



# Internal Audit Report

## Ethics and Ethical Governance

Devon County Council

*March 2018*



Support, Assurance & Innovation

## **Devon Audit Partnership**

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Devon Audit Partnership has been formed under a joint committee arrangement comprising of Plymouth, Torbay, Devon, Torridge and Mid-Devon councils and we aim to be recognised as a high quality public sector service provider.

We work with our partners by providing professional internal audit and assurance services that will assist them in meeting their challenges, managing their risks and achieving their goals. In carrying out our work we are required to comply with the Public Sector Internal Audit Standards (PSIAS) along with other best practice and professional standards.

The Partnership is committed to providing high quality, professional customer services to all; if you have any comments or suggestions on our service, processes or standards, the Head of Partnership would be pleased to receive them at [robert.hutchins@devonaudit.gov.uk](mailto:robert.hutchins@devonaudit.gov.uk).

## **Confidentiality and Disclosure Clause**

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This report is protectively marked in accordance with the National Protective Marking Scheme. Its contents are confidential and, whilst it is accepted that issues raised may well need to be discussed with other officers within the organisation, the report itself should only be copied/circulated/disclosed to anyone outside of the organisation in line with the organisation's disclosure policies.

This report is prepared for the organisation's use. We can take no responsibility to any third party for any reliance they might place upon it.

## 1 Introduction

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There is a differentiation between 'organisational culture' (i.e. beliefs, employment practices, behaviours, acceptable language guide, transparency of decision making etc.) and those 'ethical governance' policies and 'operating rules' - to give effect to the former (i.e. how those were embedded, rolled out and monitored) and the differing roles of member and officers in both respects.

The Leadership Group are currently doing a lot of work around organisational culture, which is designed to support the Chief Executive in effecting change in the way leaders think, the things they pay attention to and see as important and the measures they use. All of these things will shape how systems and the people within them behave and, as such, will have an impact on culture.

The Finance Leadership Group discussed proposals for an "audit" on how leadership initiatives such as "Stop the Clock" were working and how they were impacting on the culture of the Council. This co-insides with the requirement to include an audit on culture and ethics within the annual audit plan in order to comply with the Public Sector Internal Audit Standards (PSIAS).

However, it was agreed that a review of "organisational culture" would not take place to allow the changes referred to above to become embedded. This audit would therefore focus on ethics and ethical governance only. The audit took place in February 2018.

## 2 Audit Opinion

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**High Standard** - The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.

## 3 Executive Summary

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The Ethics review carried out, has confirmed that the Council has a robust ethical framework in place which is set out in the Code of Corporate Governance (Constitution). The Constitution takes account of statutory obligations, Government guidance as well as its local Code of Ethics. The framework is based on the principles & sub-principles of corporate governance contained within the CIPFA/SOLACE Framework (2016).

There was found to be clear dissemination, delivery, monitoring and maintenance of the ethical standards throughout. Particular areas of strength identified were the monitoring being carried out by the Standards Committee of compliance with the Ethical Governance Framework, and Member induction training.

Whilst a few recommendations have been made in this report, these will serve to further enhance what is already robust ethical framework, e.g. formalising a sub-delegation within the scheme of delegation.

The detailed findings and recommendations regarding these issues and less important matters are described in the Appendices. Recommendations have been categorised to aid prioritisation. Definitions of the priority categories and the assurance opinion ratings are also given in the Appendices to this report.

## 4 Assurance Opinion on Specific Sections

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The following table summarises our assurance opinions on each of the areas covered during the audit. These combine to provide the overall assurance opinion at Section 2. Definitions of the assurance opinion ratings can be found in the Appendices.

Areas Covered		Level of Assurance
1	How the Council decides what type of ethical organisation it wants to be and how it is being put into practice.	High Standard
2	How the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation.	High Standard

The findings and recommendations in relation to each of these areas are discussed in the "Detailed Audit Observations and Action Plan" appendix. This appendix records the action plan agreed by management to enhance the internal control framework and mitigate identified risks where agreed.

