

# TONBRIDGE & MALLING BOROUGH COUNCIL

## AUDIT COMMITTEE

29 July 2019

### Report of the Chief Audit Executive

#### Part 1- Public

#### Matters for Information

##### **1 OPINION OF THE CHIEF AUDIT EXECUTIVE ON THE FRAMEWORK OF GOVERNANCE, RISK MANAGEMENT AND CONTROL, TOGETHER WITH THE ANNUAL INTERNAL AUDIT REPORT AND ANNUAL COUNTER FRAUD REPORT FOR THE YEAR 2018/19**

This report informs Members of the opinion of the Chief Audit Executive on the Council's framework for governance, risk management and control, together with the Internal Audit work completed during 2018/19 to support that opinion. In addition, the report also informs Members on the work of the Counter Fraud function in 2018/19.

#### 1.1 Introduction

- 1.1.1 The Accounts and Audit Regulations require the Council to *undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control*. Proper practice is defined by the Public Sector Internal Audit Standards (PSIAS) and CIPFA's Local Government Application Note to the PSIAS.
- 1.1.2 The PSIAS requires Internal Audit to *report periodically to senior management and the board on the internal audit activity's purpose, authority, responsibility and performance relative to its plan*. The PSIAS also requires the Chief Audit Executive to *deliver an annual internal audit opinion and report that can be used by the organisation to inform its governance statement*. The annual internal audit opinion must conclude on the overall adequacy and effectiveness of the organisation's framework of governance, risk management and control.

#### 1.2 Opinion of the Chief Audit Executive on the Internal Control Environment

*Purpose of the framework of governance, risk management and control*

- 1.2.1 The framework of governance, risk management and control is based on an ongoing process to identify, evaluate and manage the risks to the Council in the achievement of its objectives. It is a management responsibility to establish, maintain and ensure compliance with the framework of governance, risk management and control. Assurance of the effective operation of the framework

of governance, risk management and control can be sought from Internal Audit, External Audit, other review bodies and Management.

1.2.2 The framework of governance, risk management and control should:

- Set out clear responsibility for policy and decision-making.
- Establish the Council's priorities and objectives.
- Identify, evaluate and manage the risks which may impact on the Council's ability to meet its objectives.
- Ensure compliance with law, regulations, policies and procedures.
- Ensure the economic, efficient and effective use of resources.
- Ensure the accuracy and reliability of financial statements and other published information.

*Basis of the opinion on the framework for governance, risk management and control*

- 1.2.3 The opinion on the framework for governance, risk management and control is based on the work of the Internal Audit function during 2018/19, full details of which are provided in this report. While all audit results are considered, including the outcomes of any consultancy work, some carry more weight than others. Particular attention is therefore drawn to work undertaken in relation to Risk Management and Corporate Governance in 2018/19. Any other reliable sources of assurance are identified and, where appropriate, considered when arriving at an overall opinion.
- 1.2.4 Opinion of the Chief Audit Executive on framework for governance, risk management and control:

In my capacity as the Chief Audit Executive, with responsibility for the provision of Internal Audit services to the Council, it is my opinion that Tonbridge and Malling Borough Council's framework of governance, risk management and control substantially contributed to the proper, economic, efficient and effective use of resources in achieving the Council's objectives during 2018/19.

Whilst it has been identified that the authority has largely established adequate and effective internal controls within the areas subject to Internal Audit review in 2018/19, there are areas where compliance with existing controls should be enhanced or strengthened, or where additional controls should be introduced. Where such findings have been made by Internal Audit, recommendations have been made to management to improve the controls within the systems and processes they operate. The results of all audit work completed are reported to the Audit Committee in accordance with the Internal Audit Charter.

The framework of governance, risk management and control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives; it can therefore only provide reasonable and not absolute assurance of effectiveness.

