



Tuesday, 18 July 2017

AUDIT COMMITTEE

A meeting of **Audit Committee** will be held on

Wednesday, 26 July 2017

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,
Torquay, TQ1 3DR

Members of the Committee

Councillor Tyerman (Chairman)

Councillor Barnby

Councillor Bent

Councillor O'Dwyer

Councillor Pentney

Councillor Stringer

A prosperous and healthy Torbay

For information relating to this meeting or to request a copy in another format or language please contact:

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AUDIT COMMITTEE AGENDA

1. **Apologies**
To receive any apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of the Audit Committee held on 31 May 2017.
3. **Declarations of interests**
 - (a) To receive declarations of non pecuniary interests in respect of items on this agenda
For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
 - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda
For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.
5. **The Audit Findings for Torbay Council** (To Follow)
To consider a report on the above.
6. **Statement of Accounts and Annual Governance Statement 2016/17** (To Follow)
To consider a report that seeks approval for the Statement of Accounts for the year ended 31 March 2017 and the Annual Governance Statement.
7. **Annual Audit Report 2016-17** (Pages 7 - 37)
To consider a report that reviews work undertaken during 2016/17 and provides an opinion on the overall adequacy and effectiveness of the Authority's internal control environment.

8. **Corporate Fraud Update** (Pages 38 - 72)
To note a report that provides an update from the Council's Fraud Officer.
9. **Apprenticeship Levy** (Pages 73 - 81)
To note a report that seeks to provide assurance to Members on the Council's preparations for the introduction of the Apprenticeship Levy.
10. **Regulatory of Investigatory Powers Act 2000** (Pages 82 - 84)
To note the report that provides Members with an update on any current Regulatory of Investigatory Powers Act 2000.



Minutes of the Audit Committee

31 May 2017

-: Present :-

Councillor Tyerman (Chairman)

Councillors Bent, Barnby, O'Dwyer and Stocks

91. Election of Chairman/woman

Councillor Tyerman was elected Chairman for the 2017/2018 Municipal Year.

92. Appointment of Vice-Chairman/woman

Councillor O'Dwyer was appointed Vice-Chairman for the 2017/2018 Municipal Year.

93. Apologies

Apologies for absence were received from Councillor Stringer, Alex Walling – Grant Thornton and Rob Hutchins – Internal Audit.

94. Minutes

The Minutes of the meeting of the Audit Committee held on 23 March 2017 were confirmed as a correct record and signed by the Chairman.

95. Audit Committee Terms of Reference

Members noted the Audit Committee's Terms of Reference.

96. Annual Governance Statement 2016/2017

In accordance with the Committees Terms of Reference, Members considered the draft Annual Governance Statement (AGS). Members were informed that the AGS provides the opportunity for the organisation to review its processes, controls and objectives and to provide assurance to Members, Senior Officers and stakeholders as to the reliability of its statement of accounts and probity of its operations.

The statement is wide ranging and sets out publicly the extent to which the Council complies with its own code of corporate governance, including how it monitored and evaluated the effectiveness of its governance arrangements in the year and on any planned changes in the coming year.

Members felt that some of the governance issues had potentially been glossed over and requested that they have the opportunity to meet with the Assistant Director of Corporate and Business Services in order to have a more in-depth conversation of the issues raised. Members also felt Appendix 2 should be removed as it did not add anything and included achievements that were outside the period covered by the AGS.

Resolved:

That the draft Annual Governance Statement be agreed and forwarded to the External Auditors for comment subject to:

- i) The removal of Appendix 2 and any references made to Appendix 2 being amended; and
- ii) The first paragraph under 'Community and Service User Engagement' being amended to read:

'There are also a number of Community Partnerships across Torbay which provide an opportunity for **those** people who live or work in the different parts of Torbay to discuss issues of common concern, influence the way in which services are provided and improve their local area.'

97. Treasury Management Outturn Report

The Committee considered a report that informed Members of the performance of the Treasury Management function in supporting the provision of Council services in 2016/17 through management of cash flow, debt and investment operations and the effective control of the associated risks. The Head of Finance detailed the 'headline points' of the report and explained these had resulted in a very different picture to 12 months ago and the Local Authority was transitioning from a low borrowing authority to an actively borrowing authority.

Members referred to Funding Circle operations noting that Funding Circle had recently advised that they are changing their business plan to focus on loans to small businesses and will scale down new property development loans. Members therefore requested, the Chief Finance Officer review the restriction he placed upon Funding Circle operations to only loans where the Council held a first charge on borrower assets.

Members also requested paragraphs 8.4 to 8.10 be reworked to provide greater clarity, with the Council's debt commitments being separated into debt as a result of the Council's core responsibilities and debt incurred as a result of investment in order to avoid confusion when presented to Council.

Resolved:

That the report be noted subject to paragraphs 8.4 to 8.10 being re-worded.

98. Progress Report and Update Year ended 31 March 2017

Members noted the update report that amongst other things advised Members that the Council's External Auditors would be commencing their preparatory work on the statement of accounts imminently.

Members sought the views of Mark Bartlett (Audit Manager for Grant Thornton) on local authorities purchasing assets outside of their area. Members were informed that various local authorities had directly purchased assets themselves with others having done so via a management company, Mark advised the challenge posed to the local authority would be 'what powers do you have to purchase assets out of area as such purchases would not be permissible under the well-being powers'.

Members also referred to the Council's pension liability and requested an all Member briefing be arranged prior to the Audit Committee considering the Council's Statement of Accounts to cover the following topics:

- The recent actuarial review;
- The Brunel Partnership; and
- The 16/17 year end actual valuation.

Chairman/woman

Internal Audit

Annual Audit Report 2016-17

Torbay Council
Audit Committee

Pages
July 2017

Robert Hutchins
Head of Audit Partnership

Auditing for achievement

Agenda Item 7

Introduction

The Audit Committee, under its Terms of Reference contained in Torbay Council's Constitution, is required to consider the Chief Internal Auditor's annual report, to review and approve the Internal Audit programme, and to monitor the progress and performance of Internal Audit.

The Accounts and Audit (Amendment) (England) Regulations 2015 introduced the requirement that all Authorities need to carry out an annual review of the effectiveness of their internal audit system, and need to incorporate the results of that review into their Annual Governance Statement (AGS), published with the annual Statement of Accounts.

The Internal Audit plan for 2016/17 was presented and approved by the Audit Committee in March 2016. The following report and appendices set out the background to audit service provision; a review of work undertaken in 2016/17, and provides an opinion on the overall adequacy and effectiveness of the Authority's internal control environment.

The Public Sector Internal Audit Standards require the Head of Internal Audit to provide an annual report providing an opinion that can be used by the organisation to inform its governance statement. This report provides that opinion.

Expectations of the Audit Committee from this annual report

Audit Committee members are requested to consider:

- the assurance statement within this report;
- the basis of our opinion and the completion of audit work against the plan;
- the scope and ability of audit to complete the audit work;
- audit coverage and findings provided;
- the overall performance and customer satisfaction on audit delivery.

In review of the above the Audit Committee are required to consider the assurance provided alongside that of the Executive, Corporate Risk Management and external assurance including that of the External Auditor as part of the Governance Framework (see appendix 1) and satisfy themselves from this assurance for signing the Annual Governance Statement.

Robert Hutchins
Head of Devon Audit Partnership

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Opinion Statement

Overall, based on work performed during 2016/17 and our experience from the current year progress and previous years' audit, the Head of Internal Audit's Opinion is of "Significant Assurance" on the adequacy and effectiveness of the majority of the Authority's internal control framework. The exception to this is in relation to Public Health and Children's Services where opinions are of "Limited Assurance" due to the level of audit activity.

This opinion statement will support Members in their consideration for signing the Annual Governance Statement see appendix 1. Assurance over arrangement for adult social care is mainly provided by colleagues at Audit South West, the Internal Audit provider for Health Services, who provides a separate letter of assurance.

Internal Audit assesses whether key, and other, controls are operating satisfactorily within audit reviews, and an opinion on the adequacy of controls is provided to management as part of the audit report. All final audit reports include an action plan which identifies responsible officers, and target dates, to address control issues identified. Implementation of action plans is the responsibility of management yet may be reviewed during subsequent audits or as part of a specific follow-up process.

Directors have been provided with details of Internal Audit's opinion on each audit review to assist them with compilation of their individual annual governance assurance statements. If significant weaknesses have been identified in specific areas, these have been considered by the Authority in preparing its Annual Governance Statement which will accompany the published Statement of Accounts for 2016/17.

Performance against plan is generally as expected, with any changes having been agreed with management. Changes relate to a proportion of the plan that has been deferred. However, we feel, based on previous year's work that the framework of control remains in operation. Further explanation is provided in the sections on Basis for Opinion at appendix 2.

This statement of opinion is underpinned by:

Internal Control Framework

The control environment comprises the Council's policies, procedures and operational systems and processes in place to:

- Establish and monitor the achievement of the Council's objectives;
- Facilitate policy and decision making;
- Ensure the economical, effective and efficient use of resources;
- Ensure compliance with established policies, procedures, laws and regulations;
- Safeguard the Council's assets and interests from losses of all kinds, including those arising from fraud, irregularity or corruption.

During the year, core financial and administrative systems were reviewed by Internal Audit either through specific reviews (e.g. debtors, creditors, payroll & Main Accounting) or generally in the reviews undertaken in respect of directorate systems. The Council's overall internal control framework operated effectively during the year. Where internal audit work has highlighted instances of none or part compliance, none are understood to have had a material impact on the Authority's affairs.

Risk Management

Risk Management process at Strategic level is reasonably well embedded and integrated with performance monitoring. There remains work to be done to integrate the strategic risks with operational level to provide an integrated organisational approach to managing risk. ICT Continuity and Disaster Recovery, Corporate Business Continuity and Emergency Planning require integration into the wider risk management framework.

Governance Arrangements

Governance arrangements have been reviewed in the areas of Transformation, System Implementation and Equality Impact Assessments and found to be effective with opportunities to improve capacity or alignment to business need in these areas.

The Information Security Group continues to provide governance in relation to management of information.

Performance Management

The Transformation Programme performance is monitored by the Transformation Board.

For other contracts, monitoring and governance is variable across the Authority and opportunities for improvement identified.

Performance of ICT provision is monitored albeit at a reduced level. The infrastructure relies upon aged components and requires investment.

Full Assurance	Risk management arrangements are properly established, effective and fully embedded, aligned to the risk appetite of the organisation. The systems and control framework mitigate exposure to risks identified & are being consistently applied in the areas reviewed.	Limited Assurance	Inadequate risk management arrangements and weaknesses in design, and / or inconsistent application of controls put the achievement of the organisation's objectives at risk in a number of areas reviewed.
Significant Assurance	Risk management and the system of internal control are generally sound and designed to meet the organisation's objectives. However, some weaknesses in design and / or inconsistent application of controls do not mitigate all risks identified, putting the achievement of particular objectives at risk.	No Assurance	Risks are not mitigated and weaknesses in control, and / or consistent non-compliance with controls could result / has resulted in failure to achieve the organisation's objectives in the areas reviewed, to the extent that the resources of the Council may be at risk, and the ability to deliver the services may be adversely affected.

Value Added

We know that it is important that the internal audit service seeks to "add value" whenever it can. We obtained feedback from those audited during the year who considered we were able to add value, e.g.:

'points us in the direction for improvements in control and can also now discuss how other customers may have adapted procedures etc'.

We believe internal audit activity has added value to the organisation and its stakeholders by:

- providing objective and relevant assurance;
- contributing to the effectiveness and efficiency of the governance, risk management and internal control processes.

Senior Management has found our engagement, support as a "trusted advisor" effective and constructive in these significantly changing times.

Our work has identified specific added value benefits in key areas and in mitigating key risks. Notable benefits have been reported in the following areas:

Corporate and Business Services

- ongoing support to the transformation programme, including horizon scanning, P3M3 (Portfolio, Programme and Project Management Maturity Model) self-assessment, Channel Shift, business case review template development and any advice and guidance as requested;
- advice and support to the development of risk management and its wider integration with other key business areas;
- continued attendance and active participation in the Council's Information Security Group;
- preliminary project support work on 'Ethics and Culture', the principles of which are now being incorporated into our work on the Transformation Programme;
- confirmation of Tor Bay Harbour Authority Port Marine Safety Code Compliance;
- a review of Tor2 ICT Integration to support the contract review process and identify potential areas for improvement;
- review of the business case in relation to the Council's GDPR (General Data Protection Regulations) project which requires organisational compliance by May 2018;

Community and Customer Services

- ICT Strategy review to support future strategy development in line with the Council's Transformation programme;
- review of Tor2 ICT Integration to support the contract review process and identify potential areas for improvement;
- ongoing support to various ICT system developments in line with project requirements and timescales, for example the harbour mooring system, library system; HR/Payroll MyView projects;
- identification of an error in relation to the use of formula for concessionary fares resulting in a potential substantial saving;
- assistance to the implementation of risk based verification software;
- examination of practices at the Velopark in relation to benefits realisation;
- review of the commercial viability in relation to sports pitch leases;
- support to the public toilets review project;
- review of the wider debt recovery practices across the Council.

Children's Services

- assistance in maintaining the impetus in management action plans to address previously identified risks through an annual and robust follow up exercise.

Adult Services and Public Health

- inclusion of the NRS Joint Equipment Store audit in the planned work post Audit Committee plan approval as a result of a flexible audit plan approach and effective client liaison.

Schools

The Partnership has supported the development of School information "Dashboards" for clients to provide the internal audit view of the financial management of individual schools based on the most recent audit visit. The provision of internal audit's performance data provides a greater focus on schools causing concern in the wider control environment. This information has been used in assessing overall status for schools through vulnerable budget reviews, governance and school improvement. The result of our input has been:

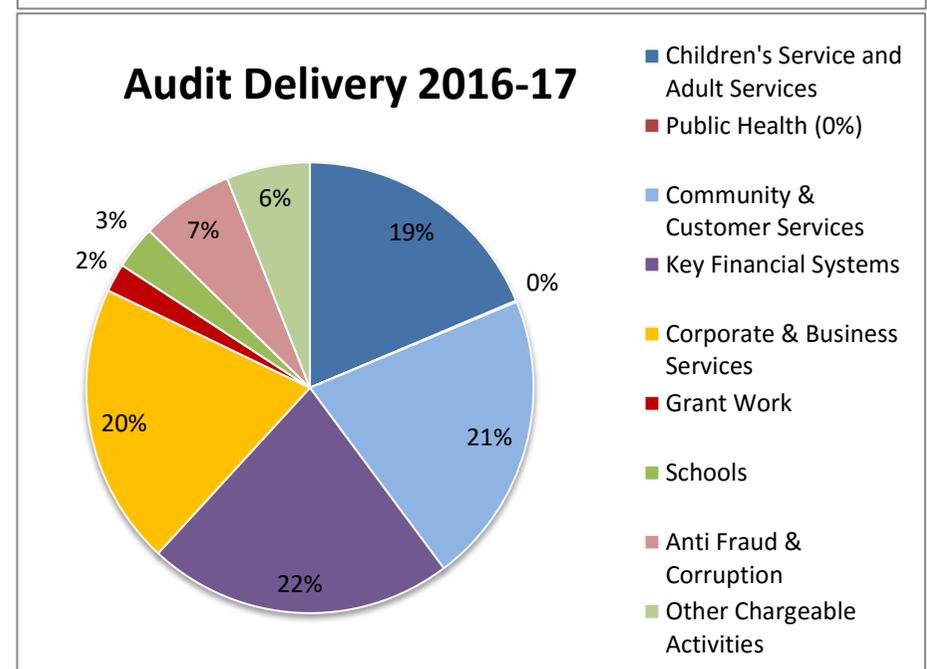
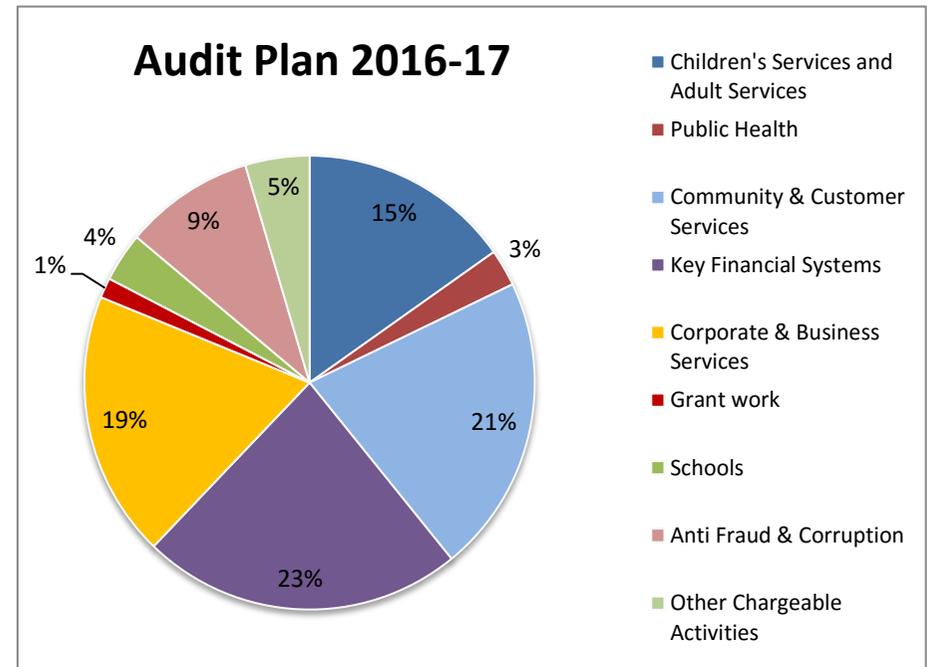
- safeguarding reviews with dip tests on the single central record;
- intervention and review of schools through audit follow-up, governor support and school improvement to raise standards.

