

Date: 5 November 2013
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To: Members of the Audit and Corporate Governance Committee
(Councillors: Roger Boote, Peter Bowden, Bob Buxton
Steve Gazzard, Steve Hall, Tony Howard, Geoff Pook,
Ken Potter)

Councillor David Cox – Portfolio Holder, Finance
Councillor Ray Bloxham - Portfolio Holder, Corporate Business
Councillor Phil Twiss – Portfolio Holder, Corporate Services
Chief Executive
Deputy Chief Executives
Head of Service – Finance
Internal Audit, SWAP
External Audit, Grant Thornton

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Audit and Governance Committee
Thursday 14 November 2013
2.00pm
Council Chamber, Knowle, Sidmouth

Members of the public are welcome to attend this meeting.

- There is a period of 15 minutes at the beginning of the meeting to allow members of the public to ask questions.
- The Chairman has the right and discretion to control questions to avoid disruption, repetition and to make best use of the meeting time. The Chairman is entitled to interrupt the speaker to ask for their question to be put.
- In addition, the public may speak on items listed on the agenda. After a report has been introduced, the Chairman (Leader of the Council) will ask if any member of the public wishes to speak and/or ask questions.
- All individual contributions will be limited to a maximum period of 3 minutes – where there is an interest group of objectors or supporters, a spokesperson should be appointed to speak on behalf of the group.

This meeting is being recorded for subsequent publication on the Council's website. Audio recording is permitted by press representatives and members of the public from the public area, subject to their notification to the Chairman prior to the start of the meeting of a wish to record all or part of that meeting. If you are exercising your right to speak during Public Question Time, but do not wish to be recorded, please inform the Chairman who will instruct those taking a recording to cease while you speak.

Should anyone have any special needs or require any reasonable adjustments to assist them in making individual contributions, please contact Alethea Thompson (contact details at top of page). A hearing loop system will be in operation in the Council Chamber.

Councillors and members of the public are reminded to switch mobile phones to silent during the meeting.

AGENDA

Page/s

Part A

- 1 **Public question time** – standard agenda item (15 minutes)
Members of the public are invited to put questions to the Committee through the Chairman. Councillors also have the opportunity to ask questions of the Leader and/or Portfolio Holders during this time slot whilst giving priority at this part of the agenda to members of the public.
- 2 To confirm the minutes of the meeting of the Audit & Governance Committee held on 26 September 2013. 4 - 9
- 3 To receive any apologies for absence.
- 4 To receive any declarations of interests relating to items on the agenda.
- 5 To consider any items which in the opinion of the Chairman, should be dealt with as matters of urgency because of special circumstances.
(Note: Such circumstances need to be specified in the minutes; any Member wishing to raise a matter under this item is requested to notify the Chief Executive in advance of the meeting).
- 6 To agree any items to be dealt with after the public (including the press) have been excluded. There are no items which Officers recommend should be dealt with in this way.
- 7 Annual Audit Letter Grant Thornton 10-23
- 8 To note the SWAP report on governance arrangements (Minute 17 refers) 24-34
- 9 RIPA annual report and introduction of Surveillance Camera Code of Practice. Corporate Legal and Democratic Services Manager 35-39
- 10 Council Tax and Benefit Penalty and Prosecution Policy Revenues & Benefits Manager 40-53
- 11 1st Risk Review of 2013/14. Management Information Officer 54-57
- 12 Thelma Hulbert Gallery update. Countryside & Leisure Manager/ Deputy Chief Executive 58-70
- 13 Honiton Community Centre update. Deputy Chief Executive 71-75
- 14 Forward plan Head of Finance 76

Members remember!

- You must declare the nature of any disclosable pecuniary interests. [Under the Localism Act 2011, this means the interests of your spouse, or civil partner, a person with whom you are living with as husband and wife or a person with whom you are living as if you are civil partners]. You must also disclose any personal interest.
- You must disclose your interest in an item whenever it becomes apparent that you have an interest in the business being considered.
Make sure you say what your interest is as this has to be included in the minutes. [For example, 'I have a disclosable pecuniary interest because this planning application is made by my husband's employer'.]
- If your interest is a disclosable pecuniary interest you cannot participate in the discussion, cannot vote and must leave the room unless you have obtained a dispensation from the Council's Monitoring Officer or Standards Committee.

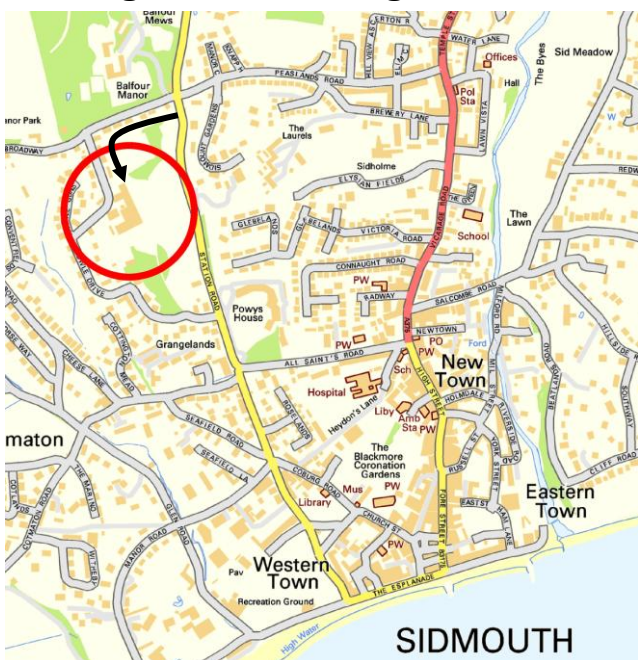
Decision making and equality duties

The Council will give due regard under the Equality Act 2010 to the equality impact of its decisions.

An appropriate level of analysis of equality issues, assessment of equalities impact and any mitigation and/or monitoring of impact will be addressed in committee reports.

Consultation on major policy changes will take place in line with any legal requirements and with what is appropriate and fair for the decisions being taken. Where there is a high or medium equalities impact Members will be expected to give reasons for decisions which demonstrate they have addressed equality issues.

Getting to the Meeting – for the benefit of visitors



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The entrance to the Council Offices is located on Station Road, Sidmouth. **Parking** is limited during normal working hours but normally easily available for evening meetings.

The following **bus service** stops outside the Council Offices on Station Road: **From Exmouth, Budleigh, Otterton and Newton Popleford – 157**

The following buses all terminate at the Triangle in Sidmouth. From the Triangle, walk up Station Road until you reach the Council Offices (approximately ½ mile).

From Exeter – 52A, 52B; From Honiton – 52B; From Seaton – 52A; From Ottery St Mary – 379, 387

Please check your local timetable for times.

The Committee Suite has a separate entrance to the main building, located at the end of the visitor and Councillor car park. The rooms are at ground level and easily accessible; there is also a toilet for disabled users.

For a copy of this agenda in large print, please contact the Democratic Services Team on 01395 517546

EAST DEVON DISTRICT COUNCIL

Minutes of a Meeting of the Audit and Governance Committee held at Knowle, Sidmouth, on Thursday 26 September 2013

Present:

Councillors:
Ken Potter (Chairman)
Peter Bowden (Vice Chairman)
Roger Boote
Bob Buxton
Steve Hall
Tony Howard
Geoff Pook

Also present:

Councillors:
David Cox – Portfolio Holder for Finance
Paul Diviani – Leader
Ian Thomas – Portfolio Holder for Economy
Roger Giles
Claire Wright

Officers:

Jo Avery, Management Information Officer
Simon Davey, Head of Finance
Laurelie Gifford, Financial Services Manager
Alethea Thompson, Democratic Services Officer

**Internal
Auditors:**

Andrew Ellins, Audit Manager, South West Audit Partnership
(SWAP)

**External
Auditors:**

Barrie Morris, Public Sector Assurance Director, Grant Thornton
Jenny Dwyer, Grant Thornton

Apologies:

Committee Member:
Steve Gazzard

The meeting started at 2.30 pm and ended at 4.22 pm.

***11 Public questions**

No questions were raised by members of the public.

***12 Minutes**

The minutes of the meeting of the Audit and Governance Committee held on 27 June 2013 were confirmed and signed as a true record.

***13 Declarations of interest**

There were no declarations of interest from Members.

*14 **Statement of Accounts 2012/13**

The Head of Finance advised the Committee that the Council's Statement of Accounts for 2012/13 had now been audited and were circulated to Members for their approval.

Following the audit some presentation changes had been made to the accounts and two minor amendments had been made; these adjustments did not affect the Council's usable reserves or balances.

The Committee considered the report of the Head of Finance which compared the final position of the Council's accounts with the position presented to Members in the Outturn report in June 2013.

a) Financial Statement

The Audit and Governance Committee had delegated responsibility to approve the Statement of Accounts. The Financial Services Manager outlined the detail of the Accounts and highlighted key financial points.

b) Annual Governance Statement

The Council was required to approve an Annual Governance Statement to accompany the Statement of Accounts. The report detailed the processes in place within the Council's Governance framework and in compliance with its adopted Code of Corporate Governance. The Statement included a number of improvements made in Governance arrangements, including revised Contract Standing Orders and the roll out e-procurement system, an improvement in overall assessment of key financial controls, improvements in partnership arrangements, recording and monitoring, and a review of key Governance Policies.

The Committee noted that the review had identified areas where action was appropriate to enhance the governance and internal control environment to ensure continuous improvement. The areas for improvement were governance arrangements and the ICT Service Continuity Plan. Areas which had only achieved partial SWAP assurance during 2012/13 and which would be monitored during 2013/14 were Leisure East Devon – risk management process, Thelma Hulbert Gallery and the formal reconciliations process on income received where no debtor invoice raised.

The Head of Finance explained that the format of the Statement had changed this year and the Chairman had been involved in its production. In future years the draft Annual Governance Statement would be brought to the Audit and Governance Committee at its June meeting for members' input, before being approved in September.

c) Letter of Representation

Members were asked to endorse the letter to Grant Thornton in respect of the audit of the Financial Statements for the year ended 31 March 2013 confirming the council's position, documents produced and the sound processes in place.

***14 Statement of Accounts 2012/13 (cont'd)**

d) Report to those charged with Governance

Jenny Dwyer, Grant Thornton, presented the Council's external audit report which highlighted key issues arising from the Council's financial statements for the year ending 31 March 2013. This set out the adjustments and corrections made to the Council's accounts as a result of the audit and a proposed plan of recommendations for further improvement.

Grant Thornton, based on their work and having regard to the specified criteria published by the Audit Commission, had concluded that the Council had put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2013. Two recommendations were made to improve the internal controls in place regarding the Council's journal entry policies and procedures, and to undertake a review of year end debtor and creditor balances to ensure all amounts were correctly analysed for the financial statements.

The Chairman congratulated the Head of Finance, the Financial Services Manager and their teams for all the work involved in producing the statement of accounts. He went on to thank Jenny Dwyer for presenting Grant Thornton's report and stated that he was pleased with the outcome.

RESOLVED: that the 2012/13 Statement of Accounts be approved.

***15 Financial resilience review**

Barrie Morris, Grant Thornton presented a review of the Council's arrangements for securing financial resilience for East Devon District Council.

The financial resilience of the Council was reviewed by looking at:

- Key indicators of financial performance.
- Its approach to strategic financial planning.
- Its approach to financial governance.
- Its approach to financial control.

The report concluded that whilst the Council faced some significant challenges in closing the budget gap over the medium term due to continued funding reductions, the Council had adequate arrangements in place to secure financial resilience. There were a few areas highlighted for focus. These were workforce (above average sickness levels), responsiveness of the strategic financial plan and performance against savings plans (separate performance monitoring of specific savings plans).

Barrie Morris updated the Committee that guidance had been received from the Audit Commission requiring Harbour Authorities to produce stand alone accounts. Grant Thornton would work with the Head of Finance on this in the future.

Barrie Morris announced that Jenny Dwyer would be leaving Grant Thornton for six months to go travelling and that this would be her last Audit and Governance Committee meeting. Grant Thornton was currently recruiting another Audit Manager. On behalf of the Committee the Chairman wished Jenny well on her adventures and thanked the external auditors for all their hard work.

***15 Financial resilience review (cont'd)**

RESOLVED: that the financial resilience review be noted.

***16 First high risk review 2013/14**

Consideration was given to the report of the Management Information Officer. The high risk information was supplied to allow the Audit and Governance Committee to monitor the high strategic and operational risks outside of the bi-annual reporting. This followed a review of risks focusing on high risks by responsible officers to the end of August 2013.

Members were reminded that the Council's Risk Management Policy required all risks identified by the Council to be reviewed bi-annually. In addition to this the Audit and Governance Committee had agreed that all high risks would be reviewed and reported to each committee between the bi-annual reviews. The current number of risks in each service by risk score as at 1 September 2013 was noted.

The two high risks from the full risk register had been reviewed by their responsible officers. The owners of the two risks were asked to re-assess the overall risk, update their control action/s and re-score the risk to give a residual score in light of the mitigation from the control actions undertaken. In addition to this Service Heads were asked to consider all of their risks and highlight any that were emerging as high level. Following this there were no new high risks.

The two risks that scored as high on the risk register have now been re-assessed and re-scored as medium risk. These were:

- Failure to provide information pro-actively to residents, businesses, town and parish councils and other stakeholders.
- Perceived reputation of the planning service by local community causes preventable demand through complaints.

On behalf of the Committee the Chairman thanked the Management Information Officer for her report.

RESOLVED: that the current status of the high risks be noted until November, when a full risk review would be reported to the Committee.

***17 Internal audit plan – Half yearly update 2013/14**

This item was moved down the agenda as the Audit Manager, South West Audit Partnership (SWAP) had been delayed attending the meeting due to a traffic incident

The report of the Audit Manager, (SWAP) provided the outturn position for the Internal Audit Plan at the end of September 2013, providing an update for quarters 1 and 2.

