

Audit Committee

30 September 2016

Internal Audit Progress Report Period Ended 30 June 2016



Report of the Chief Internal Auditor and Corporate Fraud Manager

Purpose of the Report

1. To inform Members of the work that has been carried out by Internal Audit during the period 1 April 2016 to 30 June 2016 as part of the 2016/2017 Internal Audit Plan.
2. The report aims to:
 - Provide a high level of assurance, or otherwise, on internal controls operating across the Council that have been subject to an Internal Audit of systems and processes.
 - Advise of issues where controls need to be improved in order to effectively manage risks.
 - Advise of other types of audit work carried out such as grant certification or consultancy reviews where an assurance opinion on the control environment may not be applicable.
 - Advise of amendments to the Internal Audit Plan.
 - Track the progress of responses to Internal Audit reports and the implementation of agreed audit recommendations.
 - Advise of any changes to the audit process.
 - Provide an update on the performance indicators comparing actual performance against planned.
 - Update on the outcome of the lessons learned following an internal audit review of an Employment Tribunal case.
3. The appendices attached to this report are summarised below. Those marked with an asterisk are not for publication (Exempt information under Part 3 of Schedule 12a to the Local Government Act 1972, paragraph 3).

Appendix 2	Progress against the Internal Audit Plan
Appendix 3	Final Reports issued in the quarter ending 30 June 2016
Appendix 4	The number of high and medium priority actions raised and implemented

Appendix 5	Internal Audit Performance Indicators
Appendix 6*	Overdue Actions
Appendix 7*	Limited Assurance Audit Opinions

Background

- As an independent consultancy service, the Council's Internal Audit Team strives to continue to add value and improve the organisation's operations as well as providing objective assurance to service managers and the Council.
- The Internal Audit Strategy and Annual Internal Audit Plan, covering the period 1 April 2016 to 31 March 2017, was approved by the Audit Committee on 17 May 2016.

Progress against the Internal Audit Plan

- A summary of the approved Internal Audit Plan for each Service Grouping, updated to include work in progress and any audits brought forward from last year's plan, is attached at Appendix 2. The appendix illustrates the current status of each audit as at 30 June 2016 and, where applicable, also gives the resultant assurance opinion.
- A summary of the status of audits in 2016/17 is illustrated in the table below:

Service Grouping	Not Started	Planning and Preparation	In Progress	Draft Report	Final Report / Complete
Assistant Chief Executive (ACE)	4	2	1	4	2
Children and Adult Services (CAS) excluding Schools	11	15	15	4	11
Children and Adult Services (CAS) - Schools	22	14	9	8	6
Neighbourhood Services (NS)	13	22	3	7	6
Regeneration and Economic Development (RED)	13	6	4	1	5
Resources (RES)	24	16	23	6	11
TOTAL	87	75	55	30	41

- A summary of the final audit reports issued in this quarter is presented in Appendix 3.
- The total number of productive Internal Audit days required to deliver the plan is 4,748. As at 30 June, the service delivered 1,267 productive days, representing 27% of the total plan. The target at the end of the quarter was for 23% to be delivered, therefore performance is exceeding the target.

Audit Activity in the Quarter

Amendments to the Approved 2016/2017 Internal Audit Plan

10. The following four reviews were removed from the approved Internal Audit Plan in the quarter, following agreement between Corporate Directors and the Chief Internal Auditor and Corporate Fraud Manager:

Service Grouping	Audit	Audit Type	Reason
Children and Adult Services (CAS)	Careers Service	Assurance	Cancelled with agreement of the Head of Service
Children and Adult Services (CAS)	Education & Business Learning Organisation	Assurance	Cancelled with agreement of the Head of Service
Neighbourhood Services (NS)	Weights & Measures (Third Party assurance)	Assurance	Cancelled: Notification from the Consumer Protection Manager that Weights & Measures will, in future, be externally assessed by the Environment Agency on a Regional basis. Third party assurance will be considered when the external review has been undertaken.
Resources (RES)	Flexible Working – Variations to Contracts	Assurance	Deferred to 2017/18

11. 19 unplanned reviews were added to the Internal Audit Plan in the quarter. Of these, 12 are potential fraud or irregularity investigations.
12. The seven other reviews, which were sourced from the service contingency provision within the Internal Audit Plan, are detailed below:

Service Grouping	Audit	Audit Type	Reason
Children and Adult Services (CAS)	Villa Real School	Assurance	Service request to add to plan.
Neighbourhood Services (NS)	Taxi Licensing - Driver Licence Verification arrangements	Advice & Consultancy	Service request to add to plan.
Resources (RES)	Teachers' Pension Fund	Advice & Consultancy	Service request to add to plan.
Resources (RES)	Teaching Assistants – Review of Data Accuracy	Advice & Consultancy	Service request to add to plan.
Resources (RES)	Prepaid cards	Advice & Consultancy	Service request to add to plan.
Resources (RES)	Equal Pay Claims – Review of Calculations	Advice & Consultancy	Service request to add to plan.
Resources (RES)	Insurance – Employer Liability Process	Advice & Consultancy	Service request to add to plan.

Outstanding Management Responses to Draft Internal Audit Reports

13. There are no draft audit reports overdue at the time of writing.

Survey Response Rate

14. The table below sets out the response rate and average score, by Service Grouping, for the customer satisfaction surveys issued during the period up to the end of June 2016.

Service Grouping	Surveys issued	Surveys returned	% returned	Av. score
Assistant Chief Executive (ACE)	2	2	100	4.1
Children and Adult Services (CAS) excluding Schools	10	8	80	4.7
Children and Adult Services (CAS) - Schools	4	2	50	4.8
Neighbourhood Services (NS)	6	4	67	4.3
Regeneration and Economic Development (RED)	5	4	80	4.5
Resources (RES)	12	12	100	4.4
TOTAL	39	32	82	4.5

Responses to Audit Findings and Recommendations

15. Details of the numbers of High and Medium priority ranked recommendations that have been raised and those that are overdue, by Service Grouping, are presented in Appendix 4.
16. A summary of progress on the actions due, implemented and overdue, as at 30 June 2016, is given in the table below:

Service Grouping	Number of Actions Due to be Implemented	Number of Actions Actually Implemented	Actions Overdue by Agreed Original Target Date	Actions with an Agreed Revised Target Date	Actions Overdue by Revised Target Date
Assistant Chief Executive (ACE)	19	16	3	3	0
Children and Adult Services (CAS)	159	152	7	7	0
Neighbourhood Services (NS)	296	283*	13	13	0
Regeneration and Economic Development (RED)	133	127**	6	6	0
Resources (RES)	385	369	16	16	0
TOTAL	992	947	45	45	0

* Note: Includes 5 high priority actions, which are to be followed up to confirm implementation.

** Note: Includes 1 high priority action, which is to be followed up to confirm implementation.

17. It is encouraging to note that, of the 992 actions due to be implemented, 947 (95%) have been implemented. The Chartered Institute of Public Finance and Accountancy (CIPFA), benchmarking exercise indicates that average performance in this area to be between 70% to 80%. At present the Council is delivering in excess of this target.
18. Details of the actions that are overdue, following their agreed original target dates, are included at Appendix 6.

Limited Assurance Audit Opinions

19. There have been five audits finalised in this quarter that have been issued with a 'limited assurance' opinion. These are:

Service Grouping	Service Area	Audit
Children and Adult Services (CAS)	Children Services	Supervised Spend (Leaving Care)
Children and Adult Services (CAS)	Education	Two Primary Schools
Neighbourhood Services (NS)	Culture and Sport	Leisure Centre Investigation
Regeneration and Economic Development (RED)	Transport and Contract Services	Transport – Contractual Arrangements

20. Further details of the findings from these audits are included within Appendix 7.

Employment Tribunal Outcome Review

21. County Council, at its meeting on Wednesday 28 October 2015, supported the following motion:

That this Council requests that the respective Cabinet Portfolio Holder instigate an inquiry with a report to Full Council setting out answers to how the recent Employment Tribunal compensation award payable to a former teacher, which escalated from originally £59,321 in 2008 to an estimated £1.5m, was allowed to happen, how this occurred and the lessons learnt from it'.

22. In February 2016 Internal Audit were requested by the Corporate Director, Children and Adult Services and the Corporate Director, Resources to complete an independent review in recognition of the Council motion of 28 October 2015 to look back on the process to determine what lessons should be learned in order to minimise the risk of any similar case ever happening again across the Council in the future.