Audit Coverage and performance against plan

The pie charts right shows the breakdown of audit days planned by service area / type of audit support provided. The balance of work has varied slightly during the year as can be seen from comparison with the second chart, and variations have been with full agreement of the client.

Appendix 4 to this report provides a summary of the audits undertaken during 2016/17, along with our assurance opinion. Where a “high” or “good” standard of audit opinion has been provided we can confirm that, overall, sound controls are in place to mitigate exposure to risks identified; where an opinion of “improvement required” has been provided then issues were identified during the audit process that required attention. We have provided a summary of some of the key issues reported that are being addressed by management. It should be pointed out that we are content that management are appropriately addressing these issues.

Appendix 5 shows the performance indicators for audit delivery in 2016/17 against the revised audit plan. It will be noticed that there was a small variation in the total number of audit days provided during the year. When we prepare our plans we make an educated assessment of the number of days that an audit is likely to take. When the fieldwork is actually completed there is inevitably a variance from the planned days. In addition we provide an allowance for work on areas such as fraud and corruption; in some years the requirement will exceed the planned budget and in others the need for our resource will be less than planned. It should also be noted that some audits required a richer mix of staff resource due to the complexity / sensitivity of the area under review.



Summary audit results

Corporate and Business Services

In our opinion, internal controls continue to operate effectively and where recommendations for improvements have been made, action plans have been agreed with management.

Material systems controls have either been maintained or improvements are being made to address previously identified weaknesses. Whilst a number of weaknesses exist, management are aware of these issues, and have either accepted the related risk, or are taking action to address them.

The wider audit work in the Corporate Debt audit reported last year identified the disjointedness of the Council's approach to debt recovery and this links to our findings for the Sundry Debtor audit and action to resolve continues;

The Transformation Programme is critical to the organisation; our work found that resource is small in terms of the core/dedicated team; and may not be sufficient given the scale of the programme.

GDPR compliance is statutory with effect from May 2018. We found that the current project requires broadening and greater focus.

Risk management still requires linking between strategic and operational levels of the organisation.

Tor Bay Harbour income processes in relation to a number of specific operational areas could be improved in order to maximise this already successful business unit, and we note these are now being addressed.

Other than the areas detailed above, no significant concerns have been identified from our work, including that on grants, and management have responded positively to any recommendations for improvement.

Community & Customer Services

In our opinion, internal controls continue to operate effectively and where recommendations for improvements have been made, action plans have been agreed with management.

Material systems controls within this service area have either been maintained, or improvements are being made to address previously identified weaknesses. Whilst a number of weaknesses exist, management are aware of these issues, and have either accepted the related risk, or are taking action to address them.

We have rated the Council's corporate Business Continuity arrangements as having "Fundamental Weaknesses" as arrangements are inconsistent and insufficient to ensure continuity of service corporately across all the Council's critical functions.

We consider that TOR2 management and the Board have not historically provided effective governance of the JVCo, however, we note the recent improvements in relation to production and approval of the TOR2 Business Plan, along with changes to Board attendance. The use of the IT systems within the complex infrastructure between all parties is not providing intended operational benefits.

Opportunities exist for improvements in the control and governance framework for the Museum Services, Sports Pitches management, Velopark operation, Concessionary Fares reimbursement levels, Discretionary Social Fund administration, Housing Options processing and UK PMS System reconciliation.

ICT projects are reasonably well managed although balancing project requirements and business as usual will present challenges, in particular resourcing ICT within the Transformation Programme. ICT Change control arrangements require formalising and recording. The integrated approach to ICT Continuity & Disaster Recovery remains ongoing along with formulation of an ICT Strategy, however this is dependent on organisational factors. Recovery is becoming more critical to organisations due to the continued cyber threats. General Data Protection Regulations compliance is statutory with effect from May 2018. We found that the current project requires broadening and greater focus.

Children's Services

Whilst the number of audit reviews undertaken within Children's Services has increased in 2016/17, compared to the previous financial year, the assurance opinion provided for the majority of individual audit reviews has been one of 'Improvements Required'. As a consequence we cannot provide assurance that the overall control framework is working effectively

The review of Educational, Health and Care Plans (EHCP) - Ofsted Framework identified inadequate recording of Panel minutes and the decisions made and that the quality and quantity of partner information and statutory documentation received within the process was not timely or complete.

The Care Leavers - Transition Plans review identified additional staff training being required to ensure consistency in the quality of pathway plans. Pathway plans themselves require review to ensure coverage of all statutory requirements. At the time of audit good practices and improvements had already been identified by the team and were in the initial stages of implementation.

The Children's Services Five Year Plan has been replaced by a Medium Term Financial Strategy 2017-2021; working within the available financial envelope whilst balancing the needs of children / young people continues to present a major significant risk to the authority.

Unfortunately the review of the processes within the LAC - Referrals audit was hampered by issues accessing information held in the PARIS system, in that sections of information could not be reviewed as access was denied, an issue that was reported to and known by the PARIS team. In addition, we were unable to obtain supporting information for all elements of the audit as staff were unable to find the time to provide the evidence we asked for. This has impacted on the viability of the recommendations made within the draft report issued.

Adult Services and Public Health

We are unable to provide an overall opinion at this time due to the limited work undertaken within these directorate areas. We can, however, comment that in terms of our audit work completed during 2016/17 and where recommendations have been made, action plans have been agreed with management.

The Adult Services Directorate incorporates both the Joint Commissioning Team functions and those functions provided and audited by the NHS Trust Provider. Assurance over arrangements for adult social care is mainly provided by colleagues at Audit South West, the internal audit provider for Health services. Audit South West provides a separate letter of assurance to the Director of Adult Services and the Council's S151 Officer. Devon Audit Partnership provides support and internal audit input on key areas as agreed with the Director of Adult Services.

Schools

We have made good progress in the delivery of our audit plan to schools and schools have again been very appreciative of the quality of our service. Our overall opinion is one of Good Standard with all schools audited in 2016/17 deemed to be of either high or good standard. In general, the systems and controls in schools mitigate the risks identified in many areas.

The key matters arising from the audits are the:

- Governance arrangements being published in a readily accessible format of the school website;
- Maintenance of the Single Central Record not always compliant with 'Keeping Children Safe in Education';
- Management of online cash collection systems.

Recommendations have been made to reduce risks and in other areas, recommendations made serve to strengthen what are reasonably reliable procedures.

The Schools Financial Value Standard is now an established tool for maintained schools as a self-assessment of their local financial management and schools are required to annually submit their self-assessment to their local authority by 31st March. As at that date, there were 12 maintained schools within Torbay Council and all but one of these schools had formally submitted a signed self-assessment.

Fraud Prevention and Detection

Counter-fraud arrangements are a high priority for the Council and assist in the protection of public funds and accountability.

Devon Audit Partnership (DAP) have taken on a liaison role with the recently appointed corporate fraud officer; the key outcomes of this role are the identification and investigation of external frauds.

The Cabinet Office now run the national data matching exercise (National Fraud Initiative – NFI) every two years. The majority of data matching for this involves the investigation of potential external fraud committed against the Authority, i.e. individuals or bodies external to the Council. This area of NFI is now shared with the corporate fraud officer, with DAP providing advice and undertaking the internal matching investigations ie Creditors and Payroll.

Matching reports for the following data sets are also relevant to the Council.

- Payroll
- Creditors
- Insurance
- Residential Care Homes
- Concessionary Travel Passes
- Blue Badges
- Housing Benefits
- Housing Waiting Lists
- Council Tax Single Person Discounts
- Council Tax Rising 18's
- Personal Budgets (Direct Payments)

Linked to the CIPFA requirements, DAP in conjunction with the corporate fraud officer, completed the CIPFA Fraud and Corruption Tracker (CFaCT), as part of the annual 'Protecting the Public Purse', Fraud and Corruption survey, which feeds into a national overview of fraud within public bodies.

DAP has continued to undertake an annual monitoring of staff internet use and to date found no significant concerns. This provides assurance that action has been effective and such use remains within policy. Periodic fraud bulletins are also produced and published on DAP's website.

We continue to attend the Financial Ethical and Probity Group and provide advice and support in relation to irregularities within the organisation.

Irregularities - During 16/17, Internal Audit have carried out, or assisted in sixteen new irregularity investigations. Analysis of the types of investigation and the number undertaken shows the following:-

Issue	Number
Employee Conduct	6
Poor Procedures	5
Financial Irregularity	3
IT Misuse	1
Tenders and Contracts	1

Employee conduct issues investigated included; a whistleblowing allegation regarding work place practices; raising of highways works orders; email review to support a bullying investigation; and falsification of timesheets and emails to hide mistakes.

Poor procedures issues investigated included; contract extension arrangements; exit packages for redundancy and flexible retirement; appropriate decision making practices within Children's Services; assistance with a PCN complaint, and funding concerns raised by the DfE.

Alleged financial irregularities included; arrangements leading up to the LED screen event; funds used for a departmental 'away day'; and falsification of site visits and mileage claims.

Other irregularities included a review of a team's internet usage, and alleged abuse of public office.

The Council has responded appropriately in relation to these issues demonstrating its intolerance to irregular practice.

Professional Standards and Customer Service

Conformance with Public Sector Internal Audit Standards (PSIAS)

Conformance - Devon Audit Partnership conforms to the requirements of the PSIAS for its internal audit activity. The purpose, authority and responsibility of the internal audit activity is defined in our internal audit charter, consistent with the *Definition of Internal Auditing*, the *Code of Ethics* and the *Standards*. Our internal audit charter was approved by senior management and the Audit Committee in March 2017. This is supported through DAP self-assessment of conformance with Public Sector Internal Audit Standards & Local Government Application note.

Quality Assessment – through external assessment December 2016 “DAP is considered to be operating in conformance with the standards”. External Assessment provides independent assurance against the Institute of Internal Auditors (IIA) Quality Assessment & Public Sector Internal Audit Standards (PSIAS). The Head of Devon Audit Partnership also maintains a quality assessment process which includes review by audit managers of all audit work. The quality assessment process and improvement is supported by a development programme.

Improvement Programme – DAP maintains a rolling development plan of improvements to the service and customers. All recommendations of the external assessment of PSIAS and quality assurance were included in this development plan and have been completed. This will be further embedded with revision of our internal quality process through peer review. Our development plan is regularly updated and a status report was reported to the Management Board in October 2016.

Performance Indicators

Overall, performance against the indicators has been very good with improvements made on the previous year (see Appendix 5). We are aware that some of our draft and final reports were not issued to the customer within the agreed timeframes (15 working days for draft report and 10 working days for final report). We continue to review where performance in this area can be improved.

Customer Service Excellence

DAP has been successful in re-accreditation by G4S Assessment Services of the CSE standard during the year.

During the period we issued client survey forms with our final reports. The results of the surveys returned are, although low in number, very good and again are very positive. The overall result is very pleasing, with near 98% being "satisfied" or better across our services, see appendix 6. It is very pleasing to report that our clients continue to rate the overall usefulness of the audit and the helpfulness of our auditors highly.

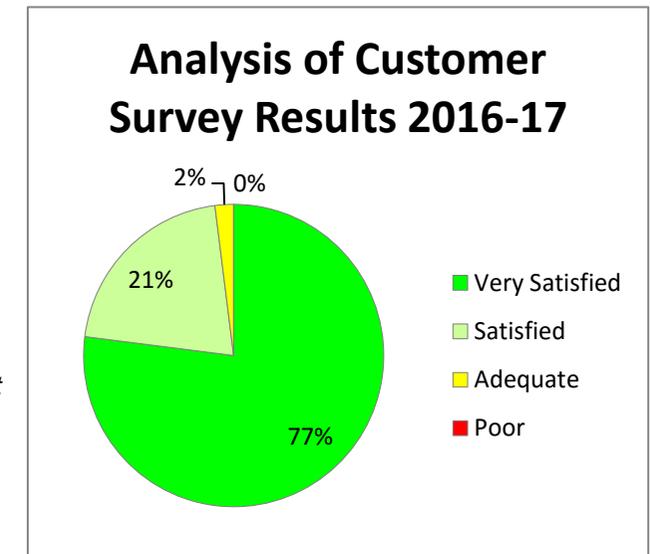
Added Value

We have had some very complimentary feedback some of the specific examples of where our team have been able to add value to the Council include:-

'Making my services aware of improvement areas which we may not have identified ourselves. Also enforcing the view that maybe there is a bigger more Council wide issue to be addressed rather than just an element of one/more of my service areas'.

'Able to realise additional income potential'.

'It gave credence and an external opinion to some concerns / areas of development we were looking at and gave options for next steps for these'.



Appendix 1 - Annual Governance Framework Assurance

The conclusions of this report provide the internal audit assurance on the internal control framework necessary for the Committee to consider when reviewing the Annual Governance Statement.

The Annual Governance Statement provides assurance that

- the Authority's policies have been complied with in practice;
- high quality services are delivered efficiently and effectively;
- ethical standards are met;
- laws and regulations are complied with;
- processes are adhered to;
- performance statements are accurate.

The statement relates to the governance system as it is applied during the year for the accounts that it accompanies. It should:-

- be prepared by senior management and signed by the Chief Executive and Chair of the Audit Committee;
- highlight significant events or developments in the year;
- acknowledge the responsibility on management to ensure good governance;
- indicate the level of assurance that systems and processes can provide;
- provide a narrative on the process that has been followed to ensure that the governance arrangements remain effective. This will include comment upon;
 - The Authority;
 - Audit Committee;
 - Risk Management;
 - Internal Audit;
 - Other reviews / assurance.
- Provide confirmation that the Authority complies with CIPFA / SOLACE Framework *Delivering Good Governance in Local Government*. If not, a statement is required stating how other arrangements provide the same level of assurance



The AGS needs to be presented to, and approved by, the Audit Committee, and then signed by the Chair.

The Committee should satisfy themselves, from the assurances provided by the Corporate Risk Management Group, Executive and Internal Audit that the statement meets statutory requirements and that the management team endorse the content.

Appendix 2 - Basis for Opinion

The Chief Internal Auditor is required to provide the Council with an opinion on the adequacy and effectiveness of its accounting records and its system of internal control in the Council. In giving our opinion, it should be noted that this assurance can never be absolute. The most that the internal audit service can do is to provide reasonable assurance, formed from risk-based reviews and sample testing, of the framework of governance, risk management and control.

This report compares the work carried out with the work that was planned through risk assessment; presents a summary of the audit work undertaken; includes an opinion on the adequacy and effectiveness of the Authority's internal control environment; and summarises the performance of the Internal Audit function against its performance measures and other criteria. The report outlines the level of assurance that we are able to provide, based on the internal audit work completed during the year. It gives:

- a statement on the effectiveness of the system of internal control in meeting the Council's objectives;
- a comparison of internal audit activity during the year with that planned;
- a summary of the results of audit activity and;
- a summary of significant fraud and irregularity investigations carried out during the year and anti-fraud arrangements.