Management are required to agree an action plan, ideally within three weeks of receiving the draft internal audit report. Written responses should be returned to Chris Elliott ([chris.elliott@devonaudit.gov.uk](mailto:chris.elliott@devonaudit.gov.uk)) or Alexis Saffin ([alexis.saffin@devonaudit.gov.uk](mailto:alexis.saffin@devonaudit.gov.uk)). Alternatively a meeting to discuss the report and agree the action plan should be arranged with the named auditors.

## 5 Issues for the Annual Governance Statement

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The evidence obtained in internal audit reviews can identify issues in respect of risk management, systems and controls that may be relevant to the Annual Governance Statement. There were no issues identified that warrant inclusion in the annual governance statement.

## 6 Scope and Objectives

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This audit focussed on ethics and "ethical governance", and looked at :

- how the Council decides the type of organisation it wants to be and how is being put into practice;
- how that is disseminated, delivered, monitored and maintained throughout the organisation; and the different roles and responsibilities of Members and Officers.

## **7 Inherent Limitations**

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The opinions and recommendations contained within this report are based on our examination of restricted samples of transactions / records and our discussions with officers responsible for the processes reviewed.

## **8 Acknowledgements**

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We would like to express our thanks and appreciation to all those who provided support and assistance during the course of this audit.

**Robert Hutchins**  
**Head of Partnership**

**Detailed Audit Observations and Action Plan**

<b>1. Area Covered:</b> 1 - How the Council decides what type of ethical organisation it wants to be and how it is being put into practice.		<b>Level of Assurance</b>	
<b>Opinion Statement:</b> The Ethics review carried out, has confirmed that the Council has set its corporate vision, business objectives, and has agreed its code of ethics. Evidence includes: a formalised a Code of Corporate Governance (Constitution), which was found to take account of statutory obligations, Government guidance and its local Code of Ethics. The Constitution is based on the principles & sub-principles of corporate governance contained within the CIPFA/SOLACE Framework (2016), and sets out how the Council operates, how decisions are made and the procedures / standards which are followed to ensure that these are efficient, transparent an accountable to local people.  There were aspects of the Constitution, however, which could be further strengthened. One relates to the formalising of the sub-scheme of delegation where the Chief Officers and / or Heads of Service can delegate further to other Senior Managers. Whilst this is being recorded, it is not in a consistent format nor forms part of the overall scheme of delegation, and there is a risk that any sub-delegation set could conflict with the delegation set in the financial regulations. A couple of recommendations have been made in this section which will serve to strengthen the Constitution and Ethical Framework of the Council.		<b>High Standard</b>	
<b>No.</b>	<b>Observation and implications</b>		
1.1	Part 11 of the Constitution - "Corporate Governance Framework" has not been updated for a number of years. The framework still cites old references, e.g. <ul style="list-style-type: none"> <li>• Backing Devon County Council's Strategic Plan 2011-15;</li> <li>• District Auditors Annual Management Letter;</li> <li>• The Audit Commission's Annual Governance Report.</li> </ul> It is recognised that work is ongoing to bring all sections of the Constitution is being brought up to date, and this would include Part 11 in due course. Although a recommendation has been included in this report, it has been given a low priority risk ranking.		
	<b>Recommendation</b>	<b>Priority</b>	<b>Management response and action plan including responsible officer</b>
1.1.1	Section 11 of the Constitution needs to be updated as part of the ongoing update of the Constitution. A way to minimise this section needing to be updated in future is to refer to the generic document rather than cite specific dates or naming the auditor, e.g. instead of citing "2011-15 business plan", simply refer to "the latest business plan".	Low	The recommendation is agreed. A meeting has already taken place and Section 11 will be updated following a further desktop analysis of key policy documentation.