### **1.3 Internal Audit and Counter Fraud Establishment**

- 1.3.1 The Internal Audit and Fraud Team report to the Audit and Assurance Manager (Chief Audit Executive).
- 1.3.2 A review of the resource requirements and, in turn, composition of the Establishment in 2018 resulted in a recommendation approved by Management Team that the Establishment comprise one senior internal auditor; a temporary staff budget to buy-in circa 100 days of audit resource; one full-time fraud officer; and one full-time fraud assistant (this post to also provide support to internal audit as required). Since May 2015 the Audit and Assurance Manager (Chief Audit Executive) post has been secured by way of a shared management arrangement with Kent County Council.
- 1.3.3 The posts of senior internal auditor and fraud assistant were vacant in early 2018/19 with both post holders starting in August 2018; the senior internal auditor on a part-time basis. Completion of the 2018/19 Plan has, as you might expect, been effected by the above vacancies and detailed at paragraph 1.4.4/5.
- 1.3.4 The internal auditor or fraud officer assigned to each audit/fraud review is selected by the Audit and Assurance Manager based on their knowledge, skills, experience, discipline and any declared conflicts of interest to ensure that the review is conducted effectively. If a review calls for specialist skills/experience beyond that within the team, arrangements would be put in place to secure

specialist skills from KCC as part of the partnership arrangement or from an external contractor if that is not possible.

#### **1.4 Annual Audit Plan**

- 1.4.1 The Annual Internal Audit and Counter Fraud Plan (the Plan) for 2018/19 was approved by this Committee on 3 April 2018. The Plan set out the proposed work of the Internal Audit team for the year which can be summarised into two key work types:
- 1.4.2 *Assurance Work* – this relates to audit work which informs the opinion of the control environment given to the Committee by the Chief Audit Executive. This work focuses on planned audit review of key financial systems, other financial systems, operational audits and control environment reviews and also picks up on the follow up of audit recommendations made.
- 1.4.3 *Consultancy Work* – this relates to Internal Audit team members involvement in corporate and other known projects, requests received by the team for consultancy or responsive work, advice or information and involvement in fraud investigation work. While not directly proving assurance the results of this work are also considered when arriving at the opinion of the control environment given to the Committee by the Chief Audit Executive.
- 1.4.4 As referred to in previous reports progress in completion of the 2018/19 Plan has been effected by the vacancy of both the senior internal auditor post (now filled on a part-time basis) and fraud assistant post earlier in the year. Of the original total of 27 audits (22 Assurance and 5 Consultancy) on the 2018/19 Plan:
  - One audit was added to the Plan during the year – Discretionary Disabled Facilities Grants (A).
  - Three audits have been postponed to 2019/20 – Business Continuity Planning (A), IT Strategy (A) and Local Plan (A).
  - Consultancy work for Tonbridge Castle Customer Services Review (C) and parking methods of payment (C) was not required.
- 1.4.5 Of the revised total of 23 audits, three of which were consultancy, at the time of writing the team have completed 18 audits (both assurance and consultancy) with 16 final reports issued (two pieces of consultancy work were ongoing advice and did not require a report), a further three audits are at draft report. Two pieces of work remain in progress and are nearing completion. This represents 91.3% of the amended Plan including Consultancy against a target of 95%. The remainder of the Plan is made up of ad hoc consultancy items, follow-up of recommendations and an allowance for the provision of advice, fraud awareness and investigations.