23. A brief summary of this complex case is as follows;

- A claim was lodged with an Employment Tribunal in March 2007 for bullying and victimisation as a result of a Teacher making protected disclosures / complaints starting in 2004 against the Head Teacher at her school.
- In 2008 the Council received an Employment Tribunal's Judgment on liability. The Tribunal awarded compensation of £59,321 to the Teacher and made four recommendations for both the Council and School to implement.
- Due to financial pressures at the school, a redundancy exercise was formally initiated in 2009 where ultimately the Teacher's post was one of two to be declared redundant and was accordingly placed on notice.
- A Review of Remedies hearing was held in 2009 which allowed a further review of compensation payable to the Teacher based upon the non-compliance with its original recommendations.
- This led to the Teacher having additional claims for compensation in the Review of Remedies hearing and issuing a second case. The Teacher moved from being a current employee with ongoing but limited issues post the victimisation judgment to a dismissed employee giving rise to claims for unfair dismissal and vastly increasing the scope of the remedies from the first case.
- The subsequent judgement for career loss was based upon the Tribunal crediting the Teacher with future promotion to Deputy Head Teacher and then Head Teacher level by the age of 50 years with the consequent impact upon the totals for loss of future earnings and pension, this ultimately led to the payment of a sum of around £1.5m.

24. At the Audit Committee on 17 May 2016 as part of the internal audit progress report, members were informed that this piece of work had been requested and had been added to the Internal Audit Plan.
25. It is important to note that the review included examination of documents and tribunal judgements, some of which pre-dated Local Government Reorganisation (LGR). Therefore it was important to identify what controls are currently in place (post LGR) that could have led to a different outcome and further enhancement to these controls in order to give more assurance.
26. The Chief Internal Auditor and Corporate Fraud Manager delivered the outcomes of this review in the form of a detailed independent confidential report and presentation to County Council on Wednesday 20 July 2016. The full report was presented as a Part B item (excluding the Press and Public), this was due to the numerous personal references made to individuals within the written report. The Teacher who had been the recipient of the award was present when the report was presented to County Council in July and has subsequently been afforded a meeting with officers to discuss the findings and lessons learned from the investigation.
27. It was further agreed that the lessons learned would be presented to this Committee.
28. From the review completed by Internal Audit we identified those controls that in our opinion are currently in place, which could have assisted in preventing the eventual outcome had they been in place at the time. In addition we can give members the assurance that the following controls can help mitigate the risk of a similar case from happening again in future:

- i. The initial tribunal was critical of the witnesses that had attended and the reliability of the evidence they had supplied.*

Control

- The competency of potential witnesses in giving evidence and being able to support what they say in their witness statements is now assessed by Legal Services more thoroughly prior to any hearing after the Council has increased its dedicated support for employment law following LGR.

ii. Officers in the Education Service had allowed the case to continue for too long which had led to a breakdown of employee relations. The issues had not been escalated to a senior level and the relevant professional support services had not been engaged in a timely manner.

Control

- Senior client service officers are now better prepared on cases that will involve a hearing process. This is accomplished through both observation and discussion about the nature of issues faced.

- Cases are more closely monitored by Legal Services and HR. Officers recognise the need to escalate any growing problems earlier in the process and implement possible actions to de-escalate staffing disputes at an earlier stage than was the position in this case, including the use of mediation services available through the North East Regional Employers Organisation (NEREO) where appropriate.
 - Regular strategy meetings are convened between key officers to work closely together to highlight and discuss complicated issues as they arise to support the Council in making more informed and timely decisions. As a result, there is a greater sharing of lessons learned and experience gained from individual cases with those providing advice of a similar nature to services and schools.
 - Senior officers are engaged and work collectively in making strategic decisions for higher value cases. Issues are more readily escalated through the Corporate Director, Resources with CMT also being sighted on issues when required through improved performance management arrangements.
- iii. *The skills and ability of both the School Management and Governing Body had not been assessed in order to be confident they were well placed to suitably deal with the case.*