A list of audits planned for 2013/14 and their status at the end of quarter 2 were noted. High priority findings identified from the work completed so far in quarter 1 and 2 related to Corporate Procurement Cards and Corporate Back up Routines.

***17 Internal audit plan – Half yearly update 2013/14 (cont'd)**

In quarters 1 and 2 there were five operational audits planned, and two non-opinion follow up audits were also planned for quarter 2. One audit had been deferred until quarter 3 and the Corporate Procurement Cards audit found a number of controls that needed improving.

A request was made for further investigations into the use of District Valuer reports. The Chairman stated that this item would be included on the forward plan and be considered at the November Audit and Governance Committee meeting.

Concern was raised over the audit of governance arrangements. This followed the Committee's concerns relating to the perceived or actual conflict of roles of an ex-councillor. The Audit Manager reported that this audit had achieved reasonable assurance and that a complete breakdown of the whole audit had been provided to the relevant managers. This was standard practice for audits gaining reasonable assurance and the Head of Finance explained that these would not ordinarily be reported back to the Audit and Governance Committee in detail, apart from on an exceptional basis.

The Audit Manager summarised the governance arrangements audit report, stating that he had found Democratic Services to be very knowledgeable and diligent, and that the controls that EDDC had in place were in line with best practice and were tighter than some other councils. All records were up to date and complete and there were robust procedures in place. This was a big endorsement of how the Council functioned. Members and officers discussed whether the report should be published (which was not standard practice for reasonable assurance audit reports), amid concerns that elements of the report could be taken out of context. The report was written by exception and contained very little detail of the good practice carried out.

- RESOLVED:**
- 1 that the content of the Internal Audit Progress Report be noted.
 - 2 that a full copy of the SWAP report into governance arrangements be included in the agenda papers of the next Audit and Governance Committee meeting.

***18 Forward Plan 2013/14**

The Committee noted the contents of the forward plan for 2013/14.

Items to be considered at the November Committee included:

- Honiton Community Centre update.
- Thelma Hulbert Gallery update.
- Asset disposal and management.
- District valuer reports
- SWAP report on governance arrangements

It was noted that the date and time of the November meeting had changed. The next meeting of the Audit and Governance Committee would now be held at **2pm on Thursday 14 November 2013.**

*18 **Forward Plan 2013/14 (cont'd)**

RESOLVED:

- 1 that the forward plan be noted.
- 2 that the revised date and time of the next meeting be noted (2pm on Thursday 14 November 2013).

Chairman Date



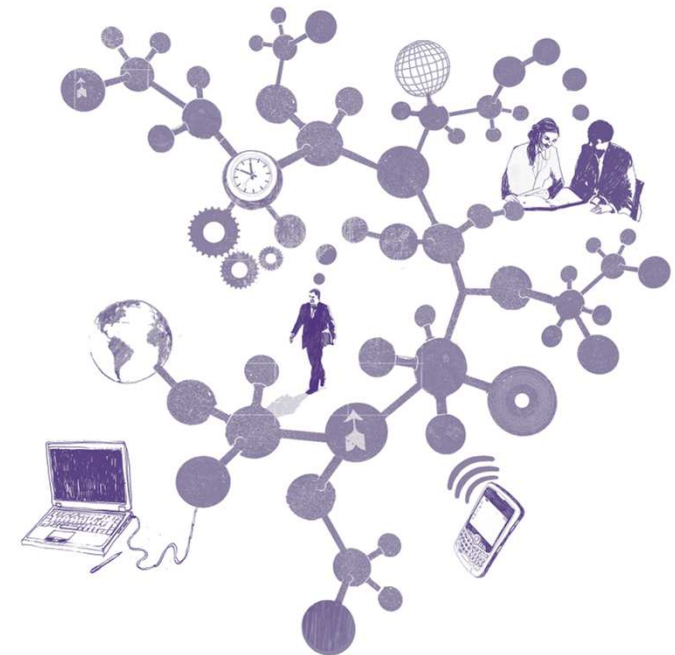
The Annual Audit Letter for East Devon District Council

Year ended 31 March 2013

October 2013

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Jenny Dwyer
Audit Manager
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A Reports issued and fees

Section 1: Executive summary

01. Executive summary

02. Audit of the accounts

03. Value for Money

04. Certification of grant claims and returns

Executive summary

Purpose of this Letter

Our Annual Audit Letter ('Letter') summarises the key findings arising from the following work that we have carried out at East Devon District Council ('the Council') for the year ended 31 March 2013:

- auditing the 2012-13 accounts and Whole of Government Accounts submission (Section two)
- assessing the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources (Section three)
- certification of grant claims and returns (Section four).

The Letter is intended to communicate key messages to the Council and external stakeholders, including members of the public. We reported the detailed findings from our audit work to those charged with governance in the Audit Findings Report on 26 September 2013.

Responsibilities of the external auditors and the Council

This Letter has been prepared in the context of the Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission (www.audit-commission.gov.uk).

The Council is responsible for preparing and publishing its accounts, accompanied by an Annual Governance Statement. It is also responsible for putting in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources (Value for Money).

Our annual work programme, which includes nationally prescribed and locally determined work, has been undertaken in accordance with the Audit Plan that we issued in February 2013 and was conducted in accordance with the Audit Commission's Code of Audit Practice ('the Code'), International Standards on Auditing (UK and Ireland) and other guidance issued by the Audit Commission.

Audit conclusions

The audit conclusions which we have provided in relation to 2012-13 are as follows:

- an unqualified opinion on the accounts which give a true and fair view of the Council's financial position as at 31 March 2013 and its income and expenditure for the year
- an unqualified conclusion in respect of the Council's arrangements for securing economy, efficiency and effectiveness in its use of resources.

The Council was below the £300 million audit threshold set by the National Audit Office (NAO) for Whole of Government Accounts and therefore a full review was not required. We issued the shortform assurance statement to the NAO by the 4 October deadline.

Our certification work is on-going and key findings will be reported in our Certification report following completion of all work.

Executive summary (continued)

Key areas for Council attention

We summarise here the key messages arising from our audit for the Council to consider as well as highlighting key issues facing the Council in the future.

We noted that the quality of the financial statements improved significantly and we identified fewer areas of concern. However, the Council needs to ensure that cut off arrangements are strengthened in relation to year end debtor balances.

Whilst we concluded that the Council's arrangements for securing financial resilience and challenging how it secures economy, efficiency and effectiveness are adequate, the Council continues to face significant financial challenges over the medium term. Due to further reductions in government funding the Council is seeking to address a budget shortfall of £1.5 million over the next three years, with a shortfall of £920,000 for 2014-15. Although the Council has made good progress identifying options to close the budget gap, there remain uncertainties and risks, and the Council should ensure appropriate monitoring and reporting of performance against agreed saving plans.

Acknowledgements

This Letter has been agreed with the Head of Finance and will be presented to Audit and Governance Committee on 14 November 2013.

We would like to record our appreciation for the assistance and co-operation provided to us during our audit by the Council's staff.

Grant Thornton UK LLP
October 2013

Section 2: Audit of the accounts

01. Executive summary

02. Audit of the accounts

03. Value for Money

04. Certification of grant claims and returns

Audit of the accounts

Audit of the accounts

The key findings of our audit of the accounts are summarised below:

Preparation of the accounts

The Council presented us with draft accounts on 28 June 2013, ahead of the national deadline of 30 June 2013. Access was provided to electronic working papers and the financial systems to support our work from the start of our audit fieldwork, which commenced at the start of July 2013.

Issues arising from the audit of the accounts

Our audit identified one adjustment affecting the Council's net expenditure reported in the Comprehensive Income & Expenditure . This reduced net expenditure by £450,000 but did not impact on the general fund balance which represents the revenue resources available to the Council.

We also made a number of adjustments to improve the presentation and disclosure of the financial statements. However, we were pleased to report that the quality of the financial statements had improved considerably over previous years and we identified significantly fewer issues.

We identified one non-material error that was not adjusted by the Council.

Annual governance statement

The Council's Annual Governance Statement (AGS) complied with requirements of the Code of Practice on Local Authority Accounting in the United Kingdom (CIPFA/LASAAC) and contained the elements as prescribed in Delivering Good Governance in Local Government: Framework.

Conclusion

Prior to giving our opinion on the accounts, we are required to report significant matters arising from the audit to 'those charged with governance' (defined as the Audit and Governance Committee at the Council). We presented our report to the Audit and Governance Committee on 26 September 2013 and summarise only the key messages in this Letter.

We issued an unqualified opinion on the Council's 2012-13 accounts on 26 September 2013, meeting the deadline set by the Department for Communities and Local Government. Our opinion confirms that the accounts give a true and fair view of the Council's financial position and of the income and expenditure recorded by the Council.

Section 3: Value for Money

01. Executive summary

02. Audit of the accounts

03. Value for Money

04. Certification of grant claims and returns

Value for Money

Scope of work

The Code describes the Council's responsibilities to put in place proper arrangements to:

- secure economy, efficiency and effectiveness in its use of resources
- ensure proper stewardship and governance
- review regularly the adequacy and effectiveness of these arrangements.

We are required to give a VFM conclusion based on the following two criteria specified by the Audit Commission which support our reporting responsibilities under the Code:

The Council has proper arrangements in place for securing financial resilience. The Council has robust systems and processes to manage effectively financial risks and opportunities, and to secure a stable financial position that enables it to continue to operate for the foreseeable future.

The Council has proper arrangements for challenging how it secures economy, efficiency and effectiveness. The Council is prioritising its resources within tighter budgets, for example by achieving cost reductions and by improving efficiency and productivity.

Key findings

Securing financial resilience

We have undertaken a review which considered the Council's arrangements against the three expected characteristics of proper arrangements as defined by the Audit Commission:

- financial governance
- financial planning
- financial control.

Our work highlighted that whilst the Council faces significant financial challenges due to further reductions in government funding leading to a budget shortfall of £1.5 million over the next three years, with a shortfall of £920,000 for 2014-15, adequate arrangements are in place. Further details are provided in our Financial Resilience report issued in September 2013.

Challenging economy, efficiency and effectiveness

We have reviewed whether the Council has prioritised its resources to take account of the tighter constraints it is required to operate within and concluded that adequate arrangements are in place.

Overall VFM conclusion

On the basis of our work, and having regard to the guidance on the specified criteria published by the Audit Commission, we are satisfied that in all significant respects the Council put in place proper arrangements to secure economy, efficiency and effectiveness in its use of resources for the year ending 31 March 2013.

Section 4: Certification of grant claims and returns

01. Executive summary

02. Audit of the accounts

03. Value for Money

04. Certification of grant claims and returns

Certification of grant claims and returns

Introduction

We are required to certify certain of the claims and returns submitted by the Council. This certification typically takes place some six to nine months after the claim period and represents a final but important part of the process to confirm the Council's entitlement to funding.

For the financial year 2012-13, there are three claims and returns that require certification, with a value of £70 million.

Approach and context to certification

Arrangements for certification are prescribed by the Audit Commission, which agrees the scope of the work with each relevant government department or agency, and issues auditors with a Certification Instruction (CI) for each specific claim or return.

Key messages

Our work with regard to the 'Pooling of Housing Capital Receipts' and the 'National Non-Domestic Rates Return' are complete and these were certified with no amendments or qualifications.

Our work on the certification of the Housing and Council Tax Benefits claim is on-going and the key messages from our certification work will be reported in our certification report due to be issued on completion of work on this claim.

Appendices

Appendix A: Reports issued and fees

We confirm below the fee charged for the audit and provision of non-audit services.

Fees

	Per Audit plan £	Actual fees £
Audit Fee	66,681	66,681
Grant certification fee*	15,250	15,250
Total fees	82,111	82,111

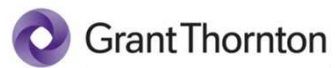
* Certification work is still on-going. The final fee will be reported to Members later in the year as part of the annual certification report.