The extent to which our work has been affected by changes to audit plans has been notable this year and we have not been able to meet the original audit plan for the People Services, and some of the Place Services work. This has been due to changes in operational business needs and investigation work.

Work has been deferred to future years audit plans in consultation with the client and taking into account the related risk.

The scope of our audit this year has been adversely affected for People Services as a consequence of investigations and reduces the level of assurance that we are able to offer in relation to these areas.

The overall audit assurance will have to be considered in light of this position.

In assessing the level of assurance to be given the following have been taken into account:

- all audits completed during 2016/17, including those audits carried forward from 2014/15;
- any follow up action taken in respect of audits from previous periods;
- any significant recommendations not accepted by management and the consequent risks;
- the quality of internal audit's performance;
- the proportion of the Council's audit need that has been covered to date;
- the extent to which resource constraints may limit this ability to meet the full audit needs of the Council;
- any limitations that may have been placed on the scope of internal audit.

Appendix 3 - Audit Authority

Service Provision

The Internal Audit (IA) Service for Devon County Council is delivered by the Devon Audit Partnership (DAP). This is a shared service arrangement between Devon County Council, Torbay Council and Plymouth City Council constituted under section 20 of the Local Government Act 2000. The Partnership undertakes an objective programme of audits to ensure that there are sound and adequate internal controls in place across the whole of the Council. It also ensures that the Council's assets and interests are accounted for and safeguarded from error, fraud, waste, poor value for money or other losses.

Regulatory Role

There are two principal pieces of legislation that impact upon internal audit in local authorities:

- Page 18
- **Section 5 of the Accounts and Audit Regulations (England) Regulations 2015** which states that ".....a relevant authority must undertake an effective internal audit to evaluate the effectiveness of its risk management, control and governance processes, taking into account public sector internal auditing standards or guidance....."
 - **Section 151 of the Local Government Act 1972**, which requires every local authority to make arrangements for the proper administration of its financial affairs.

Professional Guidelines

We work to professional guidelines which govern the scope, standards and conduct of Internal Audit as set down in the Public Sector Internal Audit Standards.

DAP, through external assessment, demonstrates that it meets the Public Sector Internal Audit Standards (PSIAS).

Our Internal Audit Manual provides the method of work and Internal Audit works to and with the policies, procedures, rules and regulations established by the Authority. These include standing orders, schemes of delegation, financial regulations, conditions of service, anti-fraud and corruption strategies, fraud prevention procedures and codes of conduct, amongst others.



Appendix 4 – Summary of audit reports and findings for 2016/17

Risk Assessment Key

LARR – Local Authority Risk Register score Impact x Likelihood = Total & Level
 ANA - Audit Needs Assessment risk level as agreed with Client Senior Management
 Client Request – additional audit at request of Client Senior Management; no risk assessment information available

Direction of Travel Assurance Key

Green – action plan agreed with client for delivery over an appropriate timescale;
 Amber – agreement of action plan delayed or we are aware progress is hindered;
 Red – action plan not agreed or we are aware progress on key risks is not being made.
 * report recently issued, assurance progress is of managers feedback at debrief meeting.

CORPORATE & BUSINESS SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Material Systems (excludes those material systems that are the direct responsibility of Community and Customer Services)			
FIMS System Administration Risk / ANA - Critical	Good Standard Status: Final	Reported in the six month outturn report.	
Capital Programme Risk / ANA - Medium	Good Standard Status: Final	Reported in the six month outturn report.	
Bank Reconciliation Risk / ANA - Medium	Good Standard Status: Final	A review of progress against the previously agreed recommendations confirms that management continue to accept the risks associated with the lack of adequate separation of duty. Other recommendations relating to deadlines and procedural documentation have been actioned.	
Treasury Management Risk / ANA - Low	Good Standard Status: Final	A review of progress against the previously agreed recommendations found that two of the recommendations have now been completed and work has commenced in other areas. The department is undergoing a restructure and a new line management post has been established. This restructure has had an impact on completing the Business Continuity Plan. It is anticipated that all recommendations should be completed by the start of the new Financial Year	
Purchase Order Processing (POP) Risk / ANA - High	Good Standard Status: Final	A review of progress against the previously agreed recommendations found that Management continue to accept the residual risks associated with the lack of adequate separation of duty and the lack of restriction in terms of GL codes for the GRN function. The issues with the process for block orders, associated goods receipting and invoice matching remain outstanding as does the issue surrounding retention of authorisation details for revisions, due to the fact the FIMS upgrade has not yet taken place.	

CORPORATE & BUSINESS SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Creditors Risk / ANA - High	Improvements Required Status: Final	<p>A review of progress against the previously agreed recommendations found that management continue to accept the risks associated with the lack of adequate separation of duty.</p> <p>Reconciliation and other records are now being retained and potential duplicate supplier records are being examined; however, the agreed review of the authorised signature checking process remains outstanding as the FIMS upgrade has not taken place yet. The lack of a robust control in this area prevents a 'Good Standard' opinion from being given. Cheque production has now ceased so the previous recommendations in relation to this are no longer applicable.</p>	
Asset Register Risk / ANA -Medium	Good Standard Status: Final	<p>The Council's non-current assets are managed in accordance with legislation, policies and procedures and related financial data is accurately recorded in the General Ledger.</p> <p>New assets are identified and classified correctly and accurately recorded on the asset register, and alterations / deletions to assets appropriately updated in RAM. Revaluations are timely, are undertaken in line with the rolling asset revaluation programme, and accurately reflected in RAM. RAM functionality is fully compliant with IFRS and its reporting requirements.</p> <p>Procedures for locally updating, checking and reconciling RAM are being developed, with key processes for year-end Statement of Accounts production and reconciliation now embedded. Some other procedures for QC have been put in place and other non-standard processes are expected to be developed in the coming months.</p> <p>Revaluations however, are no longer subject to checking and authorisation by the Head Valuer, and though some mitigating control is due to be put in place, this has not taken place to date.</p>	
Income Collection Risk / ANA - Medium	Improvements Required Status: Final	<p>A review of progress against the previously agreed recommendations found that good progress is now being made in a number of areas, for example health and safety, the use of generic accounts, building security, and allocating DWP payments.</p> <p>Although control weaknesses relating to the Web Pay system access and the lack of segregation within the teams still exist, the planned system review is still due to take place providing an opportunity for resolution, and we shall review progress in our next audit.</p>	
Payroll Risk / ANA - Critical	Good Standard Status: Final	<p>This year's assurance opinion remains as 'Good Standard'; however, we note that progress in addressing a number of prior year issues remains outstanding.</p> <p>In addition, a number of new issues were identified this year in terms of the accuracy of data entry and authorisation of system amendments.</p> <p>The introduction of the new 'MyView' interface has generally been successful, and although some related issues have been found, particularly in relation to system access and expense claims, these are not considered sufficiently significant to warrant a change to this year's opinion. They will however need addressing.</p>	

CORPORATE & BUSINESS SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Payroll System – New modules implementation project Risk / ANA – Client Request	Added Value Status: Final	<p>The self-service (MyView) system went live in July 2016, with further functions and modules being implemented throughout 2017-18, which will provide additional functionality to further improve process efficiencies. We provided a project quality assurance role with consultancy advice and guidance on system functionality and processes. Where necessary we made recommendations to support the project and ensure effective controls were in place and calculation errors minimised.</p> <p>As expected with an implementation of this nature, some calculation errors were identified; however these were related to human error rather than the system not operating as required. A number of recommendations have since been addressed and we will continue to provide project support as the project continues.</p>	
Debtors Risk / ANA - Medium	Improvements Required Status: Final	<p>Progress is beginning to be made against the previously agreed recommendations and we note that for others management continue to accept the risk of not taking action to address the control weaknesses due to operational reasons.</p> <p>We note that initial training on better use of the FIMS system reporting in relation debt monitoring has been provided to senior management with more support planned going forwards, and acknowledge the senior leadership team assertions that the reporting outputs will now be subject to in-depth consideration.</p>	
General Ledger Risk / ANA - Medium	Good Standard Status: Final	<p>The control environment for the maintenance of the FIMS General Ledger is robust, and ensures that budgetary and transactional data is effectively recorded. This enables reporting and monitoring of accurate financial information across service areas.</p> <p>A number of minor issues, reported in previous years, have been actioned, and the new peer review of journals and virements, adds to the improved control environment. Segregation of duty remains an issue which is accepted by management as a factor prevalent in small finance teams. As such, this year's opinion remains as 'Good Standard'.</p>	
Grants x 5 Risk / ANA: n/a	Certified Status: Complete	Grants certified without amendment – Social Care, Rogue Landlords, Local Transport Capital Block Funding, Troubled Families (2 claims).	N/A
Other			
TDA – VAT Returns Risk / ANA - Low	Good Standard Status: Final	Reported in the six month outturn report.	

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CORPORATE & BUSINESS SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
TDA – ISO Structures Risk / ANA - Low	Good Standard Status: Final	Reported in the six month outturn report.	
Tor Bay Harbour Authority – Income Risk / ANA - Medium	Improvements Required Status: Final	Reported in the six month outturn report.	
Elections Risk / ANA - Medium	Good Standard Status: Final	Reported in the six month outturn report.	
Risk Management and Risk Recording Risk / ANA – High *ANARM = National model toolkit for managing risk in public services organisations (Five levels of assurance with 'Happening' being level 2 of 5 with level 5 being the highest assurance level)	Added Value Status: Final	Reported in the six month outturn report. ALARM* Assurance Opinion: Happening (Councillors and Senior Managers take the lead to ensure that approaches for addressing risk are being developed and implemented)	
Beach Services Risk / ANA - High	Good Standard Status: Final	Reported in the six month outturn report.	
Ethics and Culture Risk / ANA - Medium	Added Value Status: Complete	We undertook some preliminary project work building on a framework of ethical and cultural elements we initially defined. Although some progress was made, operational requirements have superseded the need for this to be a separate piece of work and as such the cultural and ethical principles are being incorporated into our work on the Council's transformation programme.	N/A
Port Marine Safety Code Risk / ANA – Client Request	Added Value Status: Complete	To the best of our knowledge and belief, and having carried out appropriate checks, in our opinion the Tor Bay Harbour Authority is compliant with the Port Marine Safety Code.	

CORPORATE & BUSINESS SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Transformation Programme Risk / ANA - Critical	Added Value Status: Draft	<p>Our support during 2016-17 has been driven by the requests of the operational Transformation team. Our support included horizon scanning, advice on development of a process based approach to the existing functional structure, setting up the P3M3 assessment templates, and reviewing and reporting on the Channel Shift projects. We have also developed business case review templates, a structure for incorporating ethical and cultural elements into our support and the programme management framework.</p> <p>Transformation Programme resource is small in terms of the core team, and relatively new in terms of its formulation as a dedicated team. Given the scale of the programme and the importance of the budget driver for the organisation, our concern is that resources allocated to the Transformation programme in relation to the size of the team may not be sufficient. Our involvement to date has found capacity issues in terms of their resource to support the programme that may impact the progress. Arrangements for audit support going forward through 2017-18 have been proposed in line with the Programme Managers request, and are currently awaiting approval by Senior Management.</p>	N/A
Fair Decision Making Risk / ANA - High	Good Standard Status: Draft	We reviewed a sample of Equality Impact Assessments (EIA's) throughout the fair decision making process, including draft and final stages, to establish compliance with expected practice, including our view of appropriateness of consultation groups and ensuring the EIA's are capturing the necessary information to allow informed decisions to be made.	 *
<p>The following audits are currently in progress:</p> <ul style="list-style-type: none"> Commissioning and Performance Monitoring by the Council of the Torbay Development Agency (TDA) (ANA – High) Procurement and Contracting Arrangements (ANA – High) 		<p>The following audits have been deferred or cancelled at the request of the client:</p> <ul style="list-style-type: none"> Accessibility of budget documentation (Client Request) Coroner Service (ANA – Low) Asset Management Strategy / Plan (ANA – High) Performance Framework, Consultation and Business Development (ANA – Medium) 	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Community and Customer Services			
Concessionary Fares Risk / ANA - High	Improvements Required Status: Final	Reported in the six month outturn report.	
Discretionary Social Fund (Crisis Support) Risk / ANA - High	Improvements Required Status: Final	Reported in the six month outturn report.	
Velopark Risk / ANA - Low	Improvements Required Status: Final	Reported in the six month outturn report.	
Sports Pitches Risk / ANA - Medium	Improvements Required Status: Final	Reported in the six month outturn report.	
Museum Services Risk / ANA - Low	Improvements Required Status: Final	Reported in the six month outturn report.	
Public Toilets project – ‘critical friend’ role Risk / ANA - Medium	Value Added Status: Complete	Reported in the six month outturn report.	N/A
Waste & Cleaning – EFW Partnership payments and contract management Risk / ANA - Critical	Good Standard Status: Final	Controls are in place both at the service provider’s facility, and via reports from the provider / SWDWP (South West Devon Waste Partnership), to inform Torbay of its own share of domestic waste. This is backed up by robust checking and reconciliation controls within the Waste Services team at Torbay. Sample testing by Audit confirmed the operation of these controls. Further verification of on-site controls was also obtained as part of the audit.	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Housing Options Risk / ANA - Medium	Improvements Required Status: Final	<p>The processes and procedures are embedded within Civica enabling users to follow a set format in relation to homeless applications; however we found that development has not continued resulting in new practices not being included within work flow processes.</p> <p>Applications were found to be appropriately assessed and generally in a timely manner, however some issues were identified in relation to evidencing and completeness of information and completion of risk assessments.</p> <p>In addition, we found that the existing process does not require risk assessment of all applicants, but only those going into temporary accommodation or the hostel. Whilst acknowledging that legislation gives a duty to accommodate regardless of any risk assessment, routinely establishing this process would assist in identifying and recording safeguarding concerns and associated accommodation needs.</p>	
Highways, Street Scene, Lighting and Transport Infrastructure – UK PMS System Risk / ANA - High	Improvements Required Status: Final	<p>As was the case when we reviewed this area during 2012-13, there are adequate system controls in place to enable the appropriate carriageway data to be collected; and the correct calculation methodology has been applied, enabling an accurate estimate of the DRC to be made.</p> <p>In relation to other infrastructure assets, the Council is able to provide a much more complete picture of the inventory held, plus related data including condition, age and replacement rates.</p> <p>We have been provided with information as to the source data for most of this information, and in the main, source systems seem to be well controlled in terms of the accuracy and completeness of the data held. However, for the majority of these assets, we have been unable to reconcile system output to the data recorded within the CIPFA Toolkit (or equivalent) as related reports were not kept at the time and could not be provided during the audit. In addition, the source of data of a number of entries is currently unknown. Consequently, we are unable to provide assurance that DRC valuations in this area are accurate.</p> <p>Since completion of our work, CIPFA stated that they would not proceed with the introduction of the Highways Network Asset Code into the financial reporting requirements for local authorities. Torbay Council has spent considerable officer time on this project and agrees with CIPFA's conclusion that the cost to local authorities outweighed any benefit.</p>	N/A
Risk Based Verification (software implementation project) Risk / ANA – Client Request	Added Value Status: Complete	We provided an advisory role in relation to various aspects of the Risk Based Verification software implementation project. Our advice covered specific areas including advice on required approval routes by Members; proposals for engagement of relevant service areas within the project; review and response to the draft risk based verification policy for the HB &CT support applications; and review, clarification and advice on the software system controls.	N/A
Information Security Group	Added Value Status: Complete	Support continues to be provided in the form of attendance and active participation in the Information Security Group. This includes the review and update of the Information Security Policy Framework, work on emerging and supporting policies such as the End User Computing policy and PCI compliance, which has recently been adopted.	N/A