## 1.5 Assurance Work

- 1.5.1 The Internal Audit team has primarily focused on assurance work in 2018/19 with 20 of 23 audits to provide an assurance level and three undertaken as consultancy (see below). A summary of the current status of audit work for 2018/19 including a summary of findings where finalised is shown in **[Annex 1]**. Definitions of Audit Opinions are provided at **[Annex 2]**.
- 1.5.2 Where an audit review identifies opportunities to introduce additional controls or improve compliance with existing controls, recommendations are made and agreed with client management prior to finalising the report. In line with the PSIAS, Internal Audit has arrangements in place to follow up on all recommendations agreed with management and to report to the Audit Committee on the responses received. An escalation process in place that would ultimately result in reporting to Management Team and this Committee should a key control weakness remain; this has not been required for 2018/19.
- 1.5.3 Forty-six recommendations were due for implementation in 2018/19; this excludes 'Low' priority recommendations which are considered to be good practice only and are not followed up and includes any recommendations carried forward as not fully implemented at 31 March 2018. Progress is as follows:
- 5 were followed up as part of the audit of Disaster Recovery.
  - 13 were part of full follow-up audits reported separately.
  - 15 have been closed as implemented.
  - 6 were closed due to being superseded by subsequent audit work.
  - 1 was closed as risk accepted due to the service concluding after further investigation that, in their view, the work/cost required to implement is not justified based on the level of risk.
  - 5 are in progress and/or have agreed, revised implementation dates.

Having assessed the risk of extending these dates there are no concerns to raise.

Audit recommendations made from assurance work undertaken in 2018/19 demonstrate that internal audit continues to make a significant number of recommendations for change within the organisation as a contribution to improving the internal control arrangements of the Council. It is also important to recognise that the number of recommendations made does not include all system and procedural enhancements implemented during the course of audits as a direct result of the audit process or recommendations coming from consultancy work undertaken by the team.

- 1.5.4 The assurance work of the team conducted during the year has contributed to the internal control environment of the Council being maintained and improved, Council resources being more effectively used and a reduction in waste from fraud or error.

## **1.6 Consultancy Work**

- 1.6.1 The Internal Audit team's consultancy work in 2018/19 included support to corporate projects and provision of ad hoc advice and information as and when requested by Council officers. Areas of specific consultancy / advisory work include on the General Data Protection Regulations, the new Waste Services Contract and the Call Credit project **[Annex 1]**. Consultancy / advisory work is considered to be a fundamental service provided by the team, enabling officers to consult with Internal Audit and address control concerns and issues as they arise, helping to maintain the internal control arrangements of the Council.

## **1.7 Training**

- 1.7.1 Limited training on audit side was undertaken in 2018/19 due to both staff vacancies and a change in the establishment to one senior internal auditor and a temporary staff budget to buy-in circa 100 days of audit resource.

## **1.8 Quality Assurance and Improvement Programme and Conformance with the Public Sector Internal Audit Standards**

- 1.8.1 The Quality Assurance and Improvement Programme summarises all of the measures in place to enable an evaluation of the internal audit activity's conformance with the Public Sector Internal Audit Standards (PSIAS) including the Code of Ethics. No instances of non-conformance have been identified for the year 2018/19. The programme also assesses the efficiency and effectiveness of the internal audit activity and identifies opportunities for improvement and learning for the team.
- 1.8.2 For 2018/19 the team has achieved or exceeded the target set for five of the six indicators measured. Actual performance of the team against these measures is provided at **[Annex 3]**. At the Committee in January 2019 new audit and fraud KPIs were approved to be implemented from 2019/20.
- 1.8.3 It is a requirement of the PSIAS that periodic self-assessments are conducted to evaluate conformance with the PSIAS Code of Ethics and Standards. To ensure compliance with this element of PSIAS an annual internal review of the effectiveness of the Internal Audit function is undertaken and endorsed by Management Team. The Chief Audit Executive (CAE) has conducted the review of effectiveness for the year 2018/19 and the results are presented to this Committee as a separate report.
- 1.8.4 Internal Audit was last subject to an independent External Quality Assessment during 2016/17; this to be undertaken every five years in line with requirements.

The overall opinion was that Internal Audit Generally Conforms to the PSIAS and I consider this assessment remains appropriate.

- 1.8.5 This time last year following a review of the then updated PSIAS some enhancements to current practice were identified:

- Performance Standard 2050 – Coordination and Reliance

This Standard was enhanced from purely coordinating to emphasis on the requirement to have a consistent process for relying on the work of other assurance providers. Although we rarely rely on the work of others an exercise is needed to map potential assurance providers and update the Audit Manual to include a criteria for reliance. This action remains outstanding.