Fees for other services in 2012-13

Service	£
None	Nil

Reports issued

Report	Date issued
Audit Plan	February 2013
Audit Findings Report	September 2013
Certification report	Planned for November 2013
VfM – Financial Resilience Report	September 2013
Annual Audit Letter	October 2013



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East Devon District Council

► Governance Arrangements - Councillors

Issued to: Denise Lyon
*Deputy Chief Executive &
Monitoring Officer*

Diana Vernon
Democratic Services Manager

Rachel Pocock
*Corporate Legal and Democratic
Services Manager*

Simon Davey
*Head of Finance &
Section 151 Officer*

Copied to: Jenny Dwyer
Audit Manager – Grant Thornton

Gerry Cox
Chief Executive – SWAP

Working in partnership with



Date of Report: 22 July 2013

Issued by: Andrew Ellins
Audit Manager

Nick Hammacott
Senior Auditor

Governance Arrangements - Councillors

Management Summary

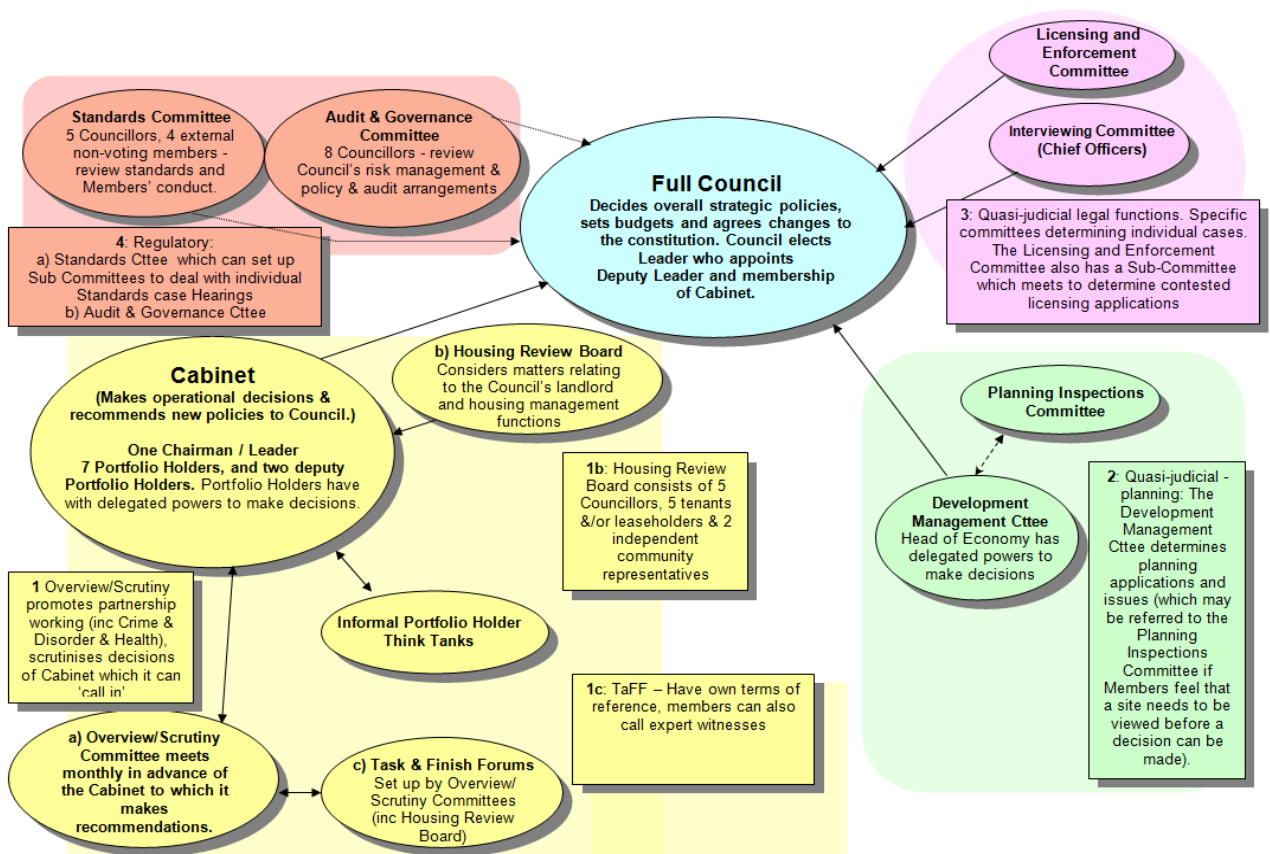
As part of the 2013/14 audit plan a review has been undertaken to assess the adequacy of the controls and procedures in place for Governance Arrangements - Councillors. The key controls identified for this audit are attached as Appendix 'A'

The Governance, Fraud and Corruption Audit process focuses primarily on key risks relating to cross cutting areas that are controlled and/or impact at a Corporate rather than Service specific level. It also provides an annual assurance review of areas of the Council that are inherently higher risk. This work will enable SWAP to provide management with assurance that key controls are in place.

SWAP will use the findings of these reviews to support the assurance that is required as part of the Council's Annual Governance Statement; it will also provide assurance to the External Auditor on areas that they have requested specific assurance, such as data quality.

Governance is the act of governing. It relates to decisions that define expectations, grant power, or verify performance. The election results in 2011 determined the political membership of the Council. The Council has 59 Councillors, made up of 43 from the Conservative party, 10 from the Liberal Democrats and 6 Independents. Figure 1 demonstrates the committee structure and lines of reporting.

Figure 1: Committee structure and lines of reporting



Summary of Significant Corporate Risks

The following table records the inherent risk (the risk of exposure with no controls in place) and the manager's initial assessment of the risk (the risk exposure on the assumption that the current controls are operating effectively) captured at the outset of the audit. The final column of the table is the Auditors summary assessment of the risk exposure at Corporate level after the control environment has been tested. All assessments are made against the risk appetite agreed by the SWAP Management Board.

Areas identified as significant corporate risks, i.e. those being assessed as 'high' or 'very high' risk areas in line with the definitions attached should be addressed as a matter of urgency.

Risks	Inherent Risk Assessment	Managers Initial Assessment	Auditors Assessment
1. The Council are in breach of their statutory requirements including the Constitution	High	Low	Low
2. Councillors are not known to be members of Committees, including outside bodies that enable bias decisions to be made	Medium	Low	Low
3. Councillors are unclear on their decision making responsibilities or can use their position unfairly for personal gain	Medium	Low	Low
4. The Council is criticised for poor decision making.	Medium	Low	Low

Summary of Significant Findings

The following were identified as key findings for the service and therefore categorised, in accordance with the definitions attached, as a level '4' or '5' priority in the action plan.

- There were no significant findings identified during this review.

Further details of audits' findings can be viewed in the full audit report, which follows this Management Summary.

Conclusion and Audit Opinion

▲★★★ **Reasonable** I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

All Council members, management and staff were found to be diligent in their application of the Council's governance arrangements, committed to further improvement and receptive to feedback. We wish to place on record particular thanks to the Democratic Services Manager for her help and cooperation during the course of this audit.

Following the last election in 2011, Councillors were given an in-depth induction and refresher programme. They have also been provided with direction on their roles and responsibilities through the Local Government Association councillor's guide, the constitution and councillor's information pack. Despite some Councillors not accepting invitations to have Personal Development Reviews (PDR), Internal Audit is reasonably satisfied the controls in relation to the ongoing training of Councillors are in place.

The Annual Council minutes for the meeting held in May 2013 clearly demonstrates the Council's transparency with regards to the membership of committees, think tanks, panels, forums and outside bodies. However, some improvement in this area could be made and this is detailed below.

During the course of this year the activities of one Councillor were drawn to senior management's attention by an outside source. The Council took appropriate action in relation to this matter and the Councillor has now resigned. This review included a review of Councillor's declared interests and of the complaints procedures. Internal Audit can confirm the Council holds a complete set of Councillor's declared interests; it can demonstrate exempt and sensitive information is well managed; and a robust complaints procedure is in operation.

Two recommendations have been made within this report, one under risk 1 and another under risk 4. Both recommendations have been given a priority score of 3 and relate to:

- Updating the Constitution to reflect legislative changes and decisions the Council makes about its own processes and storing that version on the Council's website with the date it was approved by the Council.
- Identifying the names of Councillors on committee agendas.

Objectives & Risks

The key objective of the service and risks that could impact on the achievement of this objective were discussed and are identified below.

Objective: There are effective and transparent policies and procedures to ensure Councillors activities are properly governed.

Risks:

1. The Council are in breach of their statutory requirements including the Constitution
2. Councillors are not known to be members of Committees, including outside bodies that enable bias decisions to be made
3. Councillors are unclear on their decision making responsibilities or can use their position unfairly for personal gain
4. The Council is criticised for poor decision making.

Method & Scope

This audit has been undertaken using an agreed risk based audit. This means that:

- the objectives and risks are discussed and agreed with management at the outset of the audit;
- the controls established to manage risks are discussed with key staff and relevant documentation reviewed;
- these controls are evaluated to assess whether they are proportionate to the risks and evidence sought to confirm controls are operating effectively;
- at the end of the audit, findings are discussed at a close-out meeting with the main contact and suggestions for improvement are agreed.

Substantive testing covered July 2012 to June 2013. The surveying of Councillors included a random sample from the Conservative, Liberal Democrat and Independent parties.

Findings

The following paragraphs detail all findings that warrant the attention of management. The findings are all grouped under the objective and risk that they relate.

1. **Risk 1: The Council are in breach of their statutory requirements including the Constitution**

1.1 Constitution

The Council's Constitution on the website is dated May 2011 as it was updated following the Annual Council in May 2011. I was informed that it has, as required, been reviewed annually since that date. A reasonableness check against five other Council's Constitutions found the content of the Council's constitution was in line with the others.

On 22nd May 2013, the Annual Council agreed the recommended changes to the Constitution, as outlined in appendix C of the Chief Executive's report. This reflected legislative changes and decisions the Council makes about its own processes. To date the version of the Constitution published on the internet has not been updated to reflect the recommended changes. However, the Corporate Legal and Democratic Services Manager keeps the internal working copy of the Constitution up to date and regularly advises members and officers as needed.

The constant flow of legislative change means the Constitution inevitably plays 'catch up'; the legal service assists in making sure decisions are based on current state of the law through individual advice on committee reports which flag up changes which may need to be fed into the Constitution.

If the Constitution is not up to date and an older version is held on the website, there are risks officers may not act in accordance with relevant legislation or in line with agreed processes.

1.1a **The Corporate Manager (Legal and Democratic Services) has agreed to ensure:**

- **the Constitution is updated to reflect the legislative changes and decisions the Council makes about its own processes and**
- **the updated version stating the date the changes were approved is saved on the Council's website**

2. **Risk 2: Councillors are not known to be members of Committees, including outside bodies that enable bias decisions to be made**

There were no findings identified under this risk during the review.

3. **Risk 3: Councillors are unclear on their decision making responsibilities or can use their position unfairly for personal gain**

3.1 Personal Development Reviews

Councillors are invited to a Personal Development Review (PDR) each time they are elected and every year thereafter. Although a summary list was maintained stating those Councillors who had received PDRs in 2011, this has not been done for 2012 and 2013.

The Democratic Services Manager has confirmed Councillors were invited on two occasions to discuss their PDRs, however there was limited up-take. As such not all of the PDRs are up-to-date, however this does not give her concern as the Councillors needs are being met and they haven't raised any issues.

Internal Audit is reasonably satisfied the controls in relation to the ongoing training of Councillors are in place and no recommendation is required.

4. Risk: 4. The Council is criticised for poor decision making

4.1 [Identifying the participants of meetings](#)

One set of agendas and minutes from each of the nine committees were reviewed to determine: whether the participants could be identified; the date and location confirmed and the decision making process was clear.

Testing established that out of the nine committee agendas and minutes reviewed, four (Council – May 2013, Cabinet – June 2013, Development Management – May 2013 and Housing Review Board - 09/05/13) did not state the names of the Councillors who were due to attend.

If the names of Councillors are not stated on the agendas, it may not be apparent to the reader whether members have an interest in a particular agenda item which needs to be declared.

- 4.1a The Democratic Services Manager has agreed to ensure from now on the names of members of each Committee will be set out on the front of agendas. The only exception will be in respect of meetings of the Full Council where a hyperlink to the Councillor list on the Council website will be included on the front page of these agendas. This requirement will be raised as new practice with rest of the Democratic Services team.**

The Agreed Action Plan provides a formal record of points arising from this audit and, where appropriate, the action management has agreed to take and the timescale in which the action will be completed. All findings have been given a priority rating between 1 and 5, where 1 is low and 5 is high.

It is these findings that have formed the opinion of the service's control environment that has been reported in the Management Summary.

Corporate Governance – Councillors

Confidential

Agreed Action Plan

Finding	Recommendation	Priority Rating	Management Response	Responsible Officer	Implementation Date
<p>Objective: There are effective and transparent policies and procedures to ensure Councillors activities are properly governed</p>					
<p>1. The Council are in breach of their statutory requirements including the Constitution</p>					
<p>1.1a The Constitution on the Council's website is out of date. It does not reflect the legislative changes and decisions the Council makes about its own processes as agreed by the Council on 22/05/13.</p>	<p>I recommend the Corporate Manager (Legal and Democratic Services) ensures:</p> <ul style="list-style-type: none"> the Constitution is updated to reflect the legislative changes and decisions the Council makes about its own processes; and the updated version stating the date the changes were approved is saved on the Council's website. <p style="text-align: right;"><i>SWAP Ref: 22299</i></p>	<p>3</p>	<p>This recommendation reflects existing practice.</p> <p>There is inevitably a delay between Annual Council and getting the changes on the website; in the interim the changes agreed at Annual Council are available on the website and the Strategic Management Team is made aware of what they are.</p> <p>The Constitution has now been redrafted and should be published on the website by 9 August.</p>	<p>Corporate Legal and Democratic Services Manager</p>	<p>9 August 2013</p>

Finding	Recommendation	Priority Rating	Management Response	Responsible Officer	Implementation Date
4. The Council is criticised for poor decision making					
4.1a There is an inconsistent approach to notifying the public about which Councillors are scheduled to attend committee meetings.	I recommend the Democratic Services Manager ensures all Councillor names are listed on the agendas. <i>SWAP Ref: 22125</i>	3	From now on the names of members of each Committee will be set out on the front of agendas. The only exception will be in respect of meetings of the Full Council where a hyperlink to the Councillor list on the Council website will be included on the front page of these agendas. This requirement will be raised as new practice with rest of the Democratic Services team at our team meeting this week.	Democratic Services Manager	31 July 2013

Audit Framework Definitions

Control Assurance Definitions

Substantial	▲★★★★	I am able to offer substantial assurance as the areas reviewed were found to be adequately controlled. Internal controls are in place and operating effectively and risks against the achievement of objectives are well managed.
Reasonable	▲★★★★	I am able to offer reasonable assurance as most of the areas reviewed were found to be adequately controlled. Generally risks are well managed but some systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
Partial	▲★★★	I am able to offer Partial assurance in relation to the areas reviewed and the controls found to be in place. Some key risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.
None	▲★★★	I am not able to offer any assurance. The areas reviewed were found to be inadequately controlled. Risks are not well managed and systems require the introduction or improvement of internal controls to ensure the achievement of objectives.

Categorisation Of Recommendations

When making recommendations to Management it is important that they know how important the recommendation is to their service. There should be a clear distinction between how we evaluate the risks identified for the service but scored at a corporate level and the priority assigned to the recommendation. No timeframes have been applied to each Priority as implementation will depend on several factors however, the definitions imply the importance.

