Act 2014 and facilitates greater independent scrutiny of local authority activities. Details of the provision of the 2014 act in relation to Audit Committees and the National Oversight and Audit Commission are set out below.

Audit Committee (reference Section 54 of Local Government Reform Act 2014)

In line with best practice and developments in corporate governance in both the public and private sectors, local authorities under Section 122 of the Local Government Act 2001 were required to establish an Audit Committee. Prior to this Dublin City Council operated an Audit Efficiency Group, a de facto Audit Committee.

Under the 2001 legislation Audit Committees had an independent role in advising the Council on financial reporting processes, internal control, risk management and audit matters. Section 5 of the Local Government (BIDS) Act 2006 was intended to replace the provisions of Section 122, however, that section has not yet been commenced. Section 5 of the Local Government (BIDS) Act 2006 is being repealed in a separate amendment within the Local Government Reform Act 2014 .

Motion

This Act places audit committees on an enhanced statutory footing. The new provision determines that the role and function of audit committees will be clearly set out in regulations, which are currently being drafted.

The functions of the audit committee as set out in the Act are:

- (a) Review financial and budgetary reporting practices and procedures within the local authority that has established it;
- (b) To foster development of best practice in the performance by the local authority of its internal audit function;
- (c) To review any audited financial statement, auditor's report or auditor's special report in relation to the local authority and assess any actions taken within the authority by its chief executive in response to such a statement or report and to report to that authority on its findings;
- (d) To assess and promote efficiency and value for money with respect to the local authority's performance of its functions, and;
- (e) To review systems that are operated by the local authority for the management of risk.

National Oversight and Audit Commission (reference section 56 of the Local Government Reform Act 2014¹)

The Local Government Reform Act 2014 provides for the establishment of a National Oversight and Audit Commission for Local Government (NOAC). The NOAC will scrutinise local government performance, in fulfilling national, regional and local mandates, scrutinise value for money where State funds are channelled through local government, and will support the development of best practice and enhanced efficiency in the performance of local government functions. The functions conferred on the NOAC relate to how the local government system, from top to bottom, operates.

The membership of the Commission, which will have an independent chair, will comprise members with expertise in local government, finance, audit, corporate governance and customer service.

It will report to the Minister and to other relevant Ministers in respect of services within their areas of responsibility discharged by local government bodies, which include local authorities, regional assemblies, and any trust or other body where a local authority or regional assembly exercises actual or effective control. Reports will also be made available to the Oireachtas Joint Committee on the Environment, Culture and the Gaeltacht; and, as appropriate, to other Joint Oireachtas Committees with oversight responsibilities for the relevant policy areas.

The elements of the local government system that will be subject to scrutiny include

¹ Section references are to the Bill introduced to the Dáil and published in October 2013

<http://www.oireachtas.ie/viewdoc.asp?DocID=24529&&CatID=59>

Motion

- Performance generally and by individual authorities by reference to performance indicators,
- Financial performance and value for money, including in relation to monies raised directly or provided by the Exchequer,
- Identification and dissemination of best practice,
- Adherence to Service Level Agreements (SLA). It would be open to a Minister responsible for a function discharged by the sector via a SLA to ask the NOAC to examine performance, generally or individually, in relation to the SLA,
- Delivery of national policy and national policy objectives,
- Implementation of the public sector reform,
- Adequacy and delivery of corporate plans,
- Preparation of reports for relevant Ministers and on its own initiative.

Reporting by the Commission

There is also a provision (Section 136(5) of the LG Act 2001, inserted by section 48 of the Local Government Reform Act) setting out the requirement for the monthly management report of the chief executive to provide information on ongoing implementation of the steps being taken to address the recommendations of the NOAC.

Circulation of NOAC reports to the relevant local government body is mandatory, as is presentation to the appropriate Minister and to Joint Oireachtas Committee dealing with local government and the appropriate Joint Committee where the report relates to matters within their purview.

Follow up action by the local government body will be required, with preparation of an implementation plan by the chief executive within 28 days, its adoption by the elected council as a reserved function, progress on implementation in the chief executive's monthly management report, and reporting on implementation in the body's annual report. There will be full transparency on the report and on the steps being taken to implement the recommendations.

Kathy Quinn,

Head of Finance

with responsibility for ICT and Fire & Emergency Services