- Attribute Standard 1112

Requires demonstrable safeguards be put in place where the CAE has responsibilities that fall outside of Internal Audit. This is already addressed in our Audit Charter. However, as the CAE manages the Counter Fraud Team it was agreed that an independent external review of the Counter Fraud function on a peer review basis would be undertaken in 2018/19 to provide assurance that fraud risk is appropriately recognised and addressed. The outcome of the review is discussed later in this report.

## **1.9 Partnership Working**

- 1.9.1 Since May 2015 the Audit and Assurance Manager (Chief Audit Executive) post has been secured by way of a shared management arrangement with Kent County Council.

## **1.10 Internal Audit Summary**

- 1.10.1 I believe the team has provided the Council with an effective internal audit service during the year and responded well to the evolving needs of the Council. The work of the team during the year has been appropriately managed to ensure that the limited resources of the team are used effectively and focused on the areas that will have most impact. The team have played a key role in maintaining the governance, risk and internal control arrangements of the Council whilst maintaining professional and productive relationships with clients.
- 1.10.2 Individual team members continued to be exposed to a variety of work requests and have responded enthusiastically and positively to this whilst ensuring that a high standard of audit work is completed by the team. This enabled the Chief Audit Executive to deliver the opinion that Tonbridge and Malling Borough Council's framework of governance, risk management and control makes a positive contribution to the proper, economic, efficient and effective use of resources in achieving the Council's objectives.

- 1.10.3 During the forthcoming year the team will continue to develop internal working practices as necessary and remain flexible to respond to the needs of the Council.

***Annual Counter Fraud Report 2018/19***

**1.11 Prevention and Detection of Fraud, Bribery and Corruption**

- 1.11.1 This section of the report provides details of the Council's activity in preventing and detecting fraud, bribery and corruption in the year 2018/19.
- 1.11.2 The Council proactively takes part in the National Fraud Initiative (NFI), a biennial nationwide data matching exercise comparing computer records held by the Council against those held by other councils and other bodies. The current biennial exercise commenced in October 2018 and required data sets were provided in line with set timescales. 1,018 matches were received and to date 100 have been closed with no further action and 22 have been closed with errors found, 73 have been opened to undertake further enquiries and 823 have yet to be reviewed.
- 1.11.3 Annual data matching is also undertaken through NFI between the Electoral Register and Council Tax Single Person Discount data; the most recent results were received in December 2018. There were 814 matches received, 632 have been closed with no further action required and 63 have been closed as errors resulting in underpayments totalling £16,927.74. Of the remaining matches 13 are subject to further enquiries and 106 (of which 73 relate to rising 18s and will be prioritised according to date of birth) have yet to be reviewed. An additional data matching exercise, known as supplementary, using Council Tax Single Person Discount data to a myriad of other data sets held resulted in 1,495 matches. To date 1,454 have been closed with no further action required. Of the remaining matches 25 are subject to further enquiries and 16 have yet to be reviewed.
- 1.11.4 Details of the NFI data matching exercises above are summarised in the table below.

Data Matches	National Fraud Initiative			
	2019 SPD	2019 Other Data Sets	2019 Biennial	Total
Received	814	1,495	1,018	3,327
Closed with no further action	632	1454	100	2,186
Closed with errors found	63	0	22	85
Closed with fraud found	0	0	0	0
Subject to further enquiries	13	25	73	111
Yet to be reviewed	106	16	823	945