Priority 5: Findings that are fundamental to the integrity of the unit's business processes and require the immediate attention of management.

Priority 4: Important findings that need to be resolved by management.

Priority 3: The accuracy of records is at risk and requires attention.

Priority 2: Minor control issues have been identified which nevertheless need to be addressed.

Priority 1: Administrative errors identified that should be corrected. Simple, no-cost measures would serve to enhance an existing control.

Definitions of Corporate Risk

Risk	Reporting Implications
Low	Issues of a minor nature or best practice where some improvement can be made.
Medium	Issues which should be addressed by management in their areas of responsibility.
High	Issues that we consider need to be brought to the attention of senior management.
Very High	Issues that we consider need to be brought to the attention of both senior management and the Audit Committee.

- The Council comply fully with their statutory responsibilities, including the Constitution.
- The Council have a suitable Officer (Democratic Services) who ensures the Council adheres to the latest statutory requirements.
- A register is maintained of all associated decision making forums and is subject to scrutiny.
- All Decision Making Groups, including outside bodies, have clear Terms of Reference.
- All Councillors receive clear guidance and training on their roles and responsibilities in decision making, including a Code of Conduct.
- All personal interests of Councillors are declared and the responsibilities and decisions they make reflect this.
- Transparency of Council meetings is maintained.
- A robust complaints procedure is in place.

Agenda Item: 09

Audit and Corporate Governance

7 November 2013

RP



Regulation of Investigatory Powers Act annual report and introduction of Surveillance Camera Code of Practice

Summary

Audit and Corporate Governance Committee receives an annual report on the use of Regulation of Investigatory Powers Act [RIPA].

In addition this report gives members information about the Surveillance Camera Code of Practice. This is statutory guidance which came into force in August this year, which means the Council should have regard to it.

Recommendation

Committee reviews the Regulation of Investigatory Powers annual report and Surveillance Camera Code of Practice and makes any recommendation it considers appropriate.

a) Reasons for Recommendation

To reflect legislative change and good practice.

b) Alternative Options

To choose not to use RIPA at all. However, this would in some cases make the detection of offences and their proof in court more difficult

c) Risk Considerations

Proper use of the Act assists in gathering admissible evidence for subsequent court proceedings, for example in benefit fraud cases

d) Policy and Budgetary Considerations

There are no new budgetary implications arising from the policy as the need to attend the magistrates court can be carried out by existing staff.

Positive Impact Overall

Safe Environment.

Clean Environment.

Excellent Customer Service.

Meeting our crime and disorder duties.

e) Date for Review of Decision

November 2014

Background

1) Very occasionally the Council uses directed surveillance to detect and prevent crime, under the terms of the Regulation of Investigatory Powers Act 2000 (RIPA). The powers are rarely needed, but in common with other local authorities, this council sometimes make use of them to identify and gather evidence against those responsible for anti-social behaviour or suspected serious breaches of regulatory control. A full explanation of the use of these powers is set out in the Council's policy [see link under background papers at end of report].

2) Directed surveillance is, in essence, any activity undertaken **covertly** for the purpose of a specific investigation in such a way that is likely to result in obtaining information about a person's private life. For example, following a fraud suspect to their home and watching to see who they were living with without disclosing the reason for the officer's presence would normally constitute directed surveillance and require formal authorisation.

3) Audit and Governance Committee received an updated RIPA policy on 29 November 2012, following statutory changes brought in by the Protection of Freedoms Act 2012. Since

4) The last Office of Surveillance Commissioner's inspection took place in November 2011 and its positive findings were reported to the March 2012 Audit and Governance Committee. Minor changes to the policy were made following the inspector's report.

When can RIPA be used?

5) Local authorities can only use directed surveillance under RIPA to prevent or detect criminal offences that are punishable, whether on summary conviction or indictment, by a maximum term of at least 6 months' imprisonment or are related to the sale of alcohol and tobacco to minors.

6) Authorisations for directed surveillance or covert human intelligence sources are not effective until approved by a J.P (magistrate) following approval by an authorising officer at the Council. Full details of the processes involved are explained in the RIPA policy.

7) A local authority may not authorise the use of directed surveillance under RIPA to investigate disorder that does not involve criminal offences or to investigate low level offences which may include, for example, littering, dog control and fly-posting. At the start of an investigation, council officers will need to satisfy themselves they are investigating a criminal offence punishable by a prison term of 6 months at least (unless related to under age tobacco and alcohol sales).

8) In East Devon the approach has been to consider whether surveillance is necessary and proportionate, in line with the Act and human rights legislation. Consideration will always be given as to whether the investigation could be effectively carried out by other means without using directed surveillance.

Safeguards

9) The Council's policy sets out how authorisation is to be obtained, reviewed and cancelled. It also refers to the Home

Office Codes of Practice on covert surveillance and covert human intelligence sources which the Council has also adopted.

The Corporate Legal and Democratic Services Manager is due to review the policy in 2014. In the interim any changes necessary to reflect updates in legislation or guidance will be made by her.

Last annual RIPA report

10) Members received their last annual report on 29 November 2012. No RIPA authorisations have taken place in the last year. Corporate training was arranged for all key Council staff in May 2012 to support good corporate understanding of when and how RIPA applies. Further corporate training for authorising officers will take place on 6 November.

Recent developments in overt surveillance: Surveillance Camera Code of Practice

11) The Surveillance Camera Code of Practice was issued by the Secretary of State under section 30 of the Protection of Freedoms Act in June this year. It came into force on 12 August 2013. Section 33 (1) of Protection of Freedoms Act states that the Council must have regard to the surveillance camera code when exercising any functions to which the code relates. It applies to 'relevant authorities' as defined by s33 of the Protection of Freedoms Act 2012; that is, mostly local authorities and policing authorities. The Code covers public authorities who put the equipment there as well as those who control the processing of images or information. The Code applies to overt surveillance; covert surveillance is regulated by RIPA (the Regulation of Investigatory Powers Act 2000).

12) Local authorities are expected to have regard to the Code of Practice. The Code develops the Government's commitment to further regulate CCTV and emphasise the protection of communities rather than routine surveillance by CCTV. The Code 'sets out guiding principles that should apply to all surveillance camera systems in public places. These guiding principles are designed to provide a framework for operators and users of surveillance camera systems so that there is proportionality and transparency in the use of surveillance, and systems are capable of providing good quality images and other information which are fit for purpose'. A stated aim of the Code is to develop a culture of surveillance by community consent, much like the idea of 'policing by consent' whereby communities recognise the need for proportionate police intervention to prevent and detect crime and increase community safety or the perception of community safety.

13) Many operators of cameras, including those in the private sector, will fall outside the definition of a 'relevant authority.' The Code states that "the government fully recognises that many surveillance camera systems within public places are operated by the private sector, by the third sector or by other public authorities (for example, shops and shopping centres, sports grounds and other sports venues, schools, transport systems and hospitals). ... the government will keep the code under review and may in due course consider adding others to the list of relevant authorities."

14) The Code draws upon the framework of Article 8 of the European Charter of Human Rights, to suggest that overt surveillance cameras may be used in a public place whenever that use is "in pursuit of a legitimate aim; necessary to meet a pressing need; proportionate; effective; and compliant with any

relevant legal obligations”. Such surveillance should be “surveillance by consent”; but that consent must be informed and not assumed by the system operator.

There are 12 guiding principles set out by the Code:

- i). Use of a surveillance camera system must always be for a specified purpose which is in pursuit of a legitimate aim and necessary to meet an identified pressing need.
- ii). The use of a surveillance camera system must take into account its effect on individuals and their privacy, with regular reviews to ensure its use remains justified.
- iii). There must be as much transparency in the use of a surveillance camera system as possible, including a published contact point for access to information and complaints.
- iv). There must be clear responsibility and accountability for all surveillance camera system activities including images and information collected, held and used.
- v). Clear rules, policies and procedures must be in place before surveillance camera system is used, and these must be communicated to all who need to comply with them.
- vi). No more images and information should be stored than that which is strictly required for the stated purpose of a surveillance camera system, and such images and information should be deleted once its purpose has been discharged.
- vii). Access to retained images and information should be restricted and there must be clearly defined rules on who can gain access and for what purpose such access is granted; the disclosure of images and information should only take place when it is necessary for such a purpose or for law enforcement purposes.
- viii). Surveillance camera system operators should consider any approved operational, technical and competency standards relevant to a system and its purpose and work to meet and maintain those standards.
- ix). Surveillance camera system images and information should be subject to appropriate security measures to safeguard against unauthorised access and use.
- x). There should be effective review and audit mechanisms to ensure legal requirements, policies and standards are complied with in practice, and regular reports should be published.
- xi). When the use of a surveillance camera system is in pursuit of a legitimate aim and a pressing need, it should then be used in the most effective way to support public safety and law enforcement with the aim of processing images and information of evidential value.
- xii). Any information used to support a surveillance camera system which matches against a reference database for matching purposes should be accurate and kept up to date.

15) The statutory office of Surveillance Camera Commissioner has been created whose job it is to provide advice and information to the public and system operators about the

effective, appropriate, proportionate and transparent use of surveillance camera systems and how best to make that information available. This Commissioner is expected to work alongside the Information Commissioner and Chief Surveillance Commissioner.

16) Officers will review the surveillance camera systems which the Council operates in conjunction with the police authority, in the light of the Code of Practice. There are two of these, in central Sidmouth [Market Square] and in central Exmouth.

17) In deciding whether to impose a condition, for example that a pub should have C.C.T.V, the Council's licensing processes under the Licensing Act 2003 (alcohol and entertainment licensing) are already based on proportionate conditions appropriate to promote the four licensing objectives. [The prevention of crime and disorder, public safety, prevention of public nuisance and the protection of children from harm.] Licensing committee reports now also refer to the Surveillance Camera Code of Practice, so licensing committee members have regard to the Code in discharging their licensing functions.

Legal Implications

The statutory framework is reflected in the report.

Financial Implications

There are no direct financial implications

Consultation on Reports

The policy has been discussed at the Strategic Management Team, as has the Home Office Surveillance Camera Code of Practice

Background Papers

1 November 2012: Updated EDDC Policy on use of directed surveillance and covert human intelligence sources. Regulation of Investigatory Powers Act 2000
http://www.eastdevon.gov.uk/updated_policy_on_use_of_directed_surveillance_and_covert_human_intelligence_sources_ripa_2000.pdf

June 2013 Home Office Surveillance Camera Code of Practice
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf

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Audit and Corporate Governance
14 November 2013



Agenda Item 10

Audit and Governance Committee

14 November 2013

P&P Policy



Council Tax and Benefit Penalty and Prosecution Policy

Summary

Following changes in legislation relating to council tax and benefits it is necessary to implement a new policy for dealing with the prevention and detection of council tax and benefit fraud. This policy also includes where customers fail to notify East Devon District Council of a change in circumstances relating to council tax discounts and exemptions and how this could result in a penalty being issued.

Recommendation

That the draft policy be adopted.

Delegated authority is given to the Head of Finance, in consultation with the Finance Portfolio Holder to make amendments to the Policy to reflect changes in legislation, Government guidance and policy.

a) Reasons for Recommendation

To provide a clear framework on how we will deal with customers who commit council tax or benefit fraud or fail to tell us about a change in circumstances.

b) Alternative Options

Not to have a formal policy.

c) Risk Considerations

By not having an up to date policy in place we are at risk of being legally challenged.

d) Policy and Budgetary Considerations

Positive Impact Overall

Meeting our crime and disorder duties.
Create Cashable Savings

e) Date for Review of Decision

See draft policy

1 Background

- 1.1 This policy (appendix A) supports the Council's stance on prevention and detection of fraud as stated in the Council's Anti-Fraud, Theft and Corruption Policy and also ties in with the Local Government Fraud Strategy (see link under background papers)
- 1.2 This draft policy provides a clear framework on how we will deal with council tax and benefit customers who commit fraud or fail to give notification affecting their entitlement to any of the following:
- council tax discount
 - council tax exemption
 - council tax support
 - housing and/or council tax benefit.
- 1.3 The imposition of penalties and prosecutions in respect of the false claiming of council tax discounts or exemptions have not largely been pursued to date. This is a similar picture across the country. However, going forward this is an area that should not be excluded. The National Fraud Authority estimate that fraud in council tax exemptions costs around £31.2 million a year and in council tax discounts around £99.6million. A total of value estimated at £131 million a year.
- 1.4 The Benefit Fraud team up until now have only dealt with housing and council tax benefit fraud as part of our administrative responsibilities to Department for Work and Pensions.
- 1.5 Now that council tax benefit has been abolished and replaced with council tax reduction schemes (funded by the all precepting authorities) this further strengthens the direct financial incentive for us to tackle fraud within the council tax system.
- 1.6 Going forward, the Benefit fraud team will be responsible for proactive fraud work in all aspects of council tax including enforcing compliance through the imposition of penalties and preventative measures. They will lead on various initiatives to identify errors in entitlement. For example; the National Fraud Initiative for single person discounts which we carry out every 2 years, undertaking targeted reviews and better use of data matching.
- 1.7 The equality impact assessment is under background papers.

Legal Implications

Given recent changes in the legislation and criticisms by the Local Government ombudsman in respect of other authorities, it is important that the Council has in place a policy dealing with our approach to council tax and benefit fraud (and related wrongdoing). This policy seeks to ensure that EDDC has a policy in place to inform consideration of, and decision making in, cases where there has been fraud or other offences in relation to council tax and benefits.

Having adopted the policy it is then critical that any decision making in respect of action in a council tax or benefit fraud case is taken in line with the content of the policy. If not then the action is susceptible to challenge for such a failing.

