



Internal Audit Report

FINAL

CUSTOMER SERVICES DEPARTMENT

New Legislation

May 2010

1 INTRODUCTION

This report has been prepared as a result of the Internal Audit review of New Legislation as part of the 2009 - 2010 Internal Audit programme.

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.

2 AUDIT SCOPE AND OBJECTIVES

Two key risk areas were reviewed and an Internal Audit report issued in February 2008. The review covered the following areas:

- 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.

This review therefore follows up the Action Plan points agreed in that report together with separate consideration of:

- the Council's Anti-Fraud & Corruption Policy; and
- the Money Laundering Regulations 2009

Audit focus was directed to further formalisation of policies and processes for departments thus strengthening the robustness of compliance.

3 RISK ASSESSMENT

As part of the audit process the risk register was reviewed to identify any strategic risks relevant to the audit as follows:

- SR13 Failure to comply with new legislation, regulation or statutory responsibilities.
- SR16 Failure to have a robust internal control process and system.
- SR20 Failure to ensure the Council acts in accordance with the law and its own regulatory framework
- SR24 Changes to Scottish, UK and European Government Policy

4 CORPORATE GOVERNANCE

The Council's Local Code of Corporate Governance was reviewed to identify any code requirements relevant to the audit as follows:

2.2.4 Make a senior officer (usually Monitoring Officer) responsible to the authority for ensuring that agreed procedures are followed and that all applicable statutes and regulations are complied with.

4.3.2 Ensure that arrangements are in place for whistle-blowing to which staff and all those contracting with the authority have access.

4.4.2 Recognise the limits of lawful action and observe both the specific requirements of legislation and the general responsibilities placed on local authorities by public law

4.4.3 Observe all specific legislative requirements placed upon them, as well as the requirements of general law, and in particular to integrate the key principles of good administrative law – rationality, legality and natural justice, into their procedures and decision making processes.

5 MAIN FINDINGS

5.1 Previous Audit Report Follow Up

The Council Constitution has now been updated to delegate to officials the responsibility to review and ensure compliance with the requirements of existing and new legislation. However, due to the Council reorganisation the second point has been rescheduled to April 2010. Directors will be requested to verify and confirm their Heads of Service awareness of the requirement to be aware of New Legislation developments.

It has been requested that details of this verification process should be supplied to Internal Audit by 31 May 2010, to provide additional support for the preparation of the Statement of Governance & Internal Control in the Annual Accounts

5.2 Money Laundering Regulations 2009

Revisions to the Money Laundering Regulations in 2009 required all regulated businesses to become registered under a supervisory body. Local authorities however are not identified within the list of relevant businesses, but some of their activities could come within the scope of the Money Laundering Regulations.

The level of cash receipts covered by the money laundering regulations is unlikely to be an issue for the Council but the definition of suspicious amounts under the Proceeds of Crime Act 2002 is generally taken at a much lower level. Amounts of £1,000 upwards may be viewed as suspicious and a formal procedure to review and report these items to a designated official within the Council is recommended.

It has therefore been recommended that the Council consider appointing an officer for Money Laundering Reporting to establish internal procedures to help forestall and prevent money laundering, identify potentially regulated activities, and make reports, if necessary, to the National Crime Intelligence Service ('NCIS').

5.3 Public Interest Disclosure Policy

As part of the Anti-Fraud and Corruption Policy, contained within the Council Constitution there are clearly designated whistle-blowing arrangements which encourage and enable anyone to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). As a result it has been recommended that consideration should be given to improving the access links to the "whistle-blowing" arrangements on the Council's website.

5.4 Anti-Fraud Strategy

The Council's Anti-Fraud Strategy is included as Appendix 2 to the Financial and Security Regulations, which form Part D of the Council Constitution. The Corporate Services Department is aware that a review of the Anti-Fraud Strategy is required to update it and reflect legislation changes. The findings of this audit review will be incorporated into their review. The revised Anti - Fraud Strategy is to be presented to the Audit Committee in June 2010 for consideration and thereafter will be presented to the Council for approval.

An initial review of the Anti-Fraud Strategy has identified a number of issues that require to be addressed in the Corporate Services review and these are set out in Appendix 2 to this report. However, our initial finding was a lack of awareness by staff of the Anti-Fraud Strategy or where to find it.

We would therefore recommend that the launch of the revised Anti-Fraud Strategy should be notified to staff via Postmaster, and access to the strategy, within the Council Constitution improved with the use of hyperlinks.

5.5 Planning & Building Standards

As part of the Council's Governance & Internal Control procedures Directors are required to confirm on an annual basis that any cases of fraud or corruption in their areas have been properly dealt with, and notified to the Council's Monitoring Officer.

Discussions with management within Planning and Building Standards revealed that in addition to segregation of duties and file review procedures, reliance is placed on staff member's professional codes of conduct and the Council's scheme of delegation. This requires individuals to disclose any potential conflict of interest so that they can be excluded from further involvement in processing specific cases.

