



Internal Audit Report

CORPORATE SERVICES DEPARTMENT

Review of New Legislation

February 2009

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1. BACKGROUND

- 1.1 Under Governance & Risk, Internal Audit is required to look at how the responsibility for implementing changes to and new legislation are being dealt with by Council departments. Two key risk areas have been reviewed to date by Internal Audit, to ensure that:
- Management were aware of amended and new legislation, therefore have not failed to comply; and
 - Management are aware of changing legislation and have provided appropriate training for staff.
- 1.2 In 2006 – 2007, Internal Audit established from returned questionnaires from Departmental Directors, that all departments were operating a similar process for the identification and implementation for new or amended legislation. It was evident that all Directors used their Departmental Management Team (DMT) meetings to discuss impending changes to legislation. Equally all departments operated a similar process for monitoring the implementation of legislation. However, these processes were informal and solely reliant on management being aware of legislation changes. Recommendations were therefore made to formalise these processes.
- 1.4 In 2007 – 08, Internal Audit placed emphasis on a specific service namely, Social Work within the Community Services Department and their efforts to keep track of the various changes to and implementation of new legislation.
- 1.5 Direct audit days have been set aside within the 2008 – 2009 Internal Audit programme for a review of New Legislation. The decision was taken to revisit all departments to assess whether the recommended changes in formalising processes was working effectively. In addition audit focus was directed to further formalisation of the current processes for departments thus strengthening the robustness of compliance.
- 1.6 As a result of our work, findings were generated. These findings were subsequently discussed with management and a draft report produced. Management comment was then included along with an agreed Action Plan with a final report produced.

2 AUDIT SCOPE AND OBJECTIVES

- 2.1 The audit will look at what formal recognition there is within departments regarding managing the risk of not complying with legislation. The broad objectives of the audit are to:
- Identify what controls are in place within departments to ensure that changes to legislation are identified and properly implemented;
 - Identify what monitoring process is in place within each department to ensure that legislation has been properly implemented; and

- Establish whether training is provided for staff involved in the implementing of legislation, and if so, that it is being recorded.

3 AUDIT APPROACH

3.1 The following approach was used to satisfy the objectives of the audit:

- A request was made to each Departmental Director to complete a short questionnaire covering the objectives set out above;
- Responses were received and reviewed, where it was thought appropriate meetings were held with Heads of Service to clarify returned information; and
- Proposals to further formalise the existing process were discussed with the Head of Democratic Services and Governance.

3.2.1 A draft report with audit findings was prepared for the Corporate Services Department – Democratic Services & Governance, Head of Service and the Risk & Corporate Governance Manager for comments.

3.3 Management comments were then included in a final report, which was passed to the Director of Corporate Services. The final report includes an Action Plan, which lists the agreed actions.

4 SUMMARY OF MAIN FINDINGS

4.1 Internal Audit established from the returned questionnaires completed by Departmental Directors, that all departments had a similar process in place to identify impending and or amended legislation. They all used their Departmental Management Team (DMT) to discuss impending changes to legislation. Departments also had a similar process for monitoring the implementation of legislation. It was noted that the previous informal processes operated within departments have now been formalised into the management process through meetings which are minuted.

4.2 All Departmental Director responses stated that training was provided as and when required to support management and staff. It was also noted that this training was recorded.

4.3 There have been no recorded issues of a department failing to comply with amended or new legislation.

4.4 Departmental Directors should be required to review legislative programmes from the Scottish Parliament in consultation with their Heads of Service and to record this.

4.5 There should be a requirement for an annual health check following on from the queen's speech each year. This will require Departmental Directors to

initially send out a form to their Heads of Service requesting them to acknowledge their responsibility regarding the appraisal and dissemination of changes to and introduction of new legislation pertinent to their service.

5 AREAS OF GOOD PRACTICE

The following issues were identified as good practice:

- 5.1 It was noted that the Director of Corporate Services issued an email to his Heads of Service referring to New Legislation introduced by the Scottish Government for 2009. The email requested that the Heads of Service monitor the legislation that was pertinent to their responsibilities. The opportunity should be taken to develop this initiative in respect of all departments.
- 5.2 All departments are operating a process that allows amendments to, and the introduction of legislation to be progressed through a management structure.