It is important to note that Legal is currently drafting an 'umbrella' enforcement and prosecution policy which will act as overarching guidance to all departments / services that need to enforce / prosecute and ensure that appropriate procedures are in place for when prosecutions are recommended / brought. It is expected that any service / department that wants to supplement the overarching guidance will be able to draft a further document giving further detail on their specific area that will then be an Appendix to the main policy. Accordingly, until such time as the overarching policy is put forward for adoption then it is recommended that the Council Tax and Benefit Penalty Prosecution Policy is adopted on the basis set out.

Financial Implications

There are no direct financial implications. The policy is not intended to be used as a financial gain to the Authority but it is intended to ensure there is a deterrent in place.

Consultation on Reports to the Cabinet

Consulted with Citizens Advice Bureau on proposed draft policy.

Background Papers

- The Local Government Fraud Strategy https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/118508/strategy-document.pdf
- Anti-Fraud, Theft and Corruption Policy http://www.eastdevon.gov.uk/anti-fraud_theft_and_corruption_policy-2.pdf
- Equality Impact Assessment O:\Committee_Reports\Background_papers\bpa&g161113Penalty&ProsecutionEIA.docx

Libby Jarrett ljarrett@eastdevon.gov.uk
Revenues & Benefits Manager

Audit and Governance
14 November 2013

East Devon District Council

Council Tax and Benefits Penalty and Prosecution Policy

1. Purpose of the Policy

- 1.1.1 East Devon District Council, in carrying out its statutory local government functions undertakes the administration of:
- Council Tax;
 - The Council Tax Reduction Scheme (also known as Council Tax Support) from 1st April 2013;
 - Housing Benefit; and
 - Council Tax Benefit, up to 31st March 2013.
- 1.2 The Council is committed to a proactive approach in preventing and reducing the level of Housing Benefit, Council Tax and Local Council Tax Support fraud and has a duty to protect the public funds it administers from abuse. It is aware of the risks within the system for fraud, error or other irregularity. In carrying out this duty, the authority may use legally obtained information provided for the purpose of the prevention and detection of fraud. It may also share the information with other bodies administering public funds solely for these purposes, where a legal gateway exists.
- 1.3 Fraud occurs because people for various reasons will not be truthful about their circumstances, or deliberately fail to tell the Council about a relevant change.
- 1.4 The aim of this policy is to prevent criminal offences occurring, by making it clear to customers that they have a responsibility to provide accurate and timely information about their circumstances; to punish wrongdoing and to deter offending.
- 1.5 Part of the Council's functions is the prevention and detection of fraud and investigating the delay in customers advising us of a change in circumstances in respect of their entitlement to a Council Tax discount or exemption, Council Tax Support applications or Housing Benefit claims.
- 1.6 Until 1st April 2013 East Devon District Council administered the national Council Tax Benefit scheme on behalf of the Department for Work and Pensions, and this policy also includes how any fraudulent or negligent activity in relation to these claims will be dealt with.
- 1.7 This policy is intended to provide clear guidance on the options available to deal with those who either:
- through an intentional act or omission commit Council Tax, Council Tax Support, Council Tax Benefit or Housing Benefit fraud; or
 - negligently make incorrect statements, or without reasonable excuse fail to give a prompt notification of a relevant change of circumstances affecting

their entitlement to a Council Tax discount, exemption or reduction, or their Council Tax Benefit and/or Housing Benefit entitlement, and how and when these options should be used.

1.8 Timescales and outcomes for customers

- 1.9 Customers who receive a Council Tax discount or exemption or a Council Tax Reduction (known as Council Tax Support) are responsible for advising the Revenues and Benefits Service within 21 days of a change in circumstances occurring, which affects their entitlement to this reduction. This timescale is different to that for Housing Benefit, and in implementing this policy we will extend this time limit to align with the one calendar month used in Housing Benefit.
- 1.10 If a customer is not receiving a Council Tax discount or exemption and becomes entitled to one, they are responsible for advising the Revenues and Benefits Service within 21 days and to make an application for this entitlement within this time period.
- 1.11 If a customer receives Housing Benefit (or Council Tax Benefit) they are responsible for advising the Revenues and Benefits Service within one calendar month of a change in circumstances occurring which affects their entitlement to Housing Benefit (or Council Tax Benefit) entitlement.
- 1.12 If a customer does not comply with these timescales it will be appropriate to determine the reason for failure to comply and, in the case of a Council Tax Support application or Council Tax Benefit and/or Housing Benefit claim, whether this was a negligent or fraudulent act. The outcome of this will determine what action is appropriate in each individual case.

1.13 Timescales and outcomes for the Revenues and Benefits Service

- 1.14 In all cases of alleged fraud the Council's investigation officers will endeavour as quickly and effectively as possible to undertake their investigation in accordance with all statutory regulations and procedural guidance.
- 1.15 In cases of Council Tax Benefit and Housing Benefit fraud East Devon District Council will work jointly with the Department for Work and Pensions Fraud Investigation Service (FIS), where appropriate undertaking joint investigations and joint prosecutions..
- 1.16 This policy will serve as a policy statement, agreed by Members and as an operational guide for officers. It is intended to ensure that offences are dealt with in a consistent, reasonable and fair way, in line with best practice. It also supports the Council's Anti-Fraud, Theft and Corruption Policy and will be reviewed regularly to take account of any legislative changes and also to provide assurance that it is being followed correctly.

2. Terms Explained

2.1 Council Tax Penalties for Council Tax Registration, Discounts and Exemptions

- 2.1.1 The Council is legally entitled to obtain information from residents, owners or managing agents to help identify the person liable for payment of the Council Tax.
- 2.1.2 Where a person fails to supply certain information requested by the Council within 21 days of the request for the information or within 21 days of a change which affects Council Tax registration or an entitlement to a discount or exemption, or knowingly supplies inaccurate information in purported compliance with such a request, the Council may impose a penalty of £70 on them.
- 2.1.3 Where a penalty has been imposed and a further request to supply the same information is made again and is not properly complied with, the Council may impose a further penalty of £280, and may do so each time it repeats the request and the person concerned does not properly comply with it. There is no limit to the number of times this penalty can be imposed.
- 2.14 Where a penalty is imposed where the person who has not supplied the information has a Council Tax account this will be added to this account. In all other cases an invoice will be raised for repayment.
- 2.1.5 A customer can appeal about the decision to impose a penalty to the Valuation Tribunal.
- 2.1.6 A penalty is recovered by adding this onto the customer's Council Tax account.

2.2 Civil Penalties for Housing Benefit and Council Tax Benefit

- 2.2.1 Sections within the Welfare Reform Act 2012 ensure that Civil Penalties are an alternative to prosecution.
- 2.2.2 A Civil Penalty (CP) of £50 can be imposed on customers who receive an overpayment of Housing Benefit (or Council Tax Benefit) caused by either:
- negligently making incorrect statements, or
 - failing without reasonable excuse to provide information or disclose changes in their circumstances.

This penalty is for cases of claimant error where the overpayment is wholly after the date of commencement of the legislation of 1st October 2012 and where the recoverable overpayment, which results from this negligent act or failure, is above £65.

- 2.2.3 In a joint claim only one penalty will apply. Either member of the couple might receive the penalty, subject to limitations. In the case of a negligent statement it will not apply to the person who did not make the statement if that person could not reasonably have been aware of the other person's negligence in making the incorrect statement.
- 2.2.4 The CP will be recovered by raising an invoice for the customer.
- 2.2.5 A customer can appeal about the decision to impose a CP in the same way as any benefit decision, and with the same timescales as a Housing Benefit or Council Tax Benefit appeal, with appeals being dealt with by the Tribunals Service.

2.3 Cautions for Housing Benefit and Council Tax Benefit offences

- 2.3.1 A caution is an official warning issued to a person who has admitted to defrauding the council and is intended for those persons at the lower end of the range of benefit fraud.
- 2.3.2 The caution is held on record for three years and can be used as evidence against the offender if further fraud is committed within this three year period.
- 2.3.3 For cases where the offence is committed wholly on or after 1 April 2012 or the period of the offence spans 1 April 2012, the policy is either to offer an administrative penalty or prosecute, if considered appropriate.

2.4 Administrative Penalties for Housing Benefit and Council Tax Benefit offences

- 2.4.1 An administrative penalty is an alternative to prosecution for Housing Benefit and Council Tax Benefit fraud offences for any offence which has wholly been committed since 1 April 2012.
- 2.4.2 The amount of the administrative penalty is £350 in cases of attempt where the fraud is discovered and stopped before any overpayment of benefit is made. For all other cases it is a minimum of £350 or 50% of the overpayment, whichever is greater (up to a maximum penalty of £2,000).
- 2.4.3 In cases which are jointly investigated by Jobcentre Plus and East Devon District Council the amount of administrative penalty will be calculated using the total overpayment amount.
- 2.4.4 An individual has a 14 day cooling off period to withdraw their agreement to pay the penalty. Following this period there is no right of appeal. If the customer does withdraw their agreement to pay the penalty prosecution will then be considered.
- 2.4.5 The administrative penalty will be recovered by raising an invoice.

2.5 Prosecution for Housing Benefit and Council Tax Benefit offences

- 2.5.1 If, following investigation and consideration of the evidential and public interest tests (see Section 3), prosecution action is recommended, the Investigations Officer, in accordance with the Council's Constitution, will seek advice from the Council's Corporate Legal and Democratic Services Manager or legal appointee. The Chief Executive (or as delegated under the Constitution) will approve prosecution in appropriate cases.
- 2.5.2 Where the law allows, we will always seek to recover the costs of investigation and enforcement proceedings.

2.6 Penalties and Prosecution for Council Tax Support

- 2.6.1 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.
- 2.6.2 Prosecution proceedings brought for a Council Tax Support Scheme offence may begin at any time within a period of 3 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 12 months from the commission of the offence, whichever period expires last.
- 2.6.3 The offences which can be considered are:
- 2.6.3.1 **A delay, obstruction, refusal or failure to comply with requests for information from an authorised officer of East Devon District 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 (see Appendix 1) 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.
- 2.6.3.2 **False representation for obtaining a reduction.** This applies to a person who obtains a reduction under the Council Tax Support Scheme makes 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 3 months, or to both.
- 2.6.3.3 **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.

2.6.3.4 Penalties as an alternative to prosecution. As an alternative to prosecution, where there are grounds for instituting proceedings against a person, East Devon District 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.

2.6.3.5 Penalties for incorrect statements and failing to notify a change of circumstances. In a similar way to Civil Penalties for Housing Benefit (or 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.

3. Specific Policy Areas

3.1 In a case where a customer has either knowingly made a false statement, or has knowingly withheld information to obtain or retain entitlement to a Council

Tax Support or Housing Benefit payment, the decision to either prosecute, or alternatively offer a penalty, is fundamentally determined by the severity of the offence which is measured against a number of factors including the financial losses that have been incurred as a result of a fraud.

- 3.2 Each case will be looked at individually to decide what action, if any, is appropriate under this policy. This decision will be based upon the The Code for Crown Prosecutors which sets out the general principles prosecutors should look to when they make decisions on cases. The tests are known as the the Evidential Test and the Public Interest Test.

3.3 The Evidential Test

This test considers whether:

- There is sufficient evidence to provide a realistic prospect of conviction, and
- The evidence is reliable, credible and admissible.

3.4 The Public Interest Test

The Council will consider public interest factors to determine whether or not to offer a penalty, prosecute or take no action. It is unlikely to be in the public interest to pursue prosecution if the chances of securing a conviction are low or where it is likely that in the circumstances the court would be unlikely to impose a sanction other than an absolute or conditional discharge.

If the evidential test is passed but there are public interest factors which mitigate against a prosecution, then it is possible that an out of Court penalty may be offered.

3.5 Circumstances in which the Council is more likely to prosecute

Any case meeting one or more of the following criteria is likely to result in the Council pursuing prosecution proceedings from the outset:

- The alleged offence was committed whilst the alleged offender was under a relevant order of the Court, for example, a Probation or Community Order.
- Any previous known incidence of fraud, such as Cautions, Administrative Penalties or successful prosecutions.
- The person has been offered and declined the option of a penalty. The court must be notified that the alleged offender has declined this offer.
- Where the overpayment or excess reduction is in excess of £2,000.
- The alleged offender is in a position of trust, for example, a Council employee or an Elected Member.
- There is evidence that the alleged offence was premeditated.
- There is evidence that the alleged offence was carried out by an organised group.

- The fraud appears to involve a collusive landlord or employer. Cases involving collusion should be regarded as serious fraud and prosecution may be appropriate irrespective of the amount of overpayment.

3.6 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 regarding the validity of their entitlement to a Council Tax discount or exemption, a Council Tax Support under the Council Tax Reduction Scheme or their Housing Benefit entitlement. This does not include disclosure during a verification 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.

3.7 The Council will also take into consideration the suitability of evidence obtained and any failures or delays in the investigation, or in Council Tax or Benefits 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.

3.8 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.

4 Outcomes

4.1 Each case will be considered individually, including looking carefully at a customer's circumstances before coming to a decision about the most appropriate action in each case.

- 4.2 The Council has an active role of referring all suitable cases for financial investigation to a Financial Investigator with a view to applying to the courts for restraint and/or confiscation of identified assets. The legislation governing this is the Proceeds of Crime Act 2002 (POCA).
- 4.3 The underpinning principle of POCA is to demonstrate that crime does not pay, and whereas in the past prosecution alone may have been an insufficient deterrent POCA seeks redress by confiscating not only what the criminal has received as a direct result of the crime but also what can be demonstrated to have been obtained as benefit from the proceeds of the crime.
- 4.4 Whether or not East Devon District Council decides to take action against the benefit customer or Council Taxpayer it will take steps to recover the fraudulent overpayment, including taking action in the civil courts, if necessary.