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Emergency Planning and Business Continuity Risk / ANA - High	Fundamental Weaknesses Status: Final	<p>The Council's Emergency Planning framework is sufficiently robust to allow the Council to effectively respond in an emergency. It is supported by a process framework and a robust risk assessment process. The Council's emergency plan is in place but is however currently under review and being further developed.</p> <p>There is a good working relationship with the Local Resilience Forum which includes senior management at the Chief Officer Group</p> <p>We were able to clearly see that statutory guidelines issued by government departments and agencies are being incorporated into the council's plan, which would suggest that the Council is operating within expected industry practice.</p> <p>Our assurance opinion of 'Fundamental Weaknesses' relates to corporate business continuity arrangements. We recognise some progress has been made in this area but in our opinion they are not consistently robust, and have not been subject to full testing. Therefore we deem the arrangements insufficient to ensure continuity of service corporately across all the Council's critical functions, should an incident occur.</p>	
TOR2 Commissioning Risk / ANA - Critical	Improvements Required Status: Draft	<p>The JVCo Contracts incorporates governance arrangements in terms of a schedule of management groups and meetings. However, this provides insufficient detail for the appropriate working of the TOR2 Board Meetings. In our opinion the Board operates too much at an operational detail level, and not as the strategic driver and oversight of TOR2. In particular, its historic failure to require the publication of a 'fit for purpose' Business Plan, and a number of other shortcomings were noted. The balance and number of directors was also questioned. Recent production and approval of the Business Plan along with changes to Board attendance and subsequent management of strategic issues, has meant that this area was not included in the Annual Governance Statement.</p> <p>Governance arrangements built into the Contracts for meeting groups below the TOR2 Board are generally followed, and supported by more detailed Terms of Reference, but may require clarity and liaison, to ensure that they manage discussions and decisions appropriate to their levels.</p> <p>The TOR2 Risk Matrix requires updating to incorporate current risks and future changes i.e. contracts ending. This process has begun but there is some way to go before it will be suitable.</p> <p>The expectation that TOR2 would develop and grow third party customer business cannot be effectively evaluated as the quality of data provided in periodic reports is not comprehensive enough to inform the level and nature of third party growth and trends, or expected targets. The lack of business growth, over six years into the Partnership, achieved through work for neighbouring Authorities may be considered to be disappointing.</p> <p>The Authority has started undertaking a Business Case Options Appraisal to ensure the delivery of current TOR2 services post 2020. This work needs to be progressed effectively to ensure that adequate time is provided for management to take appropriate actions prior to the last year of the Contracts.</p>	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
The following audit is currently in progress: <ul style="list-style-type: none"> • Safer Communities – community safety partnership / domestic abuse (Risk / ANA – Medium) 			
IT Audit			
Change Management Risk / ANA - High	Improvements Required Status: Final	Reported in the six month outturn report.	
Harbour Mooring Replacement System Risk / ANA – Medium	Added Value Status: Complete	Reported in the six month outturn report.	N/A
Channel Shift Risk / ANA – High	Added Value Status: Complete	Reported in the six month outturn report.	N/A
Service Strategy Risk / ANA – High	Added Value Status: Complete	Reported in the six month outturn report.	N/A
PCI (Payment Card Industry) Compliance Risk / ANA – High	Good Standard Status: Final	<p>The need to secure data is increasingly critical within organisations, with ICO penalties for data breaches under the new General Data Protection Regulations 2018 rising significantly. Consequently investment to maximise security and minimise associated risk in areas such as PCI-DSS compliance should be carefully considered in order to meet compliance timescales and standards.</p> <p>The external IT vulnerability scans have reported that Torbay Council is currently compliant with the scans validation requirements. In addition the self-assessment, undertaken by Torbay Council, stated compliance with PCI-DSS requirements; however, our review would conflict with that opinion. Our review of a small sample of the self-assessment questions suggests that these responses could not be adequately evidenced and therefore open to challenge were the Council to be subject to external scrutiny. For example firewall rule reviews are not undertaken as stated; policy and procedure is not known by all relevant parties.</p>	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Partnership Working (ICT systems TOR2) Risk / ANA - High	Improvements Required Status: Final	<p>The issues experienced in relation to the IT integration and operation of associated processes vary across the three distinct contracts (Waste; Assets; Highways). In our opinion the IT Integration is not providing the efficiency outcomes originally expected and outlined within the agreed contract. Both parties have IT solutions and processes in place provided by multiple vendors, but in a number of cases these are not operating as originally intended and may need further investment by both parties to achieve contractual requirements and performance.</p> <p>Although reasons for identified issues are not, in all cases, clearly attributable we would suggest that there are two key operational areas that should be considered. First is the lack of integrated working between both parties which currently sees two very distinct organisations working in functional silos supported by individual systems and integrations that are not operationally robust; secondly, there may be a cultural barrier to progression of contract efficiencies.</p> <p>Given the issues identified we would question whether arrangements are providing Torbay Council with the intended operational benefits through use of effective IT, and, as such, whether it should continue in its current state and whether changes are required. There may be merit in exploring a single IT solution operated by one party to reduce inefficiencies and clearly define responsibilities.</p>	
Cyber Essentials Risk / ANA - Client Request	Improvements Required: Status: Final	<p>The review was a high level review against the Government Cyber essentials scheme. ICT Services reasonably satisfy a number of the baseline requirements; however there are a number of areas where compliance and associated controls either require implementation or could be further enhanced.</p> <p>Due to the ongoing financial savings required from Local Government, ICT has seen a significant reduction in budget and associated resource; which we understand has led to a greater level of risk acceptance as certain operational practices such as active monitoring of activity, privileges, and security breaches, have been withdrawn with focus upon critical operations to maintain the network infrastructure and maintain PSN (Public Services Network) compliance.</p> <p>One area of significant weakness relates to the use of high privilege Active Directory (AD) accounts. The current number and type of the Domain Admin accounts is considered excessive. A project to migrate the current Anti-virus solution to one which is more targeted at Ransomware is in progress. Further, cost reduction methods such as operating 'behind current version' practices, particularly in relation to server operating systems creates additional vulnerabilities.</p> <p>The compensating controls that ICT operate provide significant benefit. The ICT team has reduced significantly but remain experienced and motivated. The value of shared knowledge and awareness is not underestimated and has been taken account of during the review process.</p>	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Library Services (new system implementation and service delivery project) Risk / ANA - Medium	Added Value Status: Final	The Library Service is subject to a significant level of change, through the service delivery review and the Library Management system implementation, including changes to the e-invoicing process. The Library Services team are experienced staff that bring a high level of knowledge to the projects. The Library Management System (LMS) project driven by Devon County Council is progressing but has been subject to delays due to the supplier's engagement with another Council going through system implementation. The Torbay Council team are engaged in the project. The Service review is ongoing, currently going through the Council's tender process. A robust tender specification was developed upon which we provided review and feedback.	
Corporate Information Management Risk / ANA - Critical	Added Value Status: Draft	Our review of the business case identified areas for further consideration in order to broaden the content and achieve greater focus. It is pleasing to note that a project has been initiated as compliance with GDPR is a statutory requirement from May 2018, and we will continue to support the project in 2017-18.	

The following audits have either been cancelled by the client or deferred until 2017-18

- Infrastructure Management (Risk / ANA – Critical)
- ICT Continuity and Disaster Recovery – project 'critical friend' role (Risk / ANA – Critical)

ICT Service Strategy formulation (Risk / ANA – Critical)
 Service Design (Risk / ANA – Critical)

Material Systems (within Community and Customer Services)

IBS* Open System Administration * International Business Systems Risk / ANA - High	Good Standard Status: Final	Reported in the six month outturn report.	
Corporate Debt Risk / ANA - Medium	Improvements Required Status: Final	A review of progress against the previously agreed recommendations has found that the majority of recommendations remain outstanding, however it is noted steps are being taken to address all recommendations going forwards although full completion is not likely to be achieved until 2018/19. Whilst planned steps are positive, the delay in making the changes is likely to continue to result in debts becoming more difficult and therefore more costly to pursue; or simply becoming unrecoverable. We note that progress has been made in the development of a Debt Policy and revising Financial Regulations to cover debts recovered by the Corporate Debt Team. Targets have been set for the external collection agencies and performance is monitored. Action is now being taken to review accounts with recovery inhibit codes. Initial training on better use of the FIMS system reporting in relation debt monitoring has been provided to senior management with more support planned going forwards.	

COMMUNITY AND CUSTOMER SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Council Tax & Non Domestic Rates Risk / ANA - Medium	Improvements Required Status: Final	<p>A review of progress against the previously agreed recommendations has found that the majority of recommendations remain outstanding, however it is noted steps are being taken to address all recommendations in 2017/18.</p> <p>Progress is beginning to be made in relation to regular review of discounts, exemptions and credits on accounts with this work ongoing at the time of the audit. We note that there is intention to implement quality control checking following a recruitment exercise, and to produce a revised suite of performance indicators.</p> <p>We also note that management continue to accept the risks in relation to current practices for transfers between accounts, access to update accounts and the lack of authorisation in relation to special arrangements for payment.</p>	
Benefits Risk / ANA - Medium	Improvements Required Status: Final	<p>This year's audit followed up the previously agreed recommendations and examined the process for Risk Based Verification following its recent implementation. We found that whilst a number of the recommendations have been actioned, issues around Self Employed (SE) earnings calculations remain. In addition, our work undertaken in relation to the recently introduced Risk Based Verification framework found that assurance cannot yet be provided in terms of compliance with evidencing requirements due to the new processes still being changed and embedded at the time of the audit. Our findings in these areas have resulted in an 'Improvements Required' audit opinion due to the limited scope of our work, however we acknowledge that Self Employed claims make up only 4% of the caseload and that the Risk Based Verification processes are still being embedded.</p> <p>Supplementary recommendations have been made accordingly, and we are pleased to report that management have responded positively and promptly to these which should ensure that issues are resolved for 2017-18.</p> <p>Although outside of our audit scope this year, we understand that significant progress has been made in relation to processing times and the departmental working practices enabling more efficient and effective processing and generally improved departmental operation across Revenues & Benefits. We will review these changes in the audits of Benefits & Council Tax Support and CTAX & NDR during 2017-18.</p>	

CHILDREN'S SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Care Leavers - Transition Plans Risk/ANA: ANA - Low, Ofsted, client request	Improvements Required Status: Final	<p>The audit focused on the content and completeness of the current pathway plans in place for care leavers, and also the compliance with statutory legislation contained within the Children Act 1989 guidance and regulations.</p> <p>The care leavers service has not been at full establishment due to sickness and a vacant post for some time and this has impacted on the ability to maintain an up to date and effective service for care leavers. However, the service is now currently at establishment and a number of good practices and improvements identified by the team were in the initial stages of implementation at the time of audit.</p> <p>The main issues identified as part of this audit review are:-</p> <ul style="list-style-type: none"> • Pathway plans require review to ensure they cover all statutory requirements; • Additional staff training is required to ensure the quality of the pathway plans is consistent; • An evaluation of the effectiveness of monitoring of communications with care leavers is required. 	
EHCP - Ofsted Framework Risk/ANA: ANA - Low, client request	Improvements Required Status: Final	<p>The audit undertaken was an in-depth review of new requests for Educational, Health and Care Plans (EHCP) to ascertain the compliance with statutory legislation and to the Local Area SEND Inspection Framework.</p> <p>A number of good practices and compliance to the inspection Framework have been observed during the review. However, there are a number of areas identified where compliance and associated controls either require implementation or could be further enhanced.</p> <p>A significant increase in workload has impacted on the services ability to maintain a number of preventative measures and controls.</p> <p>The main issues identified as part of this audit review are:-</p> <ul style="list-style-type: none"> • Processes and guidelines require review and implementation; • a single process and filing approach for sensitive data is required and should be followed by all staff; • Inadequate recording of the Panel minutes and decisions made; • Excessive monitoring of the EHCP process, reducing reliance on the information recorded; • The quality and quantity of information and statutory documentation received by some of the partners in the process is not timely or complete. 	

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CHILDREN'S SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
Contracts, Commissioning, Procurement including CSW Risk/ANA: ANA - Medium, client request	Improvements Required Status: Final	<p>Whilst generic policy and procedure documents and training opportunities exist for the Council as a whole, there are no specific policies or training for Commissioning and Procurement in Children's Services.</p> <p>A single comprehensive record of contracts is not maintained, and whilst the Council maintains a contracts register the entries for Children's Services were limited and incomplete. Children's Services do not keep an overall record of contracts in place. This makes it difficult to identify what contracts exist within Children's Services and subsequently the arrangements in place.</p> <p>Our testing found that contracts were awarded in accordance with Financial Regulations; however information in relation to contracts is not always consistently recorded on the PARIS system. Similarly there is little evidence to confirm the completion of performance visits to ensure compliance with standards set in provider contracts; opportunity exists to utilise the statutory visits made by social workers to feed back into the Procurement process.</p>	
Business Processes / Workforce Strategy Risk/ANA: ANA - High, client request	Good Standard Status: Draft	<p>Strategic and operational practices continue to provide improvements in service delivery, in particular the significant improvement to the direct contact between Social Workers and Clients and the reduction of reliance on Agency Staff and associated costs.</p> <p>We identified a good level of monitoring of both practices and budgets and have made some recommendations to further enhance existing practice.</p>	
Torbay Safeguarding Children Board (TSCB) Risk/ANA: ANA - Critical, Ofsted, client request	Improvements Required Status: Draft	<p>The TSCB has key documentation such as a Partnership Agreement, Business Plan and an Annual Report in place. Recommendations have been made in respect of these such as retaining signed agreements and adding details of membership to the Business Plan along with introducing a Risk Register.</p>	
Looked After Children - Referrals Risk/ANA: ANA - Medium, Ofsted	Improvements Required Status: Draft	<p>A number of good practices and compliance to the statutory guidelines have been observed during the review. However, there are a number of areas identified where compliance and associated controls either require implementation or could be further enhanced.</p> <p>The main issues identified as part of this audit review are:-</p> <ul style="list-style-type: none"> • Care plans are of a variable quality; • Monitoring of key dates needs to be implemented; • Process documents, evidencing the complete journey through the care system, are required; • Permanency placements dates should be consistently recorded to ensure that any 'drift or delay' is identified. 	

CHILDREN'S SERVICES

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
<p>The following audits have either been cancelled or deferred at the request of the client:-</p> <ul style="list-style-type: none"> Residual functions in Children's Services after transfer to ICO - organisational fit (Risk/ANA: ANA - Medium, client request) 5 Year Savings Plan / Budget Strategy / Invest to Save (Risk/ANA: ANA - High, LGA review, client request) 		<ul style="list-style-type: none"> Proposed transfer of Children's Services into the Integrated Care Organisation (ICO) - 'critical friend' role (Risk/ANA: ANA - Medium, client request) PARIS - Case Recording / Data Quality / Business Use (Risk/ANA: ANA - Critical) 	
Schools Financial Value Standards (SFVS)	Good Standard	SFVS Dedicated Schools Grant Chief Finance Office assurance statement for 2016/17 submitted to the Department for Education.	
Maintained Schools audit programme	Good Standard	The overall opinion for the routine school audit visits has been maintained as 'good standard' (refer to summary data below). The provision of internal audit's performance data provides a greater focus on schools causing concern in the wider control environment.	
Maintained Schools Summary Data			Assurance Opinion
<p>The key matters arising from the audits are:</p> <ul style="list-style-type: none"> Finding maintenance of the Single Central Record at three schools was not fully compliant with 'Keeping Children Safe in Education'; Concern regarding management of online cash collection systems; a school having all school income paid into their School Fund whilst another school had not correctly accounted for transaction charges and VAT on income received. 			Good Standard

ADULT SERVICES and PUBLIC HEALTH

Risk Area / Audit Entity	Audit Report		
	Assurance opinion	Residual Risk / Audit Comment	Direction of Travel Assurance
NRS Joint Equipment Risk / ANA: Client Request	Improvements Required Status: Final	Reported in the six month outturn report.	
The following audits for Adult Services have been deferred at the request of the client:- <ul style="list-style-type: none"> • Better Care Fund / Section 256 monies • Commissioning and Performance Management 		The following audits for Public Health have been deferred at the request of the client:- <ul style="list-style-type: none"> • Commissioned Services – Contracts Management and Monitoring • 0 - 5 Activities (Health Visitors) Commissioning 	

Appendix 5 – Performance Indicators

There are no national Performance Indicators in existence for Internal Audit, but the Partnership does monitor the following Local Performance Indicators LPI's:

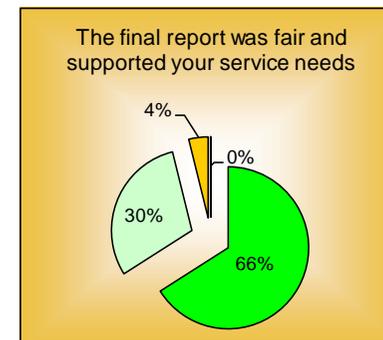
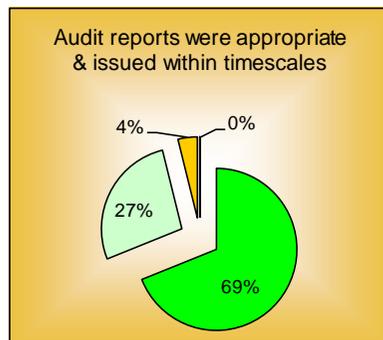
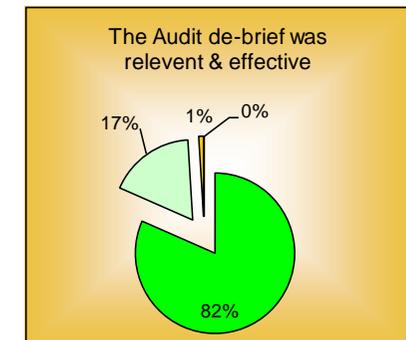
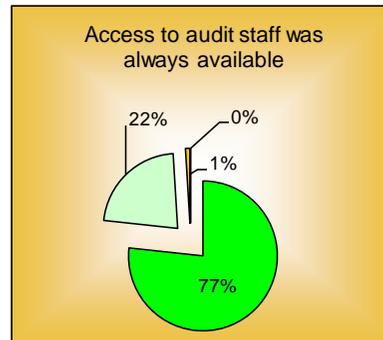
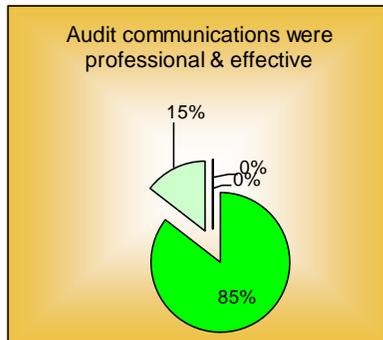
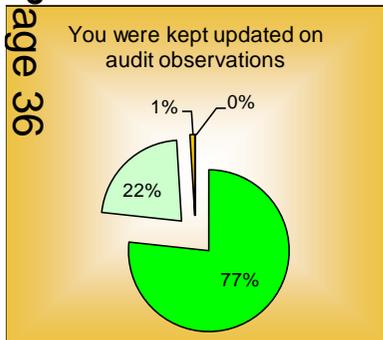
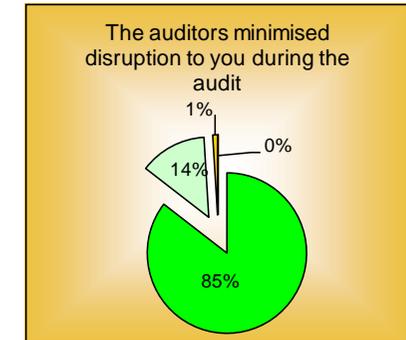
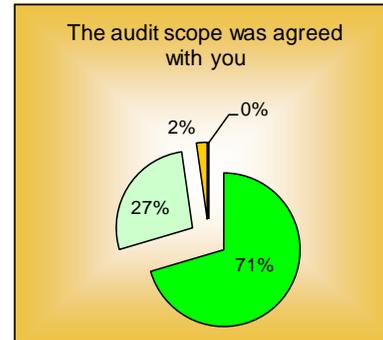
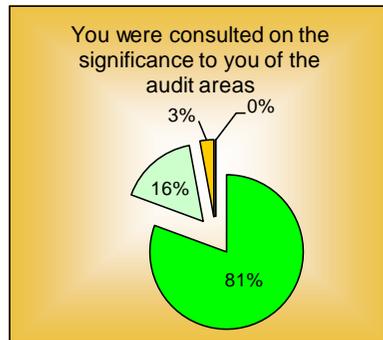
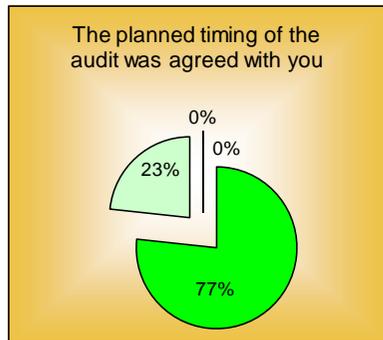
Local Performance Indicator (LPI)	2015/16	2015/16	2016/17	Torbay 2016/17	DAP 2016/17
	Target	Actual	Target	Actual	Actual
Percentage of Audit plan Commenced (Inc. Schools)	100%	100%	100%	100%	99%
Percentage of Audit plan Completed (Inc. Schools)	93%	97%	93%	96%	94%
Actual Audit Days as percentage of planned (Inc. Schools)	95%	101%	95%	113%	101%
Percentage of fundamental / material systems reviewed annually	100%	100%	100%	100%	100%
Percentage of chargeable time	65%	69%	65%	64%	70%
Customer Satisfaction - % satisfied or very satisfied as per feedback forms	90%	99%	90%	94%	98%
Draft Reports produced within target number of days (currently 15 days)	90%	87%	90%	85%	90%
Final reports produced within target number of days (currently 10 days)	90%	94%	90%	100%	98%
Average level of sickness absence (DAP as a whole)	2%	2%	2%		3.2%
Percentage of staff turnover (DAP as a whole)	5%	5%	5%		21%
Out-turn within budget	Yes	Yes	Yes		Yes

Overall, performance against the indicators has been very good and has maintained improvement on 2015/16 in relation to the issue of final reports to the customer within the agreed timeframes. Although there has been no overall improvement in relation to the issue of draft reports, analysis demonstrates that draft reports issued in the later part of the year were issued in line with performance targets.

Appendix 6 - Customer Service Excellence

Customer Survey Results April - March 2017

The charts below show a summary of 103 responses received.



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Devon Audit Partnership	Confidentiality and Disclosure Clause
<p>The Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay and Devon councils. We aim to be recognised as a high quality internal audit service in the public sector. We work with our partners by providing a professional internal audit service that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards along with other best practice and professional standards.</p> <p>The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at robert.hutchins@devonaudit.gov.uk .</p>	<p>This report is protectively marked in accordance with the National Protective Marking Scheme. It is accepted that issues raised may well need to be discussed with other officers within the Council, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.</p> <p>This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.</p>



Title: **Corporate Fraud update**

Wards Affected: **All Wards in Torbay**

To: **Audit Committee** On: **26 July 2017**

Contact Officer: **Rachel Worsley, Corporate Counter Fraud Officer**
Telephone: **(01803) 207549**
Email: **rachel.worsley@torbay.gov.uk**

1. Key points and Summary

- 1.1 At the Audit Committee on 22 March 2017, Members considered the Internal Audit Plan within which reference was made to fraud prevention and detection. Members requested the Council's Fraud Officer present the Fraud Strategy and details of the priority work areas.
- 1.2 Fraud is estimated to cost the UK £20.3 billion a year, £2.1 billion per year, of that by Local Authorities according to The Chartered Institute Public Finance and Accountancy publication "The local Government counter fraud and corruption strategy 2016-2019."
- 1.2 The types of frauds that Torbay Council might be the victim of include Council Tax Support, Single person's discount, Council Tax Reduction, Business Rates avoidance schemes, Small Business Rates Relief, Blue Badge misuse, Insurance fraud, Procurement fraud, Housing waiting list, right to buy, right to acquire.

2. Introduction

- 2.1 Until 20 June 2016 Torbay Council did not have a dedicated Corporate Fraud post however we now employ one full-time Counter Fraud and Anti Money Laundering officer.
- 2.2 A Corporate Fraud Policy was introduced in January 2017 to assist the council to deter, prevent, detect, investigate and pursue all types of fraud affecting the authority. An accompanying prosecution and sanctions policy has also been developed. Both policies are attached as appendix (i) and (ii).
- 2.3 A route to enable people to report potential frauds was introduced in January 2017. There is now a form available on the [web site](#). Publicity of this form has been sought through social media. 59 allegations have been received since January 2017. The Communications Team are formulating a fraud communications plan.
- 2.4 All Council staff require training to raise awareness of the kind of frauds the council may experience and in spotting frauds. An online training course was

developed and is now available. It has been circulated to all staff as a mandatory I-learn course for them to complete and it is also included within the introductory courses when new employees join the council.

- 2.5 To ensure investigations are conducted legally, the corporate counter fraud officer has undertaken training and examinations to become accredited as a Counter Fraud Specialist.
- 2.6 Work thus far has concentrated on the council's income to ensure the collection fund for Council tax is maximised. This work is ongoing, but includes the appointment of an external company to identify potential fraudulent claims of Single Persons Discount and Council Tax Support. This will identify potential cases of fraud, which will then be progressed for investigation.
- 2.7 As 100% business rates retention had been proposed for implementation, focus has also been provided in this area. Any business rates write off has to be at a minimum to ensure the Council's income is protected.
- 2.8 Blue badge fraud, although not a direct cost to the council, has potential to damage revenue received from the council's car parks. It also causes reputational damage and therefore a campaign in this area will be explored in the near future. Links with the team at the NHS have been established.
- 2.9 Although Torbay Council does not hold housing stock, housing fraud has a draw on council budgets. There is also a moral obligation to assist in the prevention of this avenue of fraud.
- 2.10 The cost of housing people in temporary accommodation is increasing year on year. Ensuring the right people are acquiring properties can help in this area. A Devon Tenancy Fraud Forum has been established to which Torbay Council is committed. Ways of working with Devon and its Housing Associations to reduce the level of fraud are in development.
- 2.11 Ways to share data across council services are being identified to further protect the Council's income. This is important to protect the Council's reputation and balance sheet. A project of this kind will also bring efficiencies in administration and protect officers from entering into potentially dangerous properties without the correct support. The Corporate Fraud Officer has introduced officers to the possibility of a single view of customer, places and businesses.
- 2.12 The Corporate Counter Fraud Officer has also taken on the role of Anti Money Laundering Officer and is in the process of updating its process and policy. Training across the authority in Anti Money Laundering Measures is also in development.
- 2.13 To assist in investigations and to ensure Torbay Council can continue momentum in tackling all kinds of frauds against Torbay Council and its partners, a request is in progress for secondment of a fraud investigator and administration support officer.

Rachel Worsley
Corporate Counter Fraud Officer

Appendices

Appendix I [Counter fraud and Corruption Policy](#)

Appendix ii [Corporate Sanction and Prosecution Policy](#)

Background Papers:

The following documents/files were used to compile this report:

CIPFA - Local Government counter fraud and corruption strategy 2016 – 2019



November 2016

Counter Fraud and Corruption Policy



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1 Executive Summary

Torbay Council recognise the requirement of a corporate counter fraud function to lead the Council's counter fraud activities and assist the Council to deter, prevent, detect, investigate and pursue all types of fraud affecting the authority.

This includes:

- raising awareness internally and externally.
- maximising income and minimising loss from collection fund by pro active work
- co-ordinating prosecutions for fraud
- complying with legislation and codes of practice

This Policy supports these points and the anticipated outcomes of the unit whilst setting out the Council's commitment and approach to maintain a strong anti-fraud culture across the authority.

In a time of austerity and increased social demand, it is more important than ever that we protect the councils income, this policy sets out the tools we can and will use to ensure correct and accurate administration of public funds such as investigations, participation in the national fraud initiative and data-matching, internally and externally.

Prevention is the best tool for tackling fraud as once fraud has entered systems it can be costly, not only to take action, but to recover funds that might have been lost.

The Audit Commission (Audit Commission: 2014) estimated between 3% - 11% fraud and error in the Council Tax system and 20% of blue badges in circulation used to avoid parking charges alone.

The Policy outlines to all levels of employees and members their responsibility to prevent fraud from entering systems with links into some of our other policies and regulations (i.e. financial regulations, procurement policy, recruitment policy).

To assist in instilling an anti-fraud culture across the organisation and to support this document, roll out of an on-line course, will improve awareness across the organisation how services can be a target for fraudsters. To maintain this awareness, the staff will be asked periodically to undertake this method of learning.

This Policy is supported by an internal plan, held by the Corporate Fraud Unit which aims to ensure it identifies circumstances which may expose the Council to risk of loss through fraud, corruption or other eventualities.

As not all fraud or irregularities can be prevented, a new on-line reporting form is available on Torbay Council's web pages.

To deter fraudsters, action against proven perpetrators, alongside recovering any financial loss, is necessary Torbay Council will seek to take action.

A Corporate Sanction and Prosecution Policy accompanies this Counter Fraud and Corruption Policy which outlines the various penalties/sanctions that can be imposed or offered by the council permitted by legislation.

The publication of these policies aims to highlight that fraud against the authority will not be tolerated.

2 Introduction

Delivering over 700 services to more than 131,000 residents, Torbay Council is one of few large employers in Torbay. In common with other large organisations, both in the public and private sectors, the size, complexity and general nature of the services provided to our community leaves us at risk to potential losses as a result of fraud and error. Fraud is estimated to cost the UK economy £73billion with £20.3 billion each year suffered by the public sector.

Torbay Council's Head of Finance has the statutory responsibilities in line with Section 151 of the Local Government Act 1972, the Accounts and Audit Regulations 2015 and the Council's own Financial Regulations to ensure proper administration of Torbay Council's financial affairs.

The Fraud Act 2006 established new criminal laws to assist in the fight against fraud by creating a new general offence of fraud. It is defined as Fraud by

- False representation
- Failing to disclose information, and
- Abuse of position

Fraud has a direct financial and social harm impact on local people and local taxpayers.

Allowing error into our systems provides opportunities for fraudsters.

Detected fraud and error results can be instructive in identifying trends and emerging risks. This data can provide an important and robust evidence base for the council to inform a strategic response.

Some possible frauds that the council may incur include

- **Identity;** submitting false identification documentation, deceased identification, stolen identification, false immigration documentation
- **Procurement :** false /duplicate invoices, false suppliers, inflated invoices, mis-use of grant project funding
- **Schools:** false invoices, abuse of resources, expenses, overtime, free school meals
- **Social Care fraud;** direct payment budget, bogus carers, false records, deceased relatives not being promptly declared and payments continuing, duplicate care in different areas
- **Insurance fraud;** false slips n trip /pothole claims
- **Recruitment;** false CVs, false sickness claims, exaggerated mileage claims, timesheet falsifying
- **Blue Badge** use of a deceased persons badge, disabled persons badge but disabled person is not in the vehicle, stolen badges, counterfeit badges
- **Residential Parking;** permit misuse and counterfeit permits
- **Council Tax;** false single person discounts being claimed, false exemptions, false discounts
- **Business rates;** small business relief, charitable exemptions, discounted properties, empty properties, illegal billboards
- **Concessionary bus passes;** use of 'lost' or 'stolen' or 'deceased passes,
- **Housing Fraud;** false homeless claims and social housing tenancy fraud

Whilst this policy does not in itself prevent the risk of fraud occurring, it sets out the council's commitment and approach to maintain a strong anti-fraud culture. To ensure risk from fraud and bribery is kept to a minimum whilst giving consideration to the core values of the Council. This will mean questioning practices we have to find innovative solutions to provide new working practices which deter Fraud and Error while protecting or generating income. This policy is separated into the following areas:

- Culture
- Prevention
- Information Security & IT
- Whistle-blowing
- Audit & Fraud
- Awareness and Training
- Detection
- Action
- Operational
- Conclusion

This Policy will not compromise the Council's Equal Opportunities Policy or any obligations as an employer under the Employee Code of Conduct or Members Code of Conduct.

3 Culture

Supporting the opposition to fraud through a non-tolerant approach

The Council recognises that the success of this Policy and its general credibility will depend largely on the effectiveness of

- Training and responsiveness of all employees throughout the organisation
- Awareness to residents of Torbay
- Corporate Fraud Team
- Prevention and detection
- Torbay Economic Development Company, contractors, consultants, suppliers, service users
- Intelligence infrastructure
- Members
- Response to identified fraudsters

When members or employees reasonably believe that one or more of the following, is likely to, or is in the process of occurring or has occurred

- A criminal offence
- A failure to comply with statutory or legal obligation
- Improper unauthorised use of public or other funds
- A miscarriage of justice
- Maladministration, misconduct or malpractice
- Endangering of an individual's health and safety
- Damage to the environment
- Deliberate concealment of any of the above

All allegations/concerns will be taken seriously and investigated in an appropriate manner immaterial of seniority, rank or status and wherever possible, treated in confidence, with integrity and properly investigated.