- 1.11.5 The Kent Intelligence Network (KIN), a government funded partnership led by Kent County Council, went live in September 2016. The partnership's key aim is to prevent and detect fraud, reduce partner's fraud risk profiles and support development of fraud professionals in Kent. It delivers a data matching function across Kent designed to address key fraud risks identified by the partners allowing a more bespoke approach and broader scope than the NFI. A KIN Operations Manager was recruited in October 2018; significant progress has been made since his appointment including training on and implementation of a new data matching software solution. Next steps in terms of data sets to match and other work to be undertaken are being progressed with a business plan taken to Kent Finance Officers Group (KFOG) identifying three key work streams, Revenues, Housing and Social Care.
- 1.11.6 In 2018 KFOG agreed to fund the procurement of a software solution that focuses on data matching businesses in receipt of Small Business Rates Relief (SBRR) nationally, the cost contribution from Tonbridge and Malling was £1,000. Data matches received through this route have been reviewed. The total income due as a result for 2018/19 was £29,527.83 with increased annual liability of £10,330.32. We continue to investigate new cases and have closed several more in 2019/20 already including one case which identified income due in the amount of £6,279.87, which was immediately recovered, with increased annual liability of £1,104.48 and a caution issued. This was the first case in Kent where a formal sanction was applied.
- 1.11.7 At its May meeting KFOG agreed to fund the software for a further year and the software providers are now working in partnership with the KIN, this partnership has had a successful year having been shortlisted for the 2019 Public Finance Awards in the Solutions Partner category and winning the award for Best Initiative in Combatting Fraud at the ALARM Risk Awards
- 1.11.8 In June 2017 KCC provided part funding for the procurement of software and a temporary staff member to proactively identify high risk cases in relation to council tax and business rates where information held elsewhere, including credit reference agencies, indicates a discount or exemption awarded may be erroneous. Reviews of high risk Single Person Discount cases have been undertaken by the Revenues Team and this has identified a number of cases where they have removed the discount. For 2018/19 53 discounts have been removed resulting in an amount of £39,622.62 to be recovered and increased annual liability of £24,844.75. Civil penalties (net) in the amount of £2,380 were also applied. Current funding arrangements expired at 31 March 2019 and discussion on the continuation of this funding are ongoing.
- 1.11.9 We continue to review areas of fraud risk and direct our work accordingly. In 2018/19 this has included:
- Working with the parking team on a number of investigations identified from Parking Permit applications. This will be explored further with an exercise

to undertake periodic matching of SPD to Residents Parking Permits. In addition a Blue Badge enforcement day has been discussed, with exact timing to be confirmed once this is formally agreed, and KCC have provided fraud awareness training to the Parking Team.

- Discussions with two Housing Associations with regard to Joint Working which could result in recovery of properties with 100% nomination rights for TMBC are in progress. In addition we are considering whether there is other work that would be of mutual benefit including data matching and a key amnesty proposed by the Kent Housing Group. Although TMBC do not have its own housing stock terminating a tenancy results in a property becoming available for someone with a genuine housing need and potentially means housing someone currently in temporary accommodation, which is a significant expense for TMBC.
- The Fraud Team undertook a proactive review of Student Discounts currently in place which identified £1,335.44 of underpayments based on incorrect discounts.

1.11.10 Fraud awareness training continues to be provided to services, targeted at those where risk of fraud is greatest. In 2018/19 we have provided training to new staff in Revenues and Benefits and to Customer Service staff at Tonbridge Castle. In addition we have training planned for Housing and a briefing to provide to the Procurement OSG. Following recruitment of the Fraud/Audit Assistant in August 2018, we are formalising a plan for additional proactive work and raising awareness of fraud more broadly in 2019/20.

## **1.12 Investigating Fraud, Bribery and Corruption**

- 1.12.1 The Counter Fraud Team is responsible for investigating all allegations of fraud, bribery and corruption, whether this is through internal fraud or external stakeholders or customers, as well as assisting with disciplinary investigations as and when required. The Team works as and when required with a number of external agencies including the Department for Work and Pensions (DWP), the UK Border Agency, Kent Police and NHS Fraud to progress investigations.
- 1.12.2 In 2018/19 the Counter Fraud Team have closed 420 cases; and received a total of 392 referrals, 319 of which relate to NFI; there are 48 ongoing investigations. The total amount of income due as a result of investigations concluded in 2018/19 is £95,238.97 with increased annual liability of £86,018.92 (this includes the 2018/19 sums referred to in paragraph 1.11.8 above). Civil penalties (net) in the amount of £6,580 were also applied. **[Annex 4]** summarises the results of investigations concluded in 2018/19.