5 Who is responsible for delivery?

- 5.1 The Revenues and Benefits Service are responsible for administering this policy. Effective publicity of this policy and its contents will ensure customers are aware of their responsibilities and will also act as a deterrent to customers who are contemplating action which would bring the policy into effect on them.
- 5.2 East Devon District Council will positively promote this policy by publicising the outcomes of any prosecutions and penalties imposed.
- 5.2 The Revenues and Benefits Manager will monitor the implementation and application of this policy.

6 Performance Monitoring

- 6.1 For an effective regime of sanctions to be successful, it is essential that accurate records of all convictions and penalties are maintained. This will enable the Council to make correct decisions about possible sanction action in future taking full account of any previous offences.
- 6.2 Cases will be monitored on a regular basis.
- 6.1 In order to monitor and manage this policy and fulfill its duty to act fairly, reasonably and consistently the Council will keep records on:
- The number of penalties imposed and the reasons for them
 - The number of penalties recovered in full, being repaid and not being paid
 - Action taken to recover the penalty
 - The number of appeals against penalties and the outcome of these

7 Policy/Strategy Consultation

7.1 Consultation with Legal Services, Citizens Advice Bureau

8 Equality Impact Considerations

8.1 See Equality Impact Assessment

9 Policy/Strategy Review

9.1 This Policy will be managed by the Revenues and Benefits Manager and will be reviewed at least every 3 years and updated as appropriate to ensure it remains fit for purpose. However, the review may take place sooner should there be any significant changes in legislation.

10 Related Policies/Strategies, Procedures and Legislation

- East Devon District Council's Anti Fraud, Theft and Corruption Policy
- Section 14(2) Local Government Finance Act 1992.
- Welfare Reform Act 2012
- Social Security Administration Act 1992.
- Social Security (Civil Penalties) Regulations 2012. SI 2012/1990.
- The Council Tax Reduction Schemes (Detection of Fraud and Enforcement) (England) Regulations 2013. SI 2013/501
- East Devon District Council's Council Tax Reduction Scheme Policy
- The Council Tax Reduction Schemes (Prescribed Requirements) (England) Regulations 2012 (SI2012/2885)
- Criminal Justice Act 1982 – for level of standard scale fines.
- Police and Criminal Evidence Act 1984
- Criminal Procedures and Investigation Act 1996
- Social Security Administration (Fraud) Act 1997
- Regulation of Investigatory Powers Act 2000
- Data Protection Act 1998
- Theft Act 1968
- Fraud Act 2006
- Human Rights Act 1998

Appendix 1

Level of standard scale fines – Extract from Criminal Justice Act 1982 (as amended).*Introduction of standard scale of fines*

37. The standard scale of fines for summary offences.

(1) There shall be a standard scale of fines for summary offences, which shall be known as “the standard scale”.

(2) The standard scale is shown below—

<i>Level on the scale</i>	<i>Amount of fine</i>
1	£200
2	£500
3	£1,000
4	£2,500
5	£5,000

(3) Where any enactment (whether contained in an Act passed before or after this Act) provides—

(a) that a person convicted of a summary offence shall be liable on conviction to a fine or a maximum fine by reference to a specified level on the standard scale; or

(b) confers power by subordinate instrument to make a person liable on conviction of a summary offence (whether or not created by the instrument) to a fine or maximum fine by reference to a specified level on the standard scale,

it is to be construed as referring to the standard scale for which this section provides as that standard scale has effect from time to time by virtue either of this section or of an order under section 143 of the Magistrates’ Courts Act 1980.

Agenda Item: 11

Audit and Governance Committee

14 November 2012

Risk Review Information for 2013/14



1st Risk Review of 2013/14

Summary

Risk information for the 2013/14 financial year until September 2013 is supplied to allow the Audit and Governance Committee to monitor the risk status of Strategic and Operational Risks. This follows the 1st review of risks by responsible officers for 2013/14.

Recommendation

That the Audit and Governance Committee considers the current status of risks until October 2013.

a) Reasons for Recommendation

To ensure that the Risk Management Policy and Guidance is being followed and all risks are being monitored and control actions implemented.

b) Alternative Options

None

c) Risk Considerations

Failure to identify, assess, monitor, review and manage risks could impact negatively (i.e. financial, reputational, operationally) on the council.

d) Policy and Budgetary Considerations

Our Risk Management Policy and Guidance recommends that risks are reported to the Audit and Governance Committee on a bi-annual basis. Risks which are unmanaged could have a serious financial impact.

e) Date for Review of Decision

The next Bi-annual Review March 2014

1 Main Body of the Report

1. The EDDC's Risk Management Policy requires all risks identified by the council to be reviewed bi-annually. There are currently 18 Strategic and 107 Operational Risks, each when first identified were considered high or medium level risks which required some form of mitigation through control actions. For this first review for 2013/14 all risk owners were asked to reassess the overall risk, update their control

action/s and re-score the risk to give a residual score in light of the mitigation from the control actions undertaken.

2. We are now seeing signs that the Risk Management process is becoming more embedded within the Council and that the risks in some Services are being updated more regularly than the stated bi-annual reviews and the reviews undertaken are being given greater consideration.
3. There are 4 risks which are currently scored as high risk
 - **Significant loss or non collection of rental income will have a major impact on the Housing Revenue Account and our ability to deliver housing services to our tenants.** - Impact: Major Likelihood: Very likely
Loss of rental income is now being experienced due welfare reforms introduced nationally, but the controls we have in place are helping us to keep this loss to a minimum.
 - **Loss of Supporting People contracts would mean a significant loss of income that part pays for the housing related support service received by our tenants in sheltered housing.** - Impact: Serious Likelihood: Very likely
While our Supporting People grant has reduced by around ten per cent this year, we are looking to offer the service to our tenants in general needs accommodation, and then to the private sector population, many of whom it is anticipated will be self-funding.
 - **Failure to notify the responsible authority when staff suspect a child is at risk.** - Impact: Major Likelihood: Very likely
The risk impact level for this risk has been raised this because of all the media attention this area now generates when things go wrong. We have seen a good number of child protection cases where partner agencies are being implicated (not just the fault of Social Services). We have also seen failures that result in the death of a child. We have updated the Safeguarding Children Policy adopted and promoted it internally.
 - **The risks associated with being a developer of council homes, especially with regards potential abortive costs, cost overruns, failure to obtain planning permission and loss of HCA grant.** - Impact: Major Likelihood: likely
There is little or no HCA grant available nowadays so the risk is more with the developer (us when building Council homes). Development risks have always been considerable and our infill/garage sites are often harder to develop than say green field sites. There is a real risk of abortive costs which much of the development industry accept as inevitable when running sizeable programmes.

Further information including control actions for these risks can be found at [appendix A](#)

4. All services were asked to highlight any new and emerging risks. There were no new risks identified at this review
5. There are 2 risks with scores that have increased since the last review. For more information on these risk including details of their control actions see [appendix A](#).

- **Implications of Equity Share holding in Science Park Company.** This was scored Low (4) but is now Medium (6)

Review Note: Projected break out and break even timeline of Science Park now extended. LEP investment limited repayment based with interest EDDC has agreed an additional up to £1 million loan to finance new financial plan for the Park. EDDC liability has increased. whilst risk managed through updated projections and underwriting by County and University.

- **Right to Buy sales differ from the predictions in the HRA Business Plan.** This was scored Low (4) but is now Medium (6)

Review Note: Right to Buy sales have increased as a result of changes to Government incentives on the level of discount offered potential/eligible purchasers.

6. There are 7 risks which have had their scores reduced from medium to low; further information about these risks can be found at [appendix B](#).

- Erroneous or incorrect housing advice given which could result in a tenant or owners losing their home and/or the Council failing to fulfil its legal duties.
- Failure to carry out an effective enforcement regime could result in injury or ill health to residents and damage the reputation of the Council.
- Contamination of a private water supply.
- Staff engagement and morale
- Management of investments
- Council services are not delivered where and how customers need them
- Non-availability of key operation centre

7. Number of risks in each service by risk score

Finance	High	Medium	Low
<i>This review</i>		5	16
<i>Previous review</i>	0	6	15

Economy	High	Medium	Low
<i>This review</i>	0	8	8
<i>Previous review</i>	1	6	9

Housing	High	Medium	Low
<i>This review</i>	4	10	8
<i>Previous review</i>	0	14	8

Environment	High	Medium	Low
<i>This review</i>	0	2	12
<i>Previous review</i>	0	4	10

Legal & Democratic	High	Medium	Low
<i>This review</i>	0	9	5
<i>Previous review</i>	0	9	5

Organisational Development	High	Medium	Low
<i>This review</i>	0	3	10
<i>Previous review</i>	1	3	9

ICT	High	Medium	Low
<i>This review</i>	0	3	4
<i>Previous review</i>	0	3	4

Strategic Risks	High	Medium	Low
<i>This review</i>		13	5
<i>Previous review</i>	0	15	3

8. A report showing the medium level risks with control action detail appears in [appendix A](#).

9. A report showing the low level risks without control actions appears in [appendix B](#)

10. An explanation and definitions of these risks including the risk matrix can be found in [appendix C](#).

Legal Implications

There are no direct legal implications contained within this report

Financial Implications

There are no direct financial implications contained within this report

Consultation on Reports to the Executive

Relevant Heads and officers have contributed to the appendices.

Background Papers

- [Appendix A - The Risk Review report, high and medium risks with control action detail for 2013/14.](#)
- [Appendix B – The Risk Review report, low risks only for 2013/14](#)
- [Appendix C - Explanations and definitions.](#)

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Audit and Governance Committee
14 November 2013

Agenda Item: 12

Cabinet/ Audit & Governance Committee

30 October 2013/ 14 November 2013

CP/DL



Thelma Hulbert Gallery (THG) progress report

Extract from relevant Cabinet minute – 30 October 2013

Councillor John O’Leary, Culture Member Champion and Chairman of the Arts and Culture Forum said that the Gallery and arts offer supported the Council’s commitment to culture, its communities and health and well being. The full review of provision and operations aimed to see where improvements could be made; key changes had already been implemented as a result. He was optimistic that footfall and income would continue to increase. He referred to the positive work carried out with schools and the community and particularly with disadvantaged groups. He referred to the valued work of the Forum which had identified support for arts and culture across the district and its advantage to the local economy. He thanked the Forum, Gallery Volunteers and Staff for their important contribution.

In presenting the progress report the Countryside and Leisure Manager highlighted improvements made and actions progressed. Changes included a review of the Gallery’s offer, business model and staff structure. The changes had taken time to plan and implement and in reality had only been in place for a few months. However the changes to operations were significant and indicated a clear upward trend in respect of footfall and increased income. The report referred to the contribution the Gallery made to the Council Plan, equalities agenda and the emerging Health and Wellbeing requirements which Members were asked not to underestimate.

Steps taken to increase footfall and income included:

- Changes to the Gallery shop
- Review of the roles and responsibilities of all the Gallery Staff.
- Recruitment of a Fundraising/Marketing Officer
- Internal audit and systems thinking review of Gallery operating procedures.
- Working with a business consultant (paid for by an Arts Council grant) to develop a realistic business plan and marketing strategy.
- Developing the Friends of the THG initiative
- The effective contribution of the Arts and Culture Forum – set up by Cabinet to oversee strategic improvements and promote the wider arts and culture within East Devon.

Details of the Gallery’s financial performance included within the report showed an encouraging trend of improvement, although from a low base. In addition to increased shop sales and visitor footfall, the Marketing and Fundraising Officer was starting to bring in sponsorship for forthcoming exhibitions and funds from the Arts Council - the Gallery was held in high esteem by the Arts Council.

Proposed next steps included developing the cafe area with a potential partner, improving gallery signage and access and exploring the possibility of a Trust arrangement which could open new funding streams available to charitable trusts.

Members debated the benefits of the Gallery, the burden on the Council's budget and how this might be addressed and district-wide arts support and provision. Members discussed whether the Council should continue to support the Gallery and whether that support should be time limited.

There was potential for the Gallery to be run as a Trust which would open up new opportunities for grants and funding. If this potential was to be realistically progressed, the Gallery needed to continue as a going concern.

RESOLVED

- (1) that the progress and improvements made by the Thelma Hulbert Gallery be noted;
- (2) that the national recognition and awards for the THG's achievements in community engagement and education be welcomed;
- (3) that the proposal to use the existing budget to appoint permanently to the Marketing/Fundraising Officer post be approved to maximise the Gallery's ability to fundraise and increase footfall (and potential visitor spend);
- (4) that the existing corporate arts and culture budget be used to appoint a part time Arts Development Officer to deliver a coherent Arts and Culture Strategy for the District.

RECOMMENDED

- (1) that, it be noted that when available, the Arts Council funded business report will be referred to Cabinet for detailed consideration and used as appropriate to progress preparation of the Gallery for Trust status which the Cabinet approved in principle and as a priority.

REASONS

binet had requested an update report to enable it to assess progress made in reviewing the operational performance of the Thelma Hulbert Gallery. This would inform the Council's 2014/15 budget deliberations.

effective Trust arrangement could allow the Gallery to access grants and funding not currently available and reduce the financial burden on the Council.

Agenda Item

Cabinet/ Audit & Governance Committee

30 October 2013/ 14 November 2013

CP/DL



Thelma Hulbert Gallery (THG) progress report

Report as considered by Cabinet at its meeting on 30 October is set out below:

Summary:

This report outlines the improvements to the Gallery and its operations since the last progress report to Cabinet in March 2013. Cabinet has previously agreed a period of twelve months to review the Gallery's offer, business model, and staff structure, and to put in place a phased and planned approach to improving both footfall and income.