The Chief Executive, Directors, Assistant Directors and Executive Heads will report concerns of instances of internal fraud to the section 151 officer and instances of external fraud to Corporate Fraud Officer.

All employees and members, partner organisations have an important role to play in dealing with any instance of fraud. The Council encourages them to use the [fraud reporting form](#).

Auditors and managers who identify risks across all areas of the council will work with corporate fraud team to recommend appropriate measures to ensure risks are minimised. Directors will ensure appropriate control improvements are implemented.

When fraud and error has occurred due to a breakdown in the Council's systems or procedures, Directors will ensure that appropriate improvements are implemented to prevent re-occurrence.

In response to the Money Laundering Regulations 2007 the Council has an Anti-Money Laundering Policy in place and a Money Laundering Reporting Officer.

All business units and public functions have a responsibility to control the risk of bribery occurring within all levels of the organisation. The responsibility does not rest solely with assurance functions.

Those who defraud the Council, who are corrupt, or where there has been financial malpractice will be dealt with firmly.

4 Prevention

The most efficient way to tackle fraud

The corporate Counter Fraud Unit, working closely with audit and managers, will ensure resources are used in preventing fraud in the first instance. An enforcement response will be established to pursue fraudsters and deter others.

Where an employee or councillor is suspected of fraudulent behaviour, they will be subjected to investigation, potential disciplinary and criminal sanctions as appropriate.

Recommendations to rectify any system weaknesses will be recorded and monitored via a centralised tracking system.

Directors' responsibilities

Directors are required by Financial Regulations to report all suspected instances of fraud to Section 151 Officer or authorised representative (Devon Audit Partnership). Reporting is essential to the success of this policy and ensures the consistent treatment of information regarding fraud to facilitate the proper investigation by the appropriate officer(s).

Depending on the nature of an allegation, the Section 151 Officer will work closely with the director concerned to ensure all allegations are thoroughly investigated and reported on.

Disciplinary procedures will be used to facilitate a thorough investigation of any allegation of improper conduct as well as the holding of disciplinary hearings and dealing with any recommendations and proceedings thereafter.

Following discussion between investigating officers and Chief Executive a decision will be made whether there are grounds to report the matter to the Police.

Managers' responsibilities

The Council's Recruitment and Selection Policy contains appropriate safeguards on matters such as written references, eligibility to work in the UK and verifying qualifications held. Criminal records of successful candidates are checked where appropriate and considered for recruitment purposes only. It is at the recruitment stage, as far as possible, the honesty and integrity of potential employees is established.

Safeguards to ensure the appropriate documentation is provided as evidence of entitlement to work in the United Kingdom are included in the recruitment process.

All Employees' responsibilities

To adhere to standards set out in the Code of Conduct. Employees are further governed by the council's Disciplinary procedure which contains reference to disciplinary rules and gives examples of misconduct/gross misconduct and how such situations will be managed.

The role that employees are expected to play in the framework of prevention and detection of fraud will be included in staff induction procedures via I-learn as appropriate.

All employees are reminded of their obligation to comply with section 117 of the Local Government Act 1972 which requires any interests in contracts that have been or proposed to be entered into by the Council to be declared. The legislation also prohibits the acceptance of fees or rewards other than by means of proper remuneration.

Employees must register any interests they have in the departmental register via **Register of Financial and other Interests** available on the intranet. It is the employees' responsibility to ensure information relating to interests remains up to date.

All offers of gifts and hospitality over £25 must be reported via **Registration of Gifts and Hospitality** available on the intranet (regardless if accepted or declined). Each business unit is responsible for maintaining a Register of Gifts and Hospitality and providing those reports to corporate fraud.

All employees have a responsibility to ensure Fraud is prevented from entering Torbay Council's financial systems.

Councillors' responsibilities

Councillors are reminded of their responsibilities included in the Constitution. These include

- Members Code of Conduct
- Financial Regulations and contracts procedures
- Local Protocol on gifts and hospitality

These matters are specifically brought to the attention of members in their induction and include the declaration and registration of potential areas of conflict. The Monitoring Officer advises members of new legislative or procedural requirement.

Within 28 days of election or appointment to office, members are required to declare specific information concerning financial and other interests. Members are responsible for notifying the monitoring officer as soon as any change occurs within 28 days of any change occurring.

Members are required to declare interests at all meetings, both internal and external, whether decision making or not.

All offers of gifts and hospitality over £25 must be reported via **Registration of Gifts and Hospitality Form** available on the intranet.

Members are required to register details of any contracts entered into either externally or internally.

Systems

In addition to Financial Regulations and Contract Procedure Rules, the Council's Procurement Policy requires employees to act in accordance with best practice. A procurement toolkit ensures process is consistent.

External services are commissioned by the Corporate Procurement Team who ensures external organisations are aware of the Authority's anti-fraud policy.

Managers and employees are made aware of various sources of guidance and acceptable working practices using an on-line package.

Regulations and accounting instructions are in place governing the procedures and responsibilities of employees in relation to the key financial activities.

The Council has developed and is committed to systems and procedures, which incorporate efficient and effective internal controls and which include adequate separation of duties. Managers are responsible for ensuring that such controls, including those in a computerised environment, are properly maintained and documented. Their existence and appropriateness is independently monitored by Audit Services in accordance with the approved annual internal audit plan.

5 Information Security and IT

The Council has detailed Information and IT security policies that concentrate on specified areas.

Mandatory I-learn courses provide awareness of Information Governance and Information Security.

All employees and members participate in an IT induction session. Awareness is provided of security issues around network passwords and the Computer Security Policy.

The Council acknowledges that access to the internet is an integral part of many jobs and employees are provided with Internet access at work to enable them to do their job. The council has a policy that employees should only use and get information from the internet for their official duties and responsibilities. Use of internet and email services on Council IT equipment is covered by the Council's Internet and e-mail policies.

Full compliance with policies help the council to manage risk from information security threats, external or internal sources, deliberate or accidental.

The Council will seek to ensure information it shares internally and with partner organisations is appropriate and secure.

6 Whistle-blowing

Encouraging and enabling staff to raise serious concerns

Torbay Council has a **Whistle-blowing policy** to enable employees to raise concerns about malpractice/wrongdoing at an early stage and in the correct way. The Whistle-blowing Policy is used for reporting concerns where the employee holds a reasonable belief that the concern is within the public interest or where the organisation, and/or members of it, may be at risk. The policy explains how concerns raised will be dealt with.

The Council will do its utmost to protect an individual's identity when they raise a concern and do not want their name to be disclosed. It must be acknowledged by the employee raising the concern though that the investigation process itself may reveal the source of the information and depending on the outcome, a formal witness statement by the individual may be required as evidence in a Court.

In accordance with law, the Council undertakes that no employee who reports a concern in the public interest under this procedure will be subjected to any detriment as a result. In the event that the employee believes they are being subjected to a detriment by any person within the Council, they have the right to raise concerns of harassment via the Council's **Acceptable Behaviour Policy**.

Where allegations are found to be malicious, they will also be considered for further investigation and subject to appropriate disciplinary action. All referrals are treated in the strictest confidence and callers who wish to may remain anonymous.

7 Audit and Fraud

A robust opposition to fraud

The Accounts and Audit Regulations 2015 part 2 specifies the section 151 officer, on behalf of the authority, must ensure, through internal controls that it has:

- effective financial and operational management
- effective arrangements for the management of risk
- financial control systems which include measures to prevent and detect inaccuracies and fraud
- appropriate management of risk

Therefore, Internal Audit and Corporate Fraud play a preventative role in reviewing and assessing to ensure that systems and procedures prevent and detect fraud. The Audit and/or Fraud team investigate all cases of suspected irregularity. They will liaise with management to recommend changes in procedures to prevent further losses to the authority.

Corporate Fraud and Audit are responsible for all internal and external fraud investigations. All investigations are conducted in accordance with the requirements of the Human Rights Act 1998, Police & Criminal Evidence Act 1994, Criminal Procedures Investigation Act 1996 and other relevant legislation. In cases where employees are involved, they will work with Human Resources and appropriate senior management to ensure correct procedures are followed and this strategy is adhered to. In addition, there is a protocol for the disclosure of information about employees found guilty of fraud, so that this information can be held on their employee file.

In addition to the whistle-blowing procedure, the corporate fraud team operates a separate hotline for use by members of the public. This is publicised in all relevant literature. There is also an online [reporting form](#).

8 The cost of fraud

The true cost of fraud is not alone financial but also causes inconvenience and sometimes direct harm by depriving individuals in genuine need.

Council Tax

The Audit Commission estimated between 3% - 11% fraud in the Council Tax system (Audit Commission: 2014). In line with this estimation, if Torbay can decrease fraud, within the discounts and council tax reduction scheme by the lowest percentage of 3%, an increase in the collection fund of £658,657.

Bromley Borough Council successfully prosecuted a man for falsely claiming Council Tax exemption and single person discount on his Council Tax, was sentenced to a suspended custodial sentence and ordered to pay substantial costs.

The man was summonsed to attend Bromley Magistrates Court where he pleaded not guilty to three charges under Sections 1(2)(a) and 2(1) of the Fraud Act 2006 of making false representations to make a gain for himself totalling £2,637.65. The case went to trial at Bexley Magistrates Court where he was found guilty and sentenced to 17 weeks imprisonment, suspended for two years on each count to run consecutively totalling 51 weeks. He was also ordered to complete 300 hours unpaid work and ordered to pay costs of £2,700.00 to Bromley Council at a rate of £350.00 a month after the Council Tax debt is cleared.

The Chargepayer had fraudulently claimed a single persons discount and a pastoral disregard by submitting false documentation.

Business Rates

If the same argument is used for small business rates relief a 3% rate equates to £131,006 (although Torbay would only retain a percentage of this figure).

Torbay Council is working with the Cabinet Office to develop methods to protect the Business Rates charge base.

Housing

Research published by the Chartered Institute of Public Finance and Accountancy concludes social housing fraud is wide ranging. A pilot undertaking work on Housing Tenancy fraud recovered properties with a value of £1.62 million with 90 properties being recovered each assumed to save £18,000.

Increased demand for bed and breakfast accommodation has meant the council spending an additional £100,000 in this area during 2015/16, and anticipates a further increase in provision for 2016/17 of a further £100,000. As at September 2016, the total number of families on the Housing waiting list stood at 974. Working with our Housing Associations to prevent and detect social housing fraud can ensure that those not entitled to social housing are not depriving a family, on the waiting list, of a home.

Birmingham City Council successfully prosecuted a woman who fraudulently claimed a 70% right to buy discount to buy her property while living in a second home that she had owned for over 10 years.

The tenant, who had rented her social property for 34 years, was actually living at another home she had bought and was renting out her social property. When completing her right to buy application, she failed to declare ownership of her second property.

She pleaded guilty at court and received a 10 week custodial sentence suspended for 18 months together with an 18 month supervision order. The court ruled the whole value of the property, and not just the discount, had been defrauded. The council is seeking to recover the loss under the Proceeds of Crime Act.

Blue Badge

The value of a blue badge (outside London) is estimated at £500 per annum by the Audit Commission.

Torbay has a total of 8129 blue badges in circulation, 7999 to individuals and 130 to organisations. The National Fraud Authority estimated that around 20% of all blue badges in circulation are abused at a cost of £46 million per annum to local authorities. This means a potential misuse figure in Torbay of up to 1625.

Misuse of a blue badge deprives those with a genuine need from using disabled parking facilities. There is also a knock on effect to local businesses as it could force individuals to shop or use facilities elsewhere where parking is less of an issue.

A man from Northfleet was found guilty after being caught using a blue badge which had been cancelled. The badge holder had passed away six months previously. The man pleaded guilty of the offence and was ordered to pay £400 fine with £400 costs and a £40 victim surcharge. The maximum fine in such an offence is £1,000.

Free School Meals

The cost of the provision of free school meals by Torbay Council is circa £270,000 pa.

Although statistics of fraud in this area are not available, abuse of the system provides a risk to budget provisions.

9 Awareness and training

The continuing success of this Policy and its general credibility will depend largely on the effectiveness of training and responsiveness of employees throughout the organisation.

To facilitate this, appropriate provision will be made through induction and refresher training and for employees via the Council's on-line I-learn system.

Emerging issues will be rolled out across the authority using on-line training or media as appropriate. Employees who ignore such training and guidance risk the possibility of disciplinary action.

It is often the vigilance of members, employees and members of the public that enables detection to occur and appropriate action to take place. Campaigns raise fraud awareness and encourage people to report suspicious activity.

Regular reports will be submitted to the Audit Committee and high profile campaigns will be publicised accordingly.

10 Detection

Audit

Internal Audit may identify fraud and irregularities as a result of the work they undertake. Included in their plans are reviews of systems, financial controls, specific fraud checks, error tests, spot checks and unannounced visits. The Council's preventative systems, particularly internal control systems, are designed to deter any fraudulent activity.

Torbay and South Devon NHS Foundation Trust

The responsibility for investigating fraud within adult social services has been delegated to the Director of Finance of Torbay and Southern Devon Care Trust. The Trust's Director of Finance is supported in this role by the Torbay and Southern Devon Care Trust Counter Fraud Service. Where appropriate, issues will be discussed with Torbay Council's Corporate Counter Fraud Team to ensure cases are investigated in the most effective manner. The Council's Section 151 Officer receives an annual letter of assurance.

Co-operating with others

The exchange of information on national and local fraud activity and its impact on local authorities will be shared with:

- The Police
- Inter Authority Audit Groups
- External Audit
- Her Majesty's Revenues and Customs
- The Department of Works and Pensions
- Borders and Immigration
- Housing Associations

Data Matching

The Council will undertake specific fraud drives where it may use its own data bases such as Payroll, Personnel, Parking, Council Tax, Claimants of Housing Benefit/Council Tax Support. The Council will exchange information with other agencies such as Police, Benefit Agencies, HMRC and Housing Associations.

The Council will undertake data matching with other Local Authorities and relevant external organisations to pro-actively identify fraudulent activity.

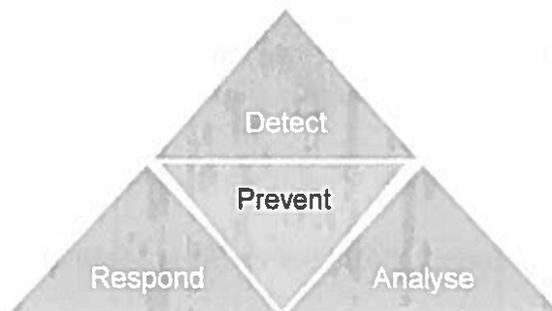
The Council will use National Fraud initiatives, social media, Charities Commission and tracing companies and seek to identify other sources of data as necessary to ensure correct and accurate administration of public funds.

Torbay Council will work with the Cabinet Office to develop methods to prevent fraud in the Business Rates charge base

National Anti-fraud Network (NAFN)

The Council subscribes to and works with the National Anti-fraud Network (NAFN) to ensure it has access to all intelligence sources to combat fraud and corruption.

11 Action



Sanction and redress

The Council has developed a Corporate Sanction and Prosecution Policy.

In all cases where the Council has suffered financial loss, it will seek to recover it in full, in addition to costs incurred by the Authority as a result of pursuing this repayment. As a deterrent and to make public its position with regard to misappropriation of public money or other resources, the Council will seek to publicise successful sanctions in the press and through social media.

Members

The Council will utilise its own Standards Committee to the fullest extent to promote high standards and regulate the conduct of members.

Staff

In the event that an allegation is made against an employee, the Counter Fraud Officer will consult with Audit, Human Resources and the relevant service manager, in accordance with the council's disciplinary policy. Any disciplinary action will be taken in conjunction with HR and the decision as to whether to refer the issue to any other enforcement agency, for example the Police or HMRC will be a joint decision between the Counter Fraud Officer, HR and Service Manager. Sanctions may include warnings or dismissal.