Control

- A more robust approach is in place within the Education Services in terms of reviewing teacher and governor training records and the monitoring of a school's ability to handle grievances/ Public Interest disclosures from staff, particularly where they relate to the Head Teacher or Deputy Head Teacher. This is completed with Education Link Officers and through Governing Body Health Checks completed by Education Services. There is also an evident closer working relationship between Schools, SGSS and HR/Legal on such issues.
- There is a more cautious approach taken generally to school based disputes and the ability of Governors to act and be seen to be acting independently of senior managers in the school. This is challenged and reviewed as part of strategy meetings on individual cases.
- Improved governance arrangements exist as a result of officers checking and monitoring training of Governors to act independently of school management and be seen to act authoritatively and without bias. This is checked as part of any Internal Audit in a school and is further challenged annually as part of the School Financial Value Standard (SFVS) process.
- There is greater oversight of schools' policies and practices that might hamper the Council's ability to manage or settle a case.

- iv. *There had not been the anticipation that the Teacher in question would request that the initial complaints that were made should be linked to having been selected for redundancy at the school. Advice had been provided to the School to re-perform the redundancy exercise which the school did not think was necessary so did not complete this.*

Control

- There is a tighter and more joined up approach when advising schools on selection for redundancy procedures where school staff are already in dispute with managers. This ensures all risks are considered and objective criteria are applied in scoring mechanisms to protect the School and Council against victimisation / unfair dismissal claims.
 - There is an increased awareness now that in complex cases of victimisation / discrimination there is a risk of medical evidence supporting a career loss approach and this is taken into account now in terms of preparing for Tribunal hearings and in dealing with outcomes.
 - The HR and Finance functions have now been unitised with Resources and dedicated first points of contact established for handling school related matters. This aids both the schools and enhances communication between support services.
 - Officers would reinstate and re-perform staffing reduction exercises where it is applicable or there is a financial risk of not doing so.
 - Officers now ensure that actions or remedies are enforced and would be prepared to impose intervention measures including suspension of budget delegations should a school fail to adhere to Council advice. This has been evidenced by the use of Notices of Financial Concern and implementing Interim Executive Bodies in schools in recent years where the situation merits it, something the Council was not inclined to do at the time of these events.
- v. *The Council initially agreed for the Tribunal to make recommendations as part of its judgment but then when the detailed recommendations were issued the Council subsequently attempted to challenge one of them. The review of remedies hearing was also critical of the Council and School's attempted implementation of the other detailed recommendations.*

Control

- There is a more cautious approach taken in terms of accepting Employment Tribunal recommendations as part of a Judgment on Remedies and officers now ask for an outline of the areas to be recommended.
- Financial Risk Assessments are completed with support from Legal Services to place the Council in a better position to determine most effective course of action to follow.

29. As mentioned in paragraph 28 the Internal Audit review also identified additional controls in order to further strengthen arrangements that are now in place, these are as follows:

- i. *The 2008 Employment Tribunal was critical of the initial investigations undertaken by SGSS Officers and the Chair of Governors, a view substantiated by Internal Audit.*

Control

- Investigating Officers must have the required skills and independence to ensure that investigations are undertaken in a robust and comprehensive manner. In this regard Internal Audit have offered its services even if only used in an advisory capacity when services complete grievance or disciplinary investigations.

- ii. *It is accepted and evidenced that relevant meetings are held between support services across the Council to discuss cases and the implementation of Employment Tribunal Judgements however these meetings are not formally documented.*

Control

- The relevant outcomes of Employment Tribunal judgements should be discussed and formally documented as part of the regular meetings between HR, SGSS and Legal to ensure that lessons are learned from individual cases.

Performance Indicators

30. A summary of our actual performance, at the end of June 2016, compared with our agreed targets is illustrated in Appendix 5.

Recommendations

31. Members are asked to note:

- The amendments made to the 2016/2017 Annual Audit Plan.
- Work undertaken by Internal Audit during the period ending 30 June 2016 and the assurance on the control environment provided.
- The performance of the Internal Audit Service during the period.
- Progress made by service managers in responding to the work of Internal Audit.
- The outcome of the review of the arrangements surrounding an Employment Tribunal that was reported to County Council on 20 July 2016.

Appendix 1: Implications

Finance

No direct implications as a result of this report.

Staffing

None

Risk

None

Equality and Diversity/Public Sector Equality Duty

None

Accommodation

None

Crime and disorder

None.

Human rights

None

Consultation

All Corporate Directors and Heads of Service.

Procurement

None

Disability Issues

None

Legal Implications

None