The Gallery's work is set in the context of the Council's priority work under 'Enjoying this outstanding District' section of the Council Plan. Its purpose is 'A community gallery offering great art that's welcoming, accessible, engaging and inspiring'. A major aspect of the THG Team's work has been engaging with community groups and hard to reach groups to improve their quality of life through art education, workshops and projects. This important contribution to our Council Plan priority and equalities agenda is generally a cost to the Council rather than an income generator. This public service element, delivered so effectively by the Gallery, needs to be recognised alongside its priority work to increase footfall and income.

In terms of increasing visitors and income, there has been a marked increase in both since changing the shop offer and recruiting to the Fundraising/Marketing Officer post. This post is critical to achieving the ambitions of the Council and we are now working closely with a business consultant paid for by an Arts Council grant to develop a realistic business plan and marketing strategy.

The Arts & Culture Forum was set up after Cabinet's March meeting with the specific purpose of overseeing the planned improvements to the THG as well as promoting the wider arts and culture offer that East Devon DC provides and delivers.

Recommendation

That Cabinet considers the progress and improvements made by the Thelma Hulbert Gallery and:

1. Welcomes the national recognition and awards for the THG's achievements in community engagement and education
2. Approves the proposal to use the existing budget to appoint permanently to the Marketing/Fundraising Officer Post which will maximise our ability to fundraise and increase footfall (and potential spend)
3. Approves the proposal to use the existing corporate arts and culture budget to appoint a part time Arts Development Officer to deliver a coherent Arts and Culture Strategy for the District.

a) Reasons for Recommendation

Cabinet requested an update report to enable it to assess progress made in reviewing the operational performance of the THG. Members’ consideration of the THG’s operations will inform the Council’s budget deliberations this year.

b) Alternative Options

N/A

c) Risk Considerations

That the time necessary to complete a thorough and detailed review of all aspects of the THG such as secure Arts Council funding, complete staff consultations on skills and job roles going forward, and reorganise the building to improve the shop offer leaves only a short time to turn around the income generating potential of the THG.

d) Policy and Budgetary Considerations

The Corporate Plan under corporate goal ‘Enjoying this outstanding place’ has a target to investigate the possibility of the THG achieving trust status.

With the new 3 year financial settlement and likely budget deficit issues the Council faces from 2013/14 onwards, the plans to raise income levels are critical for the future of the THG.

e) Date for Review of Decision

Overview & Scrutiny reviewed the TAFF recommendations at its 26 July 2012 meeting and Cabinet at its 5 September 2012 and 6 March 2013 meeting; the decision in respect of the future operation of the THG is to be considered by Cabinet at this meeting as part of its scrutiny of the Council’s budget proposals for 2014/15 and beyond

1 Main Body of the Report

1. Improvement Plan

1.1 Cabinet recommended that all aspects of the THG’s operation should be reviewed and changes put in place within a twelve month time frame from September 2012 to see if an improvement could be made to the overall performance of the Gallery. The following table shows the progress made against those agreed actions:

Recommendation	Action	Progress
1. Improve the layout and retail offer of the THG	<ul style="list-style-type: none"> • Move ground floor retail space to the front of the Gallery • Move staff office to 1st floor • Landscaping works to outside area to open THG to Dowell Street car park • External redecoration of building giving better presence from car park • Shop area expanded and now has more extensive range of gifts including a new partnership with Double Elephant on prints (sales are up) 	All actions implemented 2013.
2. Review the roles and responsibilities of all the	<ul style="list-style-type: none"> • All JDs have been reviewed & changes agreed by staff 	All actions implemented 2013

<p>THG staff</p>	<ul style="list-style-type: none"> • Creation of a Fundraising & Marketing Officer post to replace the Gallery Development Manager post to reflect greater marketing & fundraising function; • Gallery Curator role expanded into a Gallery Manager role to take on line management functions • Gallery & Arts Admin Assistant role changed to Gallery & Shop Officer and has greater focus on the running of the THG retail side, and organising volunteers. 	
<p>3. Carry out an internal audit and systems review of all aspects of the THG's operational procedures</p>	<ul style="list-style-type: none"> • SWAP carried out an audit of the Gallery and made a number of key recommendations – all have been actioned • Systems thinking process has identified purpose, an issues log set up with a review of processes and changes to specific operational practices. • Financial Services have reviewed the till procedures and VAT returns to pick up anomalies in the current system. 	<p>All actions implemented 2013 although there are outstanding issues which are for longer term resolution and these are discussed in this report.</p>
<p>4. Improve the visibility, signage and branding of the THG within the town</p>	<ul style="list-style-type: none"> • Plans agreed to increase signage from Lace Walk car park with additional panels and a “walkway” created from car park to THG; • THG information to be put on the back of car park tickets in Lace Walk • Honiton TC is to provide upgrade signage from the town centre to direct to the THG (& Beehive Centre) • Plans in train to get permission to rename the Dowell St car park ‘The THG car park’ • Contact Network Rail about putting up THG branded information panel at Honiton station 	<p>First three actions agreed and last two in progress and all to be implemented 2014/15 due to budgetary constraints.</p>
<p>5. Increase the profile of the THG</p>	<ul style="list-style-type: none"> • THG mailing database has increased from 214 to 354 and the first e-newsletter has just gone out • Visitors to gallery are encouraged to sign up to email list at reception • THG has 756 twitter followers and tweets almost every day • THG Facebook page has had an overhaul including a newsletter sign up option and is updated with regular exhibition, video and workshop postings and already has 121 likes. • THG website : Twitter feed added to give live updates, Twitter and Facebook links added to home page, new THG Friends information added with link to sign up form 	<p>All actions implemented 2013 although much of this work is ongoing now that we have appropriately skilled staff recruited</p>

<p>6. Develop the Friends of the THG to assist with awareness raising and income generating plans for the Gallery</p>	<ul style="list-style-type: none"> • THG Friends membership premiums have been raised to £15 annual/ £25 joint/£25 best friends/ £150 lifetime in-line with other galleries and introduced patron membership of £250 • There is now a link on THG website to download membership to sign up new Friends. • Regular gallery visitors are encouraged to sign up as Friends • A competition for the month of August led to 4 new Friends including one life membership of £150 • There is a new colour Friends leaflet, we have also clarified offer of sponsorship packages: £1,000 title sponsorship / £500 sponsorship of exhibition / £250 Private View sponsorship and already have sponsors onboard for the next 2 exhibitions– mentioned in your income summary 	<p>All actions implemented 2013 and plans in place for a visual representation in the Gallery of donations, gifts and income raised through Friends and supporters</p>
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2 Contribution to the Council's priorities

2.1 The Gallery's work is set in the context of the Council's priority work under 'Enjoying this outstanding District' section of the Council Plan. Its purpose is 'A community gallery offering great art that's welcoming, accessible, engaging and inspiring'. A major aspect of the THG Team's work has been engaging with community groups and hard to reach groups to improve their quality of life through art education, workshops and projects. This important contribution to our Council Plan priority and equalities agenda is generally a cost to the Council rather than an income generator. This public service element, delivered so effectively by the Gallery, needs to be recognised alongside its priority work to increase footfall and income.

2.2 The Gallery's ability to reach out to the community, and in particular to disadvantaged groups, young people and individuals who find it extremely difficult to access some of the Council's services has been recognised in national awards (see appendix B). Examples of this work include:

- **Millwater School**, a community special school – free school workshops enjoyed throughout this year. THG has developed such a strong relationship with the school and staff that they held an exhibition of their artwork upstairs at THG this August to coincide with Evolver 2013 exhibition.
- **Art & Mind at THG** is held on last Tuesday of every month. The co-ordinator is employed by Mind (the leading mental health charity, providing a range of mental health support services based at the Haven, Honiton). It offers an afternoon of artmaking in a safe and welcoming atmosphere for people who have experience of mild to moderate stress, anxiety or depression, or who care for someone who has.
- To celebrate '**World Mental Health Day**' Thursday 10 October 2013, the THG will highlight the work of 'Art & Mind' with a display of participants' work from Saturday 5 October – Saturday 19 October. On Thursday 10 October 'Art & Mind' co-ordinator

Christine Barkla will be at the gallery to provide information about 'Art & Mind' sessions. Local press will put a call out prior to event and their photographers will document it.

2.3 The Gallery also uses exhibitions to raise awareness of mental health issues that are both thought provoking and critically acclaimed such as:

- THG hosted '**Mother Love**' (22 September-27 October 2012) an exhibition which highlighted the relationships between mothers and daughters, most notably 'The Dementia Darnings' by Jenni Dutton which explored the artist's and her mother's shared experiences of her mother's Alzheimer's disease. The exhibition was very emotional for many visitors, and acted as a vehicle for them to open up and talk about their own experiences with each other and with the artists. The THG has subsequently been visited several times by a small group of dementia patients with their carer.
- **Recollection (15 March – 25 April 2014)** – will be an exhibition exploring memory with linked exhibition upstairs of donated works to raise money for Honiton Memory Cafe, Honiton Hospital and THG.

2.4 The Council recognises the importance that Leisure East Devon, Manor Pavilion Theatre, Parks & Gardens, Countryside and the work of Housing's Community Development Workers play in reaching out to disadvantaged groups. The THG provides this outreach service for such groups across the whole of the District and in particular within Honiton. It also has a growing reputation for its work with children and schools. There is a considerable social value to this work which benefits the Council corporately with its commitments to those socially disadvantaged (see Appendix A).

3. Arts & Culture Forum

3.1 Cabinet took on board at its September 2012 meeting the recommendation from the Arts Review TAFF to set up a wider Forum to help steer and lobby for the Council's arts and culture programme;

3.2 The Forum has been instrumental in considering the strategic direction of the THG and providing advice on all aspects of its business to help the work of the THG Team.

3.3 The Forum has also been proactive in looking at how to tie in the whole of the District's cultural offer as one cohesive "package" for visitors to East Devon. There is significant potential for the THG, along with the Manor Pavilion Theatre and the Countryside Team, to provide a year round offer of activities and events that appeal to families, schools and tourists in all weathers.

3.4 The Forum has recognised that to integrate and package the Council's cultural offer which covers aspects of Housing, Countryside, Streetscene, Economic Development and Leisure East Devon into a cohesive offer then work is required in promoting, enabling and developing projects by the Council. The post of part time Arts Development Officer has been held until the review of the Gallery and the creation of the Arts & Culture Forum.

3.5 There is now a pressing need to create some capacity to progress the multiple outputs coming out from the Forum. The post is in the 2013/14 budget and would provide a district wide role to help coordinate and promote the economic benefits of our cultural offer for visitors and local residents.

4 Financial performance

4.1 The THG's financial performance in 2013 has been very encouraging in comparison to the same period 2012. The income achieved from March to September in 2013 - £9,570 in shop and exhibition takings in comparison to March to August 2012 - £5,107 **is up by £4,463 (87.40% increase)**. The shop income in particular is performing well and there has been a very positive response to the new retail area where the office used to be with an increase in sales. The link up with Double Elephant with a more affordable pricing structure for prints in the £10 - £250 price bracket has generated sales.

4.1a Comparative Shop and Exhibition Takings (2012 v 2013)

Month	2013	2012	Variation	Percentage
March	£969.52	£478.08	up	+65.8%
April	£1,450.94	£1,412.34	up	+2.7%
May	£2,780.06	£723.14	up	+284.4%
June	£418.87	£835.67	down	-49.9%
July	£1,848.06	£1,389.20	up	+33.0%
August	£1,933.62	£915.45	up	+111.2%
September	£1,604.90	£764.30	up	+110.0%

TOTALS	2013	2012	Variation	Percentage	
Mar-Sept	£9,569.86	£5,107.47	up	+87.40%	87.40% increase

4.1b Comparative Visitor Figures (2012 v 2013)

Month	2013	2012	Variation	Percentage
March	457	485	down	-5.8%
April	556	639	down	-13.0%
May	462	487	down	-5.1%
June	424	410	up	+3.4%
July	810	587	up	+38.0%
August	686	608	up	+12.8%
September	706	457	up	+54.5%

TOTALS	2013	2012	Variation	Percentage	
Mar-Sept	4,101	3,673	up	+11.7%	11.7% increase

4.2 The 2013/14 budget performance year to date suggests an encouraging improvement in both shop sales and also visitor footfall since the improvements to the Gallery's layout and its retail offer have been made. The impact of the Marketing & Fundraising Officer is also raising the profile of the Gallery and starting to bring in sponsorship for forthcoming exhibitions. As a result of the skills we recruited to the Fundraising Post, we were successful in winning the recently awarded £10,000 'Grants for Arts' funds from the Arts Council. This grant will provide additional consultancy support and expertise to the Gallery on business planning, marketing and promotion to continue to develop its "offer". The report's second recommendation is to permanently recruit to this post as these skills are critical to the ongoing income generation capability at the Gallery.

4.3 THG budget performance summary (without recharge costs)

	EDDC Budget £	EDDC Actual £	Income budgeted £	Income actual £	Visitor numbers actual
2008/09	45,020	57,154	2,110	7,594	3,999
2009/10	35,600	59,987	21,030	8,993	3,332
2010/11	50,440	93,048	22,980	13,992	5,602
2011/12	43,290	80,388	25,200	14,892	5,984
2012/13	87,110	95,271*	13,710	14,827	6,299
2013/14 YTD (Annual Budget)	38,570 YTD (81,560)	41,070 YTD	8,880 YTD (17,710)	12,886 YTD	3,644 YTD

**The 2012/13 figure included the redundancy costs for the Gallery Development Manager of £3,038.*

4.4 The EDDC Budget figures presented in 4.3 shows all operational costs (salaries, transport, premises, supplies & services with income) and excludes the recharge element which is a fixed corporate amount. This therefore gives a more accurate figure for the running of the THG over costs it can control. In any business there will be a need to build in payroll, depreciation and ICT charges but it has been agreed for the purposes of this report to show the budget as presented.