No Action

A case may be closed without action. This may be due to the following:

- Offence is minor
- Evidence is not robust or reliable
- Cost to pursue the case is not proportional to the offence

The decision to refer the matter on for further action, such as prosecution will be taken by the relevant director in conjunction with Corporate Fraud Officer or Section 151 Officer.

System weaknesses identified as a result of investigation will be addressed through an agreed action plan which the relevant service area manager is responsible for implementing. As appropriate, Corporate Fraud will monitor implementation of agreed actions and report progress to the council's Audit Committee.

Contractors

The terms of the council's contracts require that contractors take all reasonable steps, in accordance with good industry practice, to prevent any fraudulent activity by the staff, the contractor (including its shareholders, members, directors) and/or any of the contractor's suppliers, in connection with the receipt of monies from the Authority. The contractor must notify the council immediately if it has reason to suspect that any fraud has occurred or is occurring.

In response to this information, the council will decide how to respond. Its response will usually involve one of the following steps

- Investigation by management/Internal Audit or by disciplinary procedures
- Referral to the Police
- Referral to the external auditor or
- Set up an independent enquiry

At the conclusion of an investigation, the investigator will produce a report. The manager whose responsibility encompasses the area of that investigation must formally accept the report and take the appropriate action (disciplinary or other).

Public and External Organisations

The Council seeks to apply a sanction in all appropriate cases of fraud and attempted fraud. This will range from financial penalties, official warnings to criminal prosecution. In all cases, the Council will seek to recover any fraudulently obtained amounts, and where necessary and appropriate, its costs incurred in doing so, and will utilise all means available to recover these amounts. This will include freezing assets, confiscation orders, civil litigation and general debt recovery.

12 Operational

Resources

Dependant on the type of allegation, corporate fraud or internal audit will utilise resources as necessary. Initial intelligence and evidence gathering is necessary to establish if there is grounds to commence a formal investigation. What is reasonable in each case will depend on the particular circumstances.

Any information obtained will be retained in an evidentially secure manner and the confidentiality of the information will also be maintained.

Transparencies

In line with section 53 of the Government's Transparency Code, the following will be made available and updated annually on the corporate fraud web pages

- number of occasions powers under the Prevention of Social Housing Fraud are used (Power to Require Information) (England) Regulations 201444, or similar powers
- total number (absolute and full time equivalent) of employees undertaking investigations and prosecutions of fraud
- total number (absolute and full time equivalent) of professionally accredited counter fraud specialists
- total amount spent by the authority on the investigation and prosecution of fraud, and
- total number of fraud cases investigated.

Plan

As an outcome of investigations, corporate fraud and/or audit will maintain a corporate risk register. This will be used to inform a yearly pro-active counter fraud plan.

In the interest of preventing further instances of fraud, resulting in loss of revenue or reputational damage, the corporate counter fraud team and audit will make recommendations to managers and use the risk register to inform pro-active work.

Reporting

Instances of fraud will be reported to the Council's Audit Committee every six months.

Delivery

The internal audit team and corporate counter fraud team work side by side to provide the Council's audit and fraud investigation functions. They employ a multi-disciplinary approach that includes pro-active work. In addition, the team are free to work with other agencies in pursuance of anti-fraud.

The ability to report suspected fraud using the on-line reporting form or fraud hotline provides a deterrent to fraudulent activity.

Any instance of fraud reported will be assessed to establish:

- details of the allegation
- If the allegation provides detail to suggest an offence has occurred to warrant investigation

- Elements of the offence to be proved
- Potential Lines of Enquiry

All reported frauds will be treated confidentially and with integrity.

Any documentation obtained or recorded will be kept and maintained in a secure manner.

Details of investigations will not be released to the reporter.

If a suspect makes a subject access request during an investigation, details of the investigation will not be released as may prejudice the investigation.

In cases where fraud is discovered we will take criminal, civil or disciplinary action or a combination of these. Decisions will be based on council policies and the Code for Crown Prosecutors which includes the evidential and public interest tests for prosecution

The corporate counter fraud team will work in partnership with other organisations such as the UK Borders Agency and the Police.

Training

Torbay Council is committed to preventing fraud and will invest to ensure development and knowledge to minimise the impact from fraud.

Corporate counter fraud officers will undertake training to become Accredited Counter Fraud Specialists.

Corporate counter fraud officer and audit will partake in regular training and events hosted by companies that specialise in Fraud Prevention such as The European Institute Combating Corruption and Fraud (TEICCAF) and Chartered Institute of Public Finance and Accountancy (CIPFA).

13 Conclusion

We have a responsibility to the residents of Torbay to be

- Transparent
- Accountable
- Honest
- Selfless
- Preventing, deterring and promoting detection of fraudulent and corrupt acts
- Taking action when fraud or irregularities occur

The Council has in place a clear network of systems and procedures to assist it in dealing with fraud and corruption. It is determined that these arrangements will keep pace with any future developments in both preventative and detection techniques regarding fraudulent or corrupt activity that may affect its operation.

The Council has always taken pride in setting and maintaining high standards and a culture of openness, with core values of fairness, trust and value. This strategy fully supports the Council's desire to maintain an honest authority, free from fraud and irregularities.

This Policy will be reviewed annually.



December 2016

Corporate Sanction and Prosecution Policy

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2 Introduction

The Council's Corporate Sanction and Prosecution Policy sets out our aims and objectives with regard to tackling fraud and associated offences.

The Policy states that we will seek a possible sanction against any individual or organisation that defraud, or seek to defraud the Council. The use of sanctions will be governed by this Policy and the principles of the Policy shall apply equally to any fraud against the Council or against funds for which the Council has responsibility.

The objectives of this Policy are to ensure that:

- the Council applies a full range of sanctions in a fair and consistent manner.
- sanctions are applied in an effective and cost efficient manner.
- the sanction decision making process is stringent, robust and transparent.

This Policy is designed to provide a framework to ensure the most appropriate resolution to a case is reached. The sanction decision will have regard at all times to the Council's Corporate Sanction and Prosecution Policy objectives, the individual circumstances of each person concerned and the overall impact of the punishment to both the individual and the community.

A range of sanctions is available to the Council. These include disciplinary action, civil proceedings, criminal proceedings and civil/financial penalties. In appropriate cases we may take more than one form of action. For example, where staff defrauds the Council we may take disciplinary, prosecution and civil recovery action.

One sanction available to the Council is criminal prosecution. We recognise that this is a serious step to take and the decision to refer cases for prosecution will not be taken lightly. The ultimate decision on prosecution will be taken by the prosecuting body. In some cases this will be the Council, through Legal Services, in others the Crown Prosecution Service.

Other than where the Crown Prosecution Service is the most appropriate prosecuting authority, we will utilise the Council's internal Legal Services to undertake criminal prosecutions. In these cases the decision to refer cases for prosecution to Legal Services will be taken by either Internal Audit or Corporate Counter Fraud Officer.

The decision to issue civil/financial penalties as alternatives to prosecution, where permitted by certain legislation, will lie with the Internal Audit and Corporate Counter Fraud Officer with guidance from Legal Services.

Alternatively, we may refer cases to the police for investigation who may then refer matters to the Crown Prosecution Service or other prosecutor. This may occur in cases of staff fraud or where the Council is the 'victim' or the fraud is complex and/or of a serious nature.

This Policy outlines various penalties/sanctions or criminal prosecution that can be imposed/offered by the council, and are permitted by legislation, where offending contrary to any of the following has occurred, although this list is not exclusive.

- Theft Acts 1968/ 1978
- Forgery and Counterfeiting Act 1987 (FCA)
- Computer Misuse Use Act 1990
- Social Security Administration Act 1992 (SSAA)
- Local Government Finance Act 1992 (LFGA)
- Data Protection Act 1998 (DPA)
- Identity Card Act 2006
- Fraud Act 2006
- Council Tax Reduction Schemes (Detection of Fraud and Enforcement (England) Regulations 2013
- The Bribery Act 2010

- Welfare Reform Act 2012 (WRA)
- The Prevention of Social Housing Fraud Act 2013. (PoSHFA)

When considering a case for prosecution it is generally accepted that there are two “tests” to be applied – the evidential test and the public interest test. These are currently set out in the Code for Crown Prosecutors 2013.

3 Evidential Stage Test

Prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be. The evidence must be acquired in a form which can be used by the court and be admissible and there must be enough evidence to form a realistic prospect of conviction.

In order to ensure that a “realistic prospect of conviction” exists officers of the Counter Fraud Team and prosecutors will at all times ensure that investigations are conducted in accordance with all relevant legislation and Codes of Practice with regard to evidence gathering, interviewing and rules of disclosure.

The evidence gathered will be examined in the first instance by the investigator. When satisfied that sufficient evidence exists to successfully prosecute and that the Public Interest Stage is also satisfied the case file will be passed on to either the council’s Legal Services team or the Crown Prosecution Service. All prosecutors will then apply their own inspection of the evidence to ensure that both tests are met.

4 Public Interest Test

A prosecution will usually take place unless the prosecutor is sure that there are public interest factors tending against prosecution which outweigh those tending in favour, or unless the prosecutor is satisfied that the public interest may be properly served, in the first instance, by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal.

The more serious the offence or the offender’s record of criminal behaviour, the more likely it is that a prosecution will be required in the public interest.

Aggravating and mitigating factors will be taken into consideration when deciding on the appropriate sanction as set out in the Code for Crown Prosecutors.

5 Members / Staff / Teachers / School Support Staff

In all cases of fraud, theft, financial misconduct, serious and intentional breach of financial regulations and corruption committed by employees of the council or its maintained schools we will seek disciplinary action. The normal recommendation for staff would be gross misconduct. This will include cases of fraud against the council, other councils and other public sector bodies.

Where financial loss has been identified we will always seek to recover this loss either through the civil or criminal process. In addition, where staff are members of professional bodies or are subject to national codes of conduct such as teaching and social services staff, we will refer cases to the relevant professional body.

Where appropriate under this policy we will refer cases to the relevant prosecuting authority for criminal prosecution.

6 Welfare Fraud

In all cases where potential fraud is identified against the Department of Works and Pensions welfare system, the Council will refer cases to the Single Fraud Investigations Service.

The Welfare Reform Act 2012 provided for the abolition of Council Tax Benefit.

7 Council Tax Penalties for Registration, Discounts and Exemptions

Councils are legally entitled to obtain information from residents, owners or managing agents to identify the person(s) liable for payment of Council Tax.

Where a person fails to supply information within a month, a change that affects council tax registration, discounts and exemptions, regulations provide that local authorities may impose a £70 penalty on any occupier, owner or managing agent of a property in the following circumstances

- Negligently made an incorrect statement or without reasonable excuse, fail to give a prompt notification of a relevant change in circumstance affecting their entitlement to Council Tax Support, discount or exemption and fails to take reasonable steps to correct the error.
- Without reasonable excuse, failed to give, (within one month) notification of a relevant change in circumstances, affecting their entitlement to a Council Tax Support, discount or exemption.

In both circumstances the occupier, owner or managing agent must not have been charged with an offence or cautioned or been given a penalty in accordance with the Council Tax Reduction scheme (Detection of Fraud and Enforcement) (England) Regulations 2013.

Where the Council has imposed a penalty and a further request for the same information is made to that person and is not properly complied with, a further penalty of £280 may be imposed.

This penalty may be imposed each time the Council repeats the request and the person does not fulfil their statutory obligations, schedule 3 of the Local Government Finance Act 1992.

Penalties will be added to the appropriate person's Council Tax bill, in all other cases an invoice will be raised.

8 Penalties and Prosecution for Council Tax Support

Since 1 April 2013 local authorities in England have a responsibility for administering their own Council Tax Support Schemes subject to the Council Tax Reduction Schemes (Prescribed Requirements)(England) Regulations 2012 and Council Tax Reduction Scheme (Detection of Fraud and Enforcement)(England) Regulations 2013.

The Council Tax Support Scheme, for working-age customers, is based upon the Council Tax Reduction Scheme Policy. For pension age customers it is based upon national legislation.

Prosecution proceedings for a Council Tax Support Scheme offence may begin at any time within a period of three months from the date on which evidence, sufficient in the opinion of the prosecutor to justify a prosecution for an offence, comes to the prosecutor's knowledge or within a period of twelve months from the commission of the offence, whichever period expires last.

The offences which can be considered are:

- A delay, obstruction, refusal or failure to comply with, requests for information by an authorised officer of Torbay Council. In this case, where found guilty of an offence, they will be liable to a fine not exceeding level 3 on the standard scale and where if they are convicted their refusal or failure to comply continues will result on a summary conviction to a fine not exceeding £40 for each day it is continued.
- False representation for obtaining a reduction - applies to a person who obtains a reduction under the Council Tax Support Scheme by making a statement which they know to be false or provides or knowingly allows to be provided, any false document or information. In this case where found guilty of an offence they will be liable on summary conviction to a fine not exceeding level 4 on the standard scale, or imprisonment for a term not exceeding three months, or to both.
- Failure to notify a change of circumstances - this applies to a person who is entitled to a reduction and has a change in circumstances which they know changes their entitlement to a reduction and fails to give prompt notification of that change. If found guilty of this offence they will be liable on summary conviction, to a fine not exceeding level 4 on the standard scale, or to imprisonment for a term not exceeding 3 months, or to both.
- Penalties as an alternative to prosecution - As an alternative to prosecution, where there are grounds for instituting proceedings against a person, Torbay Council may write to the person inviting them to agree to pay a penalty instead of prosecution action starting.

The amount of the penalty is to be 50 per cent of the amount of the excess reduction of Council Tax Support which has been overpaid to the customer subject to:

- a minimum amount of £100; and
- a maximum amount of £1,000.

If the penalty is accepted by the customer and an agreement for repayment is made no further action will be taken against the customer for this offence.

The customer can withdraw their acceptance within 14 days of their agreement. After this period expires there is no right of appeal. If the customer does withdraw their acceptance prosecution will then be considered.

Penalties for incorrect statements and failing to notify a change of circumstances - In a similar way to Civil Penalties for Council Tax Benefit, if a customer who has applied for or is in receipt of a Council Tax Support either:

- negligently makes an incorrect statement or representation or negligently gives incorrect information or evidence and does not take reasonable steps to correct this error and as a result of this has an excess reduction in their Council Tax Support; or
- without reasonable excuse fails to give a prompt notification of a relevant change of circumstances which results in an excess reduction in their Council Tax Support

In these cases a £70 penalty may be imposed.

9 Housing Tenancy and Homeless Application Fraud

In all cases of fraudulent housing tenancy fraud, the Council will seek to work with the relevant Housing Association. The Council's view is that a housing association tenancy lost to fraud is one less property available to customers on our homeless waiting list.

Fraud and illegal sub-letting committed by Housing Association tenants and homeless applicants will be considered for criminal prosecution using the Theft Act, Fraud Act, Housing Acts and/or the Prevention of Social Housing Fraud Act.

In both instances, the factors that will affect the decision to prosecute will be based on the evidential and public interest tests.

10 Other Fraud

This applies to Direct Care Payments, Grants, Reliefs or non-domestic rates and other benefits awarded such as Blue Badges.

In cases where the Council suffers a financial loss, we will always seek recovery. Where an organisation is involved in the fraud, the Council will also make referrals to the relevant governing body, e.g. Charities Commission, Registrar of Companies.

The Council will also consider criminal prosecution. The factors that will affect our decision to prosecute will be based on the evidential and the public interest test. This will include cases of attempted fraud i.e. applications for renovation grants where the financial estimates are deliberately misstated; false applications for direct care payments.

11 Circumstances in which the Council is less likely to prosecute or impose a penalty

It is probable that the Council will not wish to pursue further action in cases where, although there is sufficient evidence to take further action, the alleged offender or any partner:

- has a significant degree of physical or mental infirmity, such as a terminal illness, severe clinical depression, hearing/sight/speech problems, learning difficulties or extreme old age;
- has made a voluntary disclosure of the alleged offence before the Council had any suspicions. This does not include disclosure during a visit or completion of a review form.
- was driven to commit the offence by a difficult domestic situation.
- if prosecuted there exists the possibility of mental injury to a third party, for example where an adopted or fostered child would be made aware of their true status.
- could be dealt with more effectively without redress to proceedings, for example due to age or immaturity, although youth in itself is not a good enough reason not to instigate proceedings.