## **1.13 Peer Review of Fraud Team**

- 1.13.1 A peer review of the Fraud function was undertaken by the Counter Fraud Manager for Kent County Council. This was part of a tri-authority arrangement

that also included Medway/Gravesham to ensure an element of independence. The work included verification of our self-assessment against the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption as well as review of a sample of investigations. The findings were positive overall and the report is currently being finalised with a detailed action plan agreed. A copy of the full report once finalised and progress on required actions will be reported to this Committee at a later date.

- 1.13.2 Overall the review concurred with our self-assessment and concluded that 'The organisation has reached a good level of performance against the CIPFA Code of Practice on Managing the Risk of Fraud and Corruption. This means that the organisation has put in place effective arrangements across many aspects of the counter fraud code and is taking positive action to manage its risks. The organisation is performing well against the counter fraud code and is actively working to improve its resilience to fraud and to manage its fraud risks. There are some areas of weakness which could undermine resilience, and these should be reviewed. In addition, the organisation should consider further opportunities to develop and extend the effectiveness of its counter fraud arrangements.'
- 1.13.3 For investigations the review concluded that there were 'good arrangements in place to ensure referrals are thoroughly investigated, appropriately concluded and suitable sanctions are applied. We saw evidence of all reasonable lines of enquiry being pursued and adherence to relevant legislation such as the Police and Criminal Evidence Act (PACE) and the Criminal Procedures Investigation Act (CPIA). Local templates were used correctly, and suspects/witnesses were interviewed in an appropriate manner.' However it was noted that there were '...some instances of delays in approving referrals for investigation and the investigations themselves. The delays may have been explainable and/or justified in the circumstances but the explanation for the gaps in activity were not recorded in the documents and systems made available to us.'

#### **1.14 Legal Implications**

- 1.14.1 The Accounts and Audit Regulations place a statutory requirement on local authorities to undertake an adequate and effective internal audit of its accounting records and of its system of internal control in accordance with the proper practices in relation to internal control. Proper practice is defined as that contained within the Public Sector Internal Audit Standards (PSIAS) and CIPFA's Local Government Application Note to the PSIAS.
- 1.14.2 The Council has a legal duty under s151 of Local Government Act 1972 and the Accounts and Audit Regulations to ensure that there are appropriate systems in place to prevent and detect fraud.
- 1.14.3 The Local Government Act 1972 provides the Council with the ability to investigate and prosecute offences committed against them.

## **1.15 Financial and Value for Money Considerations**

- 1.15.1 An adequate and effective Internal Audit function provides the Council with assurance on the proper, economic, efficient and effective use of Council resources in delivery of services, as well as helping to identify fraud and error that could have an adverse effect on the finances of the Council.
- 1.15.2 Fraud prevention and detection is an area subject to central government focus with initiatives such as the National Fraud Initiative and Local Government Counter Fraud and Corruption Initiative. The message coming from these initiatives is that effective fraud prevention and detection releases resources and minimises losses to the Council through fraud.

## **1.16 Risk Assessment**

- 1.16.1 This report, summarising the work of the Internal Audit function, provides a key source of assurance for the Council on the adequacy and effectiveness of its framework for governance, risk management and control.
- 1.16.2 Failing to have an efficient and effective Counter Fraud function could lead to an increased level of fraud. This report, summarising the work of the Counter Fraud function, provides a key source of assurance for the Council on the adequacy and effectiveness of its counter fraud arrangements.

Background papers:

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Nil

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