6 ACTION PLAN

- 6.1 The action plan attached at Appendix 2 has been compiled with the co-operation and agreement of Departmental Directors and the Head of Democratic Services and Governance.
- 6.2 Internal Audit considers that, in an effort to improve the quality of information, monitoring and control, the recommendations should be implemented in accordance with the agreed action plan. Management have set achievable implementation dates and will be required to provide reasons to the Audit Committee for failure to implement within the agreed timescale. Where management decides not to implement recommendations it must evaluate and accept the risks associated with that decision.
- 6.3 A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as fundamental, material or minor. The definitions of each classification is set out below:-

High - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;

Medium - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;

Low - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.

7 OVERALL CONCLUSION AND ASSESSMENT AGAINST OBJECTIVES

- 7.1 All departments were found to have good recognition of the importance of ensuring that amended and new legislation is controlled, recorded and that appropriate training is provided as required. However, during the course of the audit, some areas were identified where recommendations have been made. These have been discussed with management and an action plan agreed.

8 ACKNOWLEDGEMENTS

- 8.1 Thanks are due to all departments for their co-operation in providing information and assistance during the Audit and the preparation of the report and action plan.
- 8.2 Argyll & Bute Council's internal audit section has prepared this report. Our work was limited to the scope in paragraph 2.1 of this report. We cannot be held responsible or liable if information material to our task was withheld or concealed from us, or misrepresented to us.
- 8.3 This report is private and confidential for the Council's information only and is solely for use in the provision of an internal audit service to the Council. The report is not to be copied, quoted or referred to, in whole or in part, without prior written consent.

APPENDIX 1

1 DETAILED FINDINGS

Responses to Departmental Questionnaires

- 1.1 Internal Audit issued departmental questionnaires to establish whether departments are continuing to use their Departmental Management Team (DMT) meetings to discuss new or any impending amendments to existing legislation.
- 1.2 Directors stated that they use their DMT meetings to monitor the progress of implementing legislation. They also rely on Heads of Service through their local management groups to implement and monitor legislation. This is an informal process but it does appear that implementation is monitored and being reported back through DMT's by Heads of Service.
- 1.3 All responses stated that legislation training was provided as and when required to support management and staff. It was also confirmed that when training is provided it is recorded via Performance & Development Review (PDR), Career Professional Development (CPD) or certification of courses.
- 1.5 Departments reported that there had been no recorded issues of failing to comply with legislation.
- 1.6 The questionnaire responses received by Internal Audit verified that all departments are following a formalised process is being followed by with regard to the identification and implementation of legislation.

Formalisation

- 1.7 It was noted that the Director of Corporate Services issued an email to his Heads of Service referring to New Legislation introduced by the Scottish Government for 2009. The email requested that the Heads of Service monitor the legislation that was pertinent to their responsibilities.
- 1.8 In recognising the reliance being placed on departmental informal processes and individual managers to keep abreast of legislation developments it would be useful to introduce an element of formalisation. Introducing formalisation would support Corporate Governance within the Council. It is therefore recommended that each Director is requested to obtain verification on an annual basis from their Heads of Service that they will maintain awareness of new legislation developments within their responsibility.

Refer to Action Plan No 1

- 1.9 The Council Constitution should be updated to recognise the responsibility of Departmental Directors and their Heads of Service in a verification process.

Refer to Action Plan No 2

APPENDIX 2

ACTION PLAN

ACTION PLAN NO	PARAGRAPH	GRADE	WEAKNESSES IDENTIFIED	AGREED ACTION	RESPONSIBLE OFFICER	DATE OF IMPLEMENTATION
1	1.7 and 1.8	Material	Accountability of Departmental Directors and their Heads of Service regarding responsibilities governing New Legislation are yet to be formalised in a verification process.	Corporate Services to request that Departmental Directors each January pass to the Head of Democratic Services and Governance verification of their Heads of Service awareness of the requirement to be aware of New Legislation developments.	Head of Democratic Services and Governance	January 2010
2	1.9	Material	The responsibilities of Departmental Directors and Heads of Service regarding awareness and implementation of legislation needs to be reflected within the Council Constitution.	The verification process will be included within the Council Constitution.	Head of Democratic Services and Governance	January 2010