The Council will also take into consideration the suitability of evidence obtained and any failures or delays in the investigation or administration. Examples would be when the application form has been wrongly completed by an officer of the Council or when there has been a failure to identify obvious flaws in a statement or document.

The Council will apply the Code for Crown Prosecutors fairly, independently and objectively in each case. Personal views about the ethnic or national origin, gender, disability, age, religion or belief, political views, sexual orientation, or gender identity of the suspect, victim or any witness will not influence its decisions. Nor will the Council be affected by improper or undue pressure from any source and will always act in the interests of justice and not solely for the purpose of obtaining a conviction.

12 Proceeds of Crime

The Council will use the Proceeds of Crime Act 2002, Criminal Justice Act 1988 and the provisions of PoSHFA 2013 to obtain Confiscation Orders to include Compensation Orders as well as recovery of the full criminal benefit figure where possible. The council may use its own accredited Financial Investigators or those attached to other law enforcement agencies in order to conduct investigation, obtain orders and present evidence.

13 Recording Penalties Sanctions and Prosecutions

For an effective regime of sanctions to be successful it is a requirement that accurate records of all convictions, penalties and cautions are maintained. This will enable the correct decisions to be made taking full account of the defendant's background. Therefore, it is important that a record of each is maintained.

All sanctions must be recorded by the Council and copies of all documents used to consider and issue the sanction retained, in accordance with the Council's Retention Policy, by the Counter Fraud Team and the affected service. Relevant paperwork must also be sent to the DWP (in benefit fraud cases) and the National Anti-Fraud Network to be retained on its central data-base.

In the case of prosecution all cases that result in successful convictions must be reported to the Police National Computer (PNC) Bureau at Devon & Cornwall Constabulary to update the central databases on sanction activity. Please discuss with the council's Legal Services team first, as this may have automatically been done by the Court if an Arrest Summons Number had been obtained from the Police prior to the issue of Court proceedings.

14 Publicity

It is the Council's intention to positively promote this policy as well as the outcome of any prosecutions, which will deter others from fraudulent activity.

15 Reporting and Review

In accordance with the Torbay Council's Corporate Sanction and Prosecution Policy instances of Fraud will be reported annually to the Audit Committee.

This Policy will be reviewed annually.



Title: **Apprentice Levy**

Wards Affected: **All Wards**

To: **Audit Committee** On: **26 July 2017**

Contact Officer: **Jo Sandbrook, Senior HR Officer**
Telephone: **(01803) 207366**
E.mail: jo.sandbrook@torbay.gov.uk

1. Key points and Summary

- 1.1 The apprentice levy has been introduced by Government to encourage employers to offer more apprenticeships and to be able to meet the training needs and skills of their workforce.
- 1.2 The Apprentice Levy was introduced in April 2017, employers with a pay-bill of over £3million per annum are required to pay 0.5% of their pay-bill into an apprentice levy.
- 1.3 Employers who are required to pay the levy also receive a 'top-up' allowance of £15,000 to off-set against their levy funds.
- 1.4 The cost of apprenticeship training ranges from £2k - £27,000k, depending upon the level of apprenticeship being undertaken.
- 1.5 The Levy is payable through Pay As You Earn (PAYE) and is payable alongside income tax and National Insurance. Each employer has a levy funds digital account that they use to access their funds and pay training providers.

2. Introduction

A review of the existing Apprentice Strategy and the number of Apprentices the Council employs has been undertaken due to the introduction of the Apprentice Levy, see Appendix 1 – Apprentice Strategy 2017.

The levy funds can only be used to fund the cost of apprenticeship training and assessment, it does not include salary costs. The Council has therefore changed its strategy to reflect this and has reduced the number of 'new' apprentices it commits to employ each year.

The funding can be used to train existing staff, therefore, as part of its workforce planning activities, the Council will use the funds to upskill existing staff, to support their continuing professional development and for succession planning.

3. Current Situation

The Council's Levy Funds are £175k, this figure includes linked entities such as the TDA and also Council Schools (community and voluntary controlled). These funds have to be used within 24 months of being allocated or else they will expire.

HR are administering the digital levy account on behalf of the Council and have developed new processes to ensure compliance with the Apprenticeship Levy Funding Rules. The Council will also be required to undertake a formal procurement process of training providers to ensure compliance.

The Council currently employs 11 Apprentices, these posts were recruited to within the last 12 months under the Council's previous Apprentice Strategy. This cohort have mostly all completed the first year of their apprenticeship training and are going on to complete the next level, which will be funded from the Council's levy funds.

The Council has already committed to funding £15k of its apprentice levy funds. This is for Business Administration apprenticeships within the Council and Supporting Teaching and Learning Apprenticeships in Schools.

4. Existing Staff

As part of workforce planning and developing existing staff, HR have been working with different service areas across the Council and Schools to ensure that they are aware that the levy funds can be used to develop existing staff.

There are a number of staff who have already been identified to undertake management training, as well as higher level apprenticeships in civil engineering, and business administration. Should these training requests be approved, it is estimated that a further £59k will be spent from the Council's levy funds.

The use of the levy funds is an ongoing HR priority for the Council. HR is working with all service areas to ensure that the funds are being utilised and that learning and development opportunities for staff can be fully taken advantage of.

Jo Sandbrook
Senior HR Officer

Appendices

Appendix 1 - Torbay Council Apprentice Strategy 2017

Documents available in members' rooms

Apprenticeship funding: rules and guidance for employers May 2017 to March 2018:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/605004/EMPLOYER_RULES_V2_FINAL.pdf

Background Papers:

The following documents/files were used to compile this report:

Extract from Grant Thornton Report – Apprentice Levy – Are You Prepared?

TORBAY COUNCIL APPRENTICE STRATEGY

Human Resources March 2017

This document can be made available in other languages, on tape, in Braille, large print and in other formats. For more information please contact 01803 207361

1 Vision

An Apprenticeship is a worked based training program designed around the needs of the employer, which leads to a nationally accredited qualification. Apprenticeships can be used to train new employees and existing employees through further career development training opportunities. Apprenticeships are open to all ages. Apprenticeships generally last for a minimum of 12 months, but in some cases can last between 3 and 4 years if they are a higher level apprenticeship.

As a Council and employer at the heart of the Community it is our vision that working for the Council becomes the preferred vocational choice for anyone looking for an Apprentice opportunity within the local area.

Local government offers a wide range of jobs and opportunities for career development and working within local government is an excellent starting point for those leaving school or college and looking for their first job, those that may wish to switch career or considering returning to work after a break. We have successfully employed Apprentices for several years and have seen many individuals flourish through our Apprentice opportunities and career paths that Apprenticeships can often lead to.

Apprentices provide the Council with the opportunity to:

- Enable the Council to develop the right level of skills to meet the future workforce planning requirements.
- Corporate social responsibility to support people into employment, training and career pathways with specific focus upon skills shortages, disadvantaged groups such as those leaving care or those not in education, employment or training (NEET).
- Become an employer of choice through being recognised as an employer that provides career progression and structured training.

2 Background

In 2014, Torbay Council adopted the formal Apprentice Strategy 2014-2019. Forthcoming changes to the way in which Apprentices are funded in April 2017 have brought about a review of the previously approved strategy. This revised strategy commits to the original ethos of the Employing Apprentices Strategy, however, it also takes into account changes to Apprenticeships nationally, the financial landscape within Local Government and the way in which Apprentices are funded.

The principal objectives of this strategy are:

- The Council will aim to employ as many Apprentices in each financial year as the budget planning process permits. The number of new apprentice starts will take into account workforce planning considerations and what the workforce of the future will likely be, priority will be given to apprenticeships available for young people, with a specific focus upon skill shortages, disadvantaged young people, including care leavers, and those not in education, employment or training (NEETS).
- To ensure that the strategy is flexible enough to meet the needs of the changing employment and financial landscape within Torbay Council and the wider Public Sector.
- To become a role model within Torbay as an Employer of choice for employing apprentices, working in partnership with other organisations such as Schools, Academies, Colleges, other local authorities and training providers. Actively promoting apprenticeships within the Council as a valuable career option.
- To ensure that the forthcoming changes to the way in which Apprentices are funded from April 2017 are maximised by the Council.
- To ensure that Managers, Trades Unions, Employees and partner organisations are aware of the Council's approach to the employment of apprentices.

The benefits of Apprentices:

- Ensuring that young talent is encouraged and nurtured investing in young people in the local community.
- The Council becomes a positive role model within the wider Community with regards to its Employment of Apprentices
- Develop the skills required for the future needs of the organisation

- Support succession planning –particularly in areas of key skills or professions and managers of the future
- Be a cost effective CPD and training option for the Council, as the Apprentice levy will fund training costs.
- Motivate the wider workforce by involving them in the Apprenticeship programme.

Working for the Council our apprentices will have:

- Structured training with personal development plans for the apprentice which will support organisational development and workforce planning requirements.
- Earn a wage above the Apprentice minimum wage on the Torbay Council Apprentice pay scale which is reviewed each year. The will be incremental progression for apprenticeships lasting longer than 12 months subject to completion and progression of training.
- On completion of Apprenticeship, the opportunity to apply for jobs within the council and or partner organisations.
- Become an employee of the Council on a fixed term contract with access to all the benefits that being an employee of the Council attracts such as access to Pension Scheme, Employee Reward Scheme, i-Gain, and holiday pay.
- Learn transferable skills, a trade or occupation with an accredited Training Provider. This will be used to reinforce the understanding of the requirements of the Apprenticeship.
- Be employed for a minimum hours of 30 hours per week and be given time off to attend college training days (if required as part of the programme). Apprentices will work full time during college academic holidays.
- Be provided with relevant in-house training in addition to the Apprenticeship training.
- Work with experienced staff and have access to support in the form of a work buddy, mentor and/or a coach.
- Provide a diverse range of job and career roles for Apprentices with scope for career progression in some areas.

- Towards the end of the Apprenticeship they will have access to a coach who will work with them on their career development and help them set future goals.
- Although permanent employment cannot be guaranteed at the end of an Apprenticeship, support will be given to apprentices to enable them to apply for suitable posts within the Council, partner organisations or externally with other organisations.
- Apprenticeships are protected from redundancy and there is a commitment from organisations to continue the Apprenticeship to the end of the training if reorganisation occurs.

Human Resources will:

- Lead the Apprenticeship programme, developing an action plan to enable and support delivery of the strategy, linking in with wider Workforce Planning Strategy.
- Provide advice to managers regarding Apprenticeships and Recruitment.
- Be the main contact with The Apprentice Service, training providers and the Skills Funding Agency.
- Allocate a Mentor and Coach to each Apprentice to ensure that support throughout employment.

Managers will:

- Identify with HR roles that are suitable as Apprenticeships.
- Provide roles and practical work experience elements of the programme.
- Ensure individuals receive training and support in the workplace in line with the Council's Employment Policies and Procedures.
- Ensure full induction is undertaken.
- Release individuals to attend training required to complete the Apprenticeship and internal training.
- Undertake regular meetings and supervision to review individuals progress, agree targets and discuss any issues or problems to an agreed framework.

- Liaising with HR and the training providers to ensure that the Apprentice receives appropriate support and training in order to complete the Apprenticeship.
- Provide HR with Apprentice progression update on a regular basis.
- Notify HR of any changes in the employment status of the Apprentice at least one month prior to changes taken effect during the Apprenticeship contract.
- Work with the Apprentice to identify substantive posts for the Apprentice to apply for at the end of their program.
- Promote the value of Apprenticeships within the Council and externally with partners and other businesses.
- When procuring contracts and commissioning services use the influence of the Council to ensure that Apprenticeships are an inherent part of the contract or service and that the contracting organisation has a positive approach to employing Apprentices.

For more information regarding Apprentices please contact the HR Organisational Development and Well-being Team:

Jo Sandbrook – jo.sandbrook@torbay.gov.uk

Jane May – jane.may@torbay.gov.uk

Equality Statement

These guidelines apply equally to all Council employees regardless of their age, disability, gender, race, religion or sexual orientation. Care will be taken to ensure that no traditionally excluded groups are adversely impacted in implementing this policy. Monitoring will take place to ensure compliance and fairness.

Policy Feedback

Should you have any comments regarding this policy, please address them to the HR Policy Feedback mailbox –

HRpolicy@torbay.gov.uk

History of Policy Changes

This Apprentice Strategy was agreed by members of the Full Council, Torbay Senior Leadership Team and Torbay Joint Consultative Committee.

Date	Page	Details of Change	Agreed by:



Meeting: Audit Committee

Date: 26 July 2017

Wards Affected: All

Report Title: Regulation of Investigatory Powers Act 2000

Is the decision a key decision? No

When does the decision need to be implemented? N/A

Executive Lead Contact Details: Cllr Robert Excell, Executive Lead for Community Services.

Supporting Officer(s) Contact Details: Jo Beer, Policy, Performance and Review Manager & Information Governance Lead, joanne.beer@torbay.gov.uk

1. Background

- 1.1 As a Local Authority, Torbay Council may wish to undertake an investigation under the Regulation of Investigatory Powers Act (RIPA) 2000.
- 1.2 RIPA 2000 regulates the use and method of surveillance which is carried out by public authorities. A Council is a public authority under RIPA 2000. A public authority may carry out covert surveillance where this surveillance is directed and not intrusive.
- 1.3 This report is to update members on any current RIPA authorisations and to bring forward the action from the meeting of 29th July 2015 where Members requested evidence of the authorisations used by the Council in relation to communications data and the use of National Anti-Fraud Network (NAFN) as single point of contact.
- 1.4 Torbay Council has not currently undertaken any main RIPA authorisation since 2008 it is however necessary to ensure that all Members and staff are kept aware of the requirements of RIPA should the need arise.
- 1.5 It is important to note that while the Council has not undertaken any main RIPA authorisations since 2008, we need to ensure that our RIPA policies and procedures are kept up to date and that they take into account any changes in national guidance. As such our operational policies and procedures in relation to RIPA have been updated and reviewed following the release of Procedures and Guidance issued by the Office of Surveillance Commissioners in July 2016.

2. Introduction

- 2.1 The Audit Committee are presented with information below regarding use of RIPA for investigations and the policy review which has been undertaken in relation to the Council's operational RIPA policies and procedures.
- 2.2 One of the roles of the Council in terms of its obligations towards RIPA takes into account the use of Communications data.

3. Authorisations

- 3.1 The Council has not undertaken any authorisations under RIPA for Directed Surveillance or for a Covert Human Intelligence Source (CHIS) since 2008.
- 3.2 The council has undertaken two authorisations for the acquisition for Communications data through NAFN in 2016/17, both relating to the same investigation.
- 3.3 Following the move of the Council's Trading Standards department to Devon County Council, it is expected that the number of authorisations for RIPA will continue to be minimal.

Financial Year	RIPA led to a successful prosecution, caution, or fixed penalty notice	Department	Purpose
2016/17	No	Community Safety	The prevention and detection of crime or preventing disorder S22 (2) (b). Using NAFN, communication data is sought due to potential offences under the Consumer Protection from Unfair Trading Regulations 2008, Fraud Act 2006, and the Insolvency Act 1986.
2016/17	No	Community Safety	The prevention and detection of crime or preventing disorder S22 (2) (b). Using NAFN, communication data is sought due to potential offences under the Consumer Protection from Unfair Trading Regulations 2008, Fraud Act 2006, and the Insolvency Act 1986.

4. Policy Review

- 4.1 In July 2016 the Office of Surveillance Commissioners released updated procedures and guidance for surveillance conducted by public authorities. Following this release the Council's operational policies and procedures in relation to RIPA authorisations have been reviewed and updated.
- 4.2 The main update to our local policy and procedure relates to the use of Social Networking Sites for surveillance. It is recognised that the use of the internet, and in

particular, social networking sites, can provide useful information for council staff in carrying out investigations. However, the use of social networking sites to gather information for an investigation may fall within the definition of 'covert directed surveillance'.

- 4.3 The use of social networking sites to gather information may, for example, fall within the definition of 'covert directed surveillance' if viewing a profile is repeated or if an officer 'becomes friends' with an individual on a site. It is important for staff to recognise that even though individuals may publish information publically, our viewing of that information may still be 'covert' and 'directed'. As such to view material published on a social network site a RIPA authorisation may be required.
- 4.4 Our updated policies and procedures will form the basis of a revised training programme for key applicant and authorising officers across the Council, as well as Elected Members.