Internal audit considers that there is a need to establish more robust procedures to act as a formal control, deter fraud and corruption, and demonstrate that management have a full awareness of the potential risks arising.

In common with other areas of the Council that have direct dealings with the public, there should be a register of interests maintained and this should be formally reviewed on a regular basis to ensure that all known matters have been appropriately disclosed and that, there have not been any potential conflicts of interest with the activities of the department.

The Head of Planning Services has indicated that this will initially be introduced for Authorising Members of Staff within Planning and Building Standards, to include the Head of Planning and Regulatory Service, Development Manager / Building Standards Manager and Development Management and Building Standards Area Team Leaders.

6 RECOMMENDATIONS

Five recommendations of medium priority were identified as a result of the audit. The recommendations are shown in the action plan below.

7 AUDIT OPINION

Based on the findings we can conclude that the procedures for formally delegating responsibility for the identification and compliance with New Legislation have been appropriately dealt with. The Council's fraud and corruption policy is now in need of update and communication so that departments can review and update their current procedures.

Recommendations arising from the audit work should be implemented by the nominated responsible officer within the agreed timescale. Recommendations not implemented will require explanation to the Audit Committee. This could lead to findings being reported in the Governance & Internal Control Statement produced by the Council in support of the Annual Accounts.

8 ACKNOWLEDGEMENTS

Thanks are due to the Head of Governance and Legal, the Head of Planning and Regulatory Services and the IT Officer – Service Desk for their co-operation and assistance during the Audit and the preparation of the report and action plan.

Argyll & Bute Council's Internal Audit section has prepared this report. Our work was limited to the objectives in section 2. We cannot be held

responsible or liable if information material to our task was withheld or concealed from us, or misrepresented to us.

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 4 ACTION PLAN

| No. | FINDINGS | PRIORITY | RECOMMENDATION | RESPONSIBLE OFFICER | IMPLEMENTATION DATE |
|-----|--|---------------|---|-----------------------------------|--|
| 1 | <p>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.</p> <p>This is being addressed, but has been rescheduled to April 2010 due to the Council reorganisation.</p> | <i>Medium</i> | <p>Details of the verification process should be supplied to Internal Audit by 31 May 2010, to provide additional support for the preparation of the Statement of Governance & Internal Control in the Annual Accounts</p> | <p>Head of Governance and Law</p> | <p>Completed for May 2010 and annually thereafter.</p> |
| 2 | <p>The level of cash receipts covered by the money laundering regulations is unlikely to be an issue for the Council but the definition of suspicious amounts under the Proceeds of Crime Act 2002 is generally taken at a much lower level. Amounts of £1,000 upwards may be viewed as suspicious and a formal procedure to review and report these items to a designated official within the Council is recommended.</p> | <i>Medium</i> | <p>It is therefore recommended that the Council consider designating an officer for Money Laundering Reporting to establish internal procedures to help forestall and prevent money laundering, identify potentially regulated activities, and make reports, if necessary, to the National Crime Intelligence Service ('NCIS').</p> | <p>Head of Governance and Law</p> | <p>31 August 2010</p> |

| No. | FINDINGS | PRIORITY | RECOMMENDATION | RESPONSIBLE OFFICER | IMPLEMENTATION DATE |
|-----|---|---------------|--|----------------------------|---------------------|
| 3 | As part of the Anti fraud and Corruption policy, contained within the Council Constitution there are clearly designated whistle-blowing arrangements which encourage and enable anyone to raise serious concerns. Employees reporting concerns in this way are afforded certain rights through legislation (Public Interest Disclosure Act 1998). | <i>Medium</i> | It is recommended that consideration should be given to improving the access links to the “whistle-blowing” arrangements on the Council’s website. | Head of Governance and Law | 31 August 2010 |
| 4 | The initial finding was a lack of awareness of the Anti-Fraud Strategy or where to find it. | <i>Medium</i> | The launch of the revised Anti-Fraud Strategy should be notified to staff via Postmaster, and access to the strategy, within the Council Constitution improved with the use of hyperlinks. | Head of Governance and Law | 31 July 2010 |

| No. | FINDINGS | PRIORITY | RECOMMENDATION | RESPONSIBLE OFFICER | IMPLEMENTATION DATE |
|-----|---|---------------|---|--|---------------------|
| 5 | Discussions with management within Planning and Building Standards revealed that in addition to segregation of duties and file review procedures reliance is placed on the staff members professional codes of conduct and the Council's scheme of delegation. This requires individuals to disclose any potential conflict of interest so that they can be excluded from further involvement in processing specific cases. | <i>Medium</i> | In common with other areas of the Council that have direct dealings with the public there should be a register of interests maintained and this should be formally reviewed on a regular basis to ensure that all known matters have been appropriately disclosed and that there have not been any potential conflicts of interest with any activities of the department. | Head of Planning and Regulatory Services | 30 September 2010 |