

TEESDALE DISTRICT COUNCIL

INTERNAL AUDIT SERVICE

Legal Services

Key Contact:	Chief Governance Officer, Mike Dennis
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Reviewed by	Avril Wallage, Audit Manager Durham County Council
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Assurance Opinion	LIMITED

1. INTRODUCTION

1.1. In accordance with the Council's annual audit plan for 2008/9 an audit has been carried out of Legal Services carried over from 2007/8.

1.2. The audit was undertaken during May 2008.

1.3. The review involved a number of interviews with officers and testing of expected controls. The time and assistance afforded by these officers was greatly appreciated.

2. OBJECTIVES

2.1. The overall objective of the review is to provide a risk based assessment of the systems in place in order to form an opinion as to whether they are robust and provide an adequate basis for effective control.

3. STATEMENT OF RESPONSIBILITY

3.1. It should be noted that the establishment of adequate control systems is the responsibility of management and that an internal audit review is conducted on a test basis. Therefore, while the implementation of internal audit recommendations can reduce risk, and may lead to the strengthening of these systems of control, responsibility for the management of these risks remains with the service manager.

4. SCOPE

4.1. The review undertaken by Internal Audit forms part of the overall assurance process now required by the Chief Executive and the Leader for inclusion within the Annual Governance Statement which is part of the Authority's Statement of Accounts.

4.2. The audit examined the operation of the current contract with Darlington Borough Council to provide assurance that:

- The contract was well managed
- Performance of the contractor was regularly monitored and,
- Services standards were as expected.

4.3. The main risks associated with this review were identified as being:

- Legal Advice is not sought when necessary and the Council fails to fulfil its legal obligations
- Legal advice/services are not timely disrupting Council business
- Poor performance is not detected and corrective action is not taken to address
- Poor Value for Money

4.4. The report is intended to present to management the findings and conclusions of the audit. Wherever possible the findings and recommendations have been discussed with members of staff and their views taken into account.

5. EXECUTIVE SUMMARY

5.1. Contract performance monitoring arrangements of the legal service within Teesdale District Council are ineffective. The service provided by Darlington is predominately used by the planning service who considered the service to be poor, mainly as a result of slow response times. A number of cases referred several months ago are still outstanding. Whilst it is acknowledged that some cases may be complex and require numerous exchange of details between client and contractor, examples were disclosed at audit where the time taken to resolve the case was much longer than officers concerned had expected. It should, however, be noted that service users have also accepted that there is a lack of monitoring and pursuit on their part. Whilst some service improvement has been reported recently, concerns over slow response time remain and can impact on the effectiveness of council services and may discourage legal opinion being sought. The lack of appropriate, timely legal advice increases the risk to the Council of acting illegally and may have an impact on the reputation of the Council.

5.2. Despite these concerns, some assurance can be given in relation to the Council fulfilling its legal obligations as the contractor is not responsible for advising on legislative or statutory changes. This remains the overall responsibility of the Council's Monitoring Officer who disseminates advice from Eversheds (Legal firm specialising in Local Government) and ACSES (Association of Council Secretaries and Solicitors). In addition the consideration of legal implications is a standard item on all Committee reports providing some assurance that any statutory requirements are considered as a matter of routine in the Council's decision making process. In addition, it is acknowledged that legal service provision within the Council has been enhanced by the informal engagement of a part time locum solicitor on a consultancy basis. Further assurance can be given in that service managers have a responsibility to keep abreast of any legal requirements that affect the operation of their service. It is anticipated that work being undertaken within the LGR workstreams, and the networking opportunity that this provides, will strengthen the support to service managers and help them to fulfil these responsibilities.

5.3. A number of areas were identified where improvements in controls are necessary to provide further assurance.

5.4. Details of all areas that require improvement were discussed with the key contact at the closure of the audit. Recommendations have been made to address these findings. Recommendations made reflect the

fact that the contract is due to expire at the end of March and that new arrangements will need to be put in place as a result of Local Government Reorganisation (LGR) Recommendations are ranked High, Medium or Low according to their level of priority.

5.5. Areas reviewed where controls were ineffective, together with the resultant recommendations are summarised in the action plan at Section 7.

6. AUDIT ASSURNACE OPINION

6.1. Internal Audit has adopted the following scale of assurance that can be given to indicate the effectiveness of the control environment and the likelihood of control objectives being met for the area under review.

Level of Assurance	Definition
Full Assurance	There is a sound system of controls in place & those controls are consistently applied & are fully effective. Control objectives are fully met.
Substantial Assurance	There is a sound system of control in place but some of the controls are not consistently applied or fully effective. Control objectives are largely achieved.
Moderate Assurance	There is basically a sound system of control in place, but there are weaknesses and evidence of non-compliance with or ineffective controls. Control objectives are often achieved.
Limited Assurance	The system of control is weak & there is evidence of non-compliance with controls that do exist. Control objectives are sometimes achieved.
No Assurance	There is no system of control in place and control objectives are rarely or never achieved.

7. The significance of the control weakness identified in this review enables us to give a **limited** assurance opinion.

8. ACTION PLAN

8.1. Our findings together with the associated risks and resultant recommendations are summarised below.

Ref	Finding	Risk	Recommendation	Ranking	Responsibility	Response	Implementation
R1	Contract performance management arrangements were considered to be ineffective.	<p>Poor performance is not addressed.</p> <p>Legal advice/services are not timely disrupting Council business.</p> <p>Poor value for money.</p> <p>Legal advice not sought when necessary.</p>	<p>A central record is kept of all cases referred, in progress and completed.</p> <p>A meeting is arranged with the Contract Manager, and principal service users, to discuss performance issues, establish the current status of each case and agree formal monthly monitoring and reporting arrangements. All action agreed with the contractor and service users should be confirmed in writing and followed up.</p>	<p>Medium</p> <p>High</p>	<p>Chief Governance Officer</p> <p>Chief Governance Officer</p>	<p>Agreed.</p> <p>Agreed. Preliminary discussions held with Legal Services Manager, Darlington BC. Meeting to be arranged to consider findings of audit, in general, and implementation of more formal monitoring arrangements.</p>	<p>31/10/08</p> <p>30/09/08</p>
R2	Formal arrangements have yet to be agreed in relation to cases that will be in progress when the contract expires at 31/3/09 or for the referral of new cases in the lead up to LGR.	Legal advice is not timely disrupting the continuation of Council services.	<p>Formal arrangements are agreed with the Contractor and Durham County Council regarding the continuation of service beyond 31/3/09.</p> <p>Consideration be given, through the LGR programme, to cease referring new cases to the Contractor and use the resources of the Durham authorities to deliver the service for Teesdale for the remainder of year.</p>	Medium	Chief Governance Officer	Agreed. Contract with Darlington BC expires 31 March 2009 and legal service will be provided by County Durham Council from 1 April. DCC Head of Legal Services has been made aware of general findings and recommendations of audit. Agreement in principle that DCC provide support where possible;	Ongoing until vesting day

APPENDIX A

						unlikely to be able to offer any significant support unless/until legal staffing resources across the county can be strengthened, due to loss of key staff across County/District Councils. Will continue to raise this issue at Monitoring Officer/LGR group meetings, and will raise with new HoLS (or equivalent) of new Council once postholder is appointed.	
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KEY TO RECOMMENDATION RANKING

HIGH PRIORITY

A fundamental control issue that is material or represents a major risk to the Council’s system of internal control. This requires immediate action by management.

MEDIUM PRIORITY

A significant control issue or risk that should be addressed by management within an agreed period.

LOW PRIORITY

A control issue that if corrected will enhance the control environment or promote value for money.