4.5 The income at this ½ year point (only just short of the total income for last year) is a reflection of the Team's achievements and is indicative of the Gallery's potential.

5 What's next?

5.1 The important next steps include:

- a. Using the £10,000 grant to support fund raising, marketing and developing the business plan. Consultants were appointed on the 26 September 2013 and the first meeting with key staff and members was on the 16 October. Initial findings indicate a likely income increase of £20,000 in the next 12 months. The detailed workings will be presented to members on the 11 November 2013.
- b. Developing initial talks with a potential partner to develop the cafe area and income which will increase income and also encourage footfall and increased cross-marketing via the new partner. We are at the stage of discussing the terms of a short term contract to test whether a private sector partner in charge of the cafe area can help us boost visitor numbers and income.
- c. Finalising the agreed external signage and access plans so that the Gallery is much more 'visible' in the Town and noticeable from the carparks.
- d. Exploring the feasibility of a Trust arrangement for the future of the Gallery as there are funding streams available to charitable trusts that council run galleries do not qualify for. Our consultant has some knowledge and expertise in this area and will explore this option with us. One way of doing this, for example, could be Education Charity status for the THG's extensive learning activities.

5.2 There are good foundations in place now and genuinely promising prospects for the future. The impact of the new skill sets and new retail offer is already clear in the increased income and higher visitor numbers. We are confident that both will continue to grow so that the Council can continue its award winning community work as well as reduce its contribution to the Gallery's running costs.

Legal Implications

On the basis of the proposed Recommendations there are no legal implications arising. Should the wish be for THG to seek Charitable status and / or be run under a Trust arrangement then input and advice from the legal department should be sought at an early stage.

Financial Implications

The post of Arts Development Officer is included in the 2014-15 budgets on a Grade 7 SCP31 for 14.8 hours. The post of Marketing & Fundraising Officer is also in the budgets on a Grade 5 SCP 23 for 22.2 hours. These two posts are subject to the budget setting process.

Further Financial information would be required should the decision to investigate a move to Charitable status be decided upon.

The budget presented at 4.3 in this report as year to date is showing an overspend at month 6. There is an additional spend on Property Maintenance, which have a budget of £10,000 for 2013/14. The budget covered the alterations for the improved layout (see improvement plan 1.), so far to date, spend is £16,705.05 which has created an over spend of (£6,705 over budget).

The Council is currently working to meet a medium term funding gap with proposals and ideas coming forward from a number of areas. Members need to consider this overall financial picture and determine the priority of this facility and finances involved.

Consultation on Reports to the Cabinet

Strategic Management Team

Background Papers

- Appendix A – Grants & sponsorship 2012/13
- Appendix B – THG Awards 2012/13

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Denise Lyon – Deputy Chief Executive
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Cabinet
30 October 2013

Appendix A

1. Grants & Sponsorship 2013

1.1 The successful bid to the Arts Council for its 'Grants for Arts' will now help to provide resources to develop a marketing strategy as well as specific advice on developing income potential and the promotion and branding of the THG going forward.

2.2 This is a real opportunity to produce an updated and realistic marketing, fundraising and financial budget plan for the future development of THG. It will provide valuable input into:

- fundraising opportunities from grants, sponsorship, giving and retail
- an updated marketing plan to show how the gallery can reach new audiences, locally, regionally and nationally

Grants: £11,580 received

- Arts Council £10,000
- Norman Family £250
- Battishorne : £250
- Eridge : £1,000
- Elmgrant : £350

Grants in partnership with artist: £8,000 received by artist

- Arts Council for lace installation/community project £8,000

Sponsors: £250 received (potentially £2,600)

- Bonhams (PV into LACE) £250 received
- Deer Park : (PV Present Makers) £250
- Bearnese, Hampton, Littlewood : (Present Makers) £500
- Bearnese, Hampton, Littlewood : (Valuations) £600

Other income:

- EDDC Housing – workshops with tenants £600
- Mill Water School - contribution towards curators time/room hire £200
- Honiton Learning Community Summer School £500
- Mind room hire £18 per session per month

Young people and community groups

- Exhibition related workshops at THG with Honiton Learning Community covering primary, secondary and community special school:

Awliscombe Primary, Broadhembury Primary, Farway Primary, Honiton Primary, Littleton Primary, Offwell Primary, Stockland Primary, Upottery Primary, Honiton Community and Mill Water.
- Related activities for families to encourage greater understanding of exhibitions i.e .Lace pattern cutting and drawing in Learning room for 'intoLACE'
- Masterpieces after school club with 12+ year olds (term time every other week) at THG (Curator has been invited to talk about the success of setting up this group at the TATE gallery and Whitechapel gallery in London)
- Young person sits on selection/judging panel for Open exhibition (one of 5 judges)
- Summer School in collaboration with Honiton Community College at THG
- Gifted and Talented reward day activities in collaboration with Honiton Learning Community at THG
- Collaborative drawing activities with Honiton Library to encourage older people to take part in more activities in their community
- Arts council grant received covering workshops for 2013 - 2015 with senior schools across East Devon at THG
- Arts council grant received covering art activities for 2013 - 2015 with Honiton Memory Cafe (dementia sufferers and their carers) at THG
- Arts council grant received covering activities for St Pauls Homework club (young people at risk, lower socio economic group) 2013 – 2015 at THG
- Arts council grant received covering work with working with East Devon Housing Tenant families throughout 2013 – 2015 at THG

The integrated learning programme that runs in tandem with the exhibitions at THG is the legacy from previous funding brought in by the gallery Curator from 'engage' the National Association of Gallery Education (£10,000 between 2006 - 2010)

Appendix B

THG Awards 2012/13:

THG Highly Commended for Arts & Health South West Awards – July 2013

'It was a strong field for the Arts & Health South West Awards 2013 and we are delighted that the Thelma Hulbert Gallery was successful in being shortlisted and highly commended for their project, Art & Mind at THG – it is an excellent example of partnership working between a health sector charity and an established art gallery.'

Alex Coulter, Director of Arts & Health South West.

THG in Telegraph Top 20 Family Friendly Museums – May 2013

'It's great to see Thelma Hulbert Gallery on the longlist for the Telegraph Family Friendly Museum Award. We had more nominations than ever this year, so the competition was very tough. It's a tribute to their commitment to being family friendly which means they've made it this far. Families particularly pointed out the wide variety of activities available, and all so very creative. It just proves how important museums and galleries are to our communities.'

says Dea Birkett, Director, Kids in Museums.

Marsh Award for Excellence in Gallery Education – November 2012

Angela Blackwell, THG Curator was recognised for her dedication to making the visual arts more accessible.

Jane Sillis, Director of engage, said:

'Gallery educators are essential to making sure the widest possible audience can get involved with art and artists. The high standard of nominations for these awards shows just how dedicated people working with audiences in galleries across the UK are.'

'Angela has established partnerships to enable vulnerable groups and individuals to access the gallery and her exhibition programme introduces local residents and visitors to contemporary art.'

Agenda Item: 13

Audit and Corporate Governance

14 November 2013

RC



Honiton Beehive Centre

Summary

A new Community Centre, the Beehive is being constructed in Honiton on the Dowell Street car park site. EDDC has been involved in advising and funding the project. This report provides an update on progress as well as information relating to a specific issue of additional drainage infrastructure to the site and associated cost.

Recommendation

Committee notes the progress and detail of the Project

a) Reasons for Recommendation

Committee asked for a report on the Beehive project to consider progress and in particular, matters relating to additional funding approved to the project to address site drainage issues.

b) Alternative Options

Not to fund additional drainage measures thereby stopping or significantly delaying the completion of construction and functioning of the community centre.

c) Risk Considerations

Not to carry out advised drainage works would carry the risk of insufficient capacity to manage a heavy rain event with resultant risk to property principally but also, potential persons.

Also, associated reputation risk both in terms of cost overrun on project spend but also in potential failure to complete required works and secure sign off on building occupation.

d) Policy and Budgetary Considerations

Detailed project budget information is set out below. The overall project construction cost is just over £1.7m with a project budget of £1.8m and a target of local fundraising of nearly £200K.

A further funding commitment was made at Cabinet on 12 June to assist in the provision of site drainage infrastructure. This sum would be a maximum of 90% of £130K (10% to be provided by HTC).

Positive Impact Overall

Improved community facilities and services
Community cohesion and wellbeing

e) Date for Review of Decision

November 2014

Background

1. Project History

EDDC has been working with Honiton Town Council (HTC) over an extended period of time to locate and construct a new community centre for the town that would also house the town council itself and tie in to the release of current premises on New Street.

The eventual site offer from EDDC was decided on Dowel Street car park. In Feb 2011 EDDC resolved to grant a long lease to HTC and in Jan 2013 this was revised to a transfer of freehold. Reason being that firstly it meant that EDDC divested itself of responsibility and secondly, HTC would then have full ownership of an asset giving them more flexibility in raising additional funds for example.

The total project value is circa. £2m:

HTC borrowing from Public Works Loan Board	£975K
Section 106	£500K
EDDC Capital	£333K
Community and other fund raising	£192K

The project team consists of Bailey Partnership Construction Consultants of Exeter as designer and project manager, Sands Civil & Structural Engineers of Exeter as sub-consultant structural and drainage designers, and Midas Construction as Main Contractor.

The total Construction Contract Sum is £1,727,956.58. This was value engineered down from lowest tender sum of £1,992,841.01. Commencement date on site was 4th March 2013. The expected completion date was 20th December 2013 and this has since been extended to late January 2014.

2. The Drainage Issue

Condition no. 6 of the Planning Permission granted 9th March 2012 stated that, 'No development shall commence until a detailed scheme for surface water drainage, including full percolation tests, all capacity calculations and the design and construction of the drainage system, have been submitted to and approved in writing by the Local Planning Authority....(Reason - To address the potential flood risks of the development and to accord with Planning Policy Statement 25).'

HTC has recently signed off on the land transfer of both the Beehive site and future surrender of its current premises in New Street.

In the process of discharging the Planning Condition and to meet Building Regulations approval, Sands Civil & Structural Engineers advised that surface water drainage provision would be needed to a higher standard than originally anticipated to reflect potential flooding issues, especially to neighbouring residential properties. HTC had not envisaged such costs in its original budgeting. EDDC officers from Property,

Planning and Building Control met with HTC to assess the issue and determine a workable resolution. The various drainage scenarios and history of the issue were considered. The outcome was that, for the project build to proceed to a point where it could be signed off, a drainage infrastructure investment would be needed over and above the capacity of the existing fund. Therefore to cover the necessary works EDDC agreed by urgent verbal report to 12 June 2013 Cabinet (Part B) to fund a sum of up to 90% of a ceiling of £130,000. HTC will be expected to meet 10% of costs.

The reason for this urgency was that works would have to stop on the site construction and additional costs would be incurred by delay to contract. Without agreement to the provision of suitable drainage the building would not be signed off by Building Control and the planning condition not discharged. The building would therefore be uninsurable. Should the project have stalled at a part-built stage then this would have become EDDC's responsibility. In addition there would be reputational issues of delay to the project and the relationship between town and district.

The advised extent and design for the surface water drainage solution involves constructing a large underground attenuation cellular storage system that will be piped underground through the rear gardens of neighbouring houses to connect into a SWW sewer (in Riverside Close) at an agreed discharge rate. This system has been designed for the 1 in 100 year storm event with an appropriate allowance for climate change of 30%.

The additional cost to the contract of this item has been priced at £128,224.91 + VAT (£91,227.84 Main Contractor/£36,997.07 South West Water). South West Water's estimated completion time is 21 weeks from receipt of payment, which will extend completion of the project into February 2014.

Due to their limited budgets and ongoing financial pressures on the project, HTC have asked EDDC for assistance. EDDC have already approved both land and funds to the project and regards it as an important and longstanding commitment to Honiton. In addition to a large amount of EDDC officer time, Cabinet have agreed additional funding towards the confirmed costs of the surface water drainage solution, subject to HTC contributing 10%, and concluding the outstanding legal matters associated with the project (these were subsequently completed on the 28th October 2013).

HTC has signed off on the land transfer of both the Beehive site and future surrender of its current premises in New Street. Works continue with planned completion in the New Year and occupation to follow. HTC will then surrender New Street after dealing with dilapidations.

Legal Implications

EDDC's liability to contribute to the additional drainage works has been refined by Honiton Town Council (HTC) signing a formal Funding Agreement prepared by EDDC Legal Services. This specifies the mechanics for EDDC to release funds for this purpose and establishes an upper limit for EDDC payments at whichever is lesser of £117K and 90% of qualifying invoice amounts.

Notwithstanding the freehold transfer to HTC having now been completed, EDDC enjoy the benefit of a positive hold on the site in the event of future use changes – an overage entitlement if a non-community centre planning permission is granted and an option to reacquire the site if community use of it is abandoned.

Financial Implications

The additional funding for the drainage is already included in the Capital programme.

Consultation on Reports

N/A

Background Papers

Progress photograph attached.

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Audit and Corporate Governance

14 November 2013



Agenda Item: 14

Audit and Governance Committee

14 November 2013



Audit and Governance Committee

Forward Plan 2013/14

Date of Committee	Report	Lead Officer
16 January 2014	<ul style="list-style-type: none">• Certification Report• Internal Audit Activity – Quarter 3 2013/14• Asset disposal and management• District Valuer reports – their use and value• Five year land supply – up-date. Members are recommended to consider the report on this matter which is being referred to the Development Management Committee on 12 November 2013.	Grant Thornton SWAP Estate Management Team A corporate report involving input from planning, housing, estates and finance. Planning Policy Manager
13 March 2014	<ul style="list-style-type: none">• Annual Audit Plan 2014/15• Annual Governance Statement and the influence of the Slow Burner report• Financial forward plan	SWAP Head of Finance Head of Finance