No.	Observation and implications		
1.2	<p>Review of Part 03 of the Constitution "Responsibility for Functions" found it to clearly capture the discharge of certain functions by the Cabinet, to Committees of the Council and Chief Officers. The "Responsibility for Functions" included "Terms of Reference" for all the committees and Boards, "Scheme of Delegation"; "Appeals and Planning and Infrastructure Project", "Schedule of Delegated Powers", Locality Budget Operating Principles".</p> <p>One observation was made relating to the Scheme of Delegation. . The Scheme of Delegation clearly identifies the responsibilities and delegation of statutory functions to the Chief Officers and Heads of Service within the Constitution. Discussions confirmed that Democratic Services keeps a record of all items delegated by Chief Officers and Heads of Service in a file in the office, however, such a record could not be found for one Head of Service, and in relation to the others, there doesn't appear to be a consistent method for recording the onward delegation of responsibilities to other by Heads of Service or Chief Officers, and are not held electronically. This raises concern that these sub-delegations may contain conflicts with financial regulations.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.2.1	The sub delegation needs to be formalised in a consistent manner. In relation to financial delegation, this was raised with Martin Oram, Assistant County Treasurer, who is in the process of undertaking a review of the financial regulations.	Medium	The recommendation is agreed. The Democratic Services and Scrutiny Secretariat will be undertaking such a review and will do so on an annual basis to ensure accuracy and consistency.
No.	Observation and implications		
1.3	<p>Whilst an "Anti-Fraud and Corruption Policy - Strategy for dealing with financial irregularities" has been drafted (and is referred to within the Code of Business Conduct section of the Constitution, the strategy could not be found either published on the DCC public website or through Share Point. A copy of the Strategy had to be obtained through Devon Audit Partnership. Publishing of this policy demonstrates openness and zero tolerance culture.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
1.3.1	The Anti-Fraud and Corruption Policy - Strategy for dealing with financial irregularities needs to be published on the DCC website	Medium	<p>In the move to Inside Devon from the Source, the page and link in relation to this appeared to have not migrated. However a new page has now been created on Inside Devon and the relevant documentation published accordingly.</p> <p><a href="https://inside.devon.gov.uk/task/anti-fraud-and-corruption/">https://inside.devon.gov.uk/task/anti-fraud-and-corruption/</a></p>

2. Area Covered: 2. How the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation.	Level of Assurance
<p><b>Opinion Statement:</b></p> <p>There are a number of ways in which the Council disseminates, delivers, monitors and maintains its ethical standards throughout the organisation enabling a high level of assurance to be given (as demonstrated below).</p> <p>It is no longer a statutory requirement for Councils to have a Standards Committee within its governance structure, but they must have a procedure for investigating and dealing with complaints. DCC have chosen, however, to retain its Standards Committee.</p> <p>Responsibilities of the Standards Committee include monitoring of compliance against the code of conduct and ethical standards of councillors and officers, implementation and training on the Code of Conduct &amp; ethical standards, dealing with complaints relating to the conduct of Councillors. Their responsibilities are clearly defined in the terms of reference.</p> <p>Review of minutes and supporting papers confirmed that the Standards Committee are undertaking their roles as prescribed in their terms of reference, including investigation of any complaints into Member conduct. There was training provided to Councillors in December 2017 regarding conduct at meetings, which was instigated following one such complaint, and this demonstrates good follow up action.</p> <p>A particular area of strength identified was the monitoring being carried out by the Standards Committee of compliance with the Ethical Governance Framework, which takes place throughout the year, where the independent Co-opted Members of this Committee attend various meetings of the Council, the Cabinet &amp; other Committees on an ad-hoc basis and produce a report on their findings to the Standard Committee.</p> <p>There was found to be a clear programme of induction training for new Councillors, as well as evidence of ongoing Member development. The Council holds the "Charter Plus" accreditation which provides a robust, structured framework designed to help the Council enhance and hone member development and it's clear that this is embedded within the training regime for the councillors.</p> <p>A register of business interests and code of conduct register is maintained for all councillors, is published on the Council's website and is subject to annual review and update. Where there is a potential conflict of interest for a councillor at a meeting, this is declared, clearly recorded in the minutes and published. In relation to the completion of business interests' registers for officers of the Council, a recommendation has been made for all Chief Officers and Heads of Service (LG14), e.g. those with delegated powers all complete a register, and not just being asked to complete by exception. This would provide for improved transparency and demonstrate openness and integrity in Officers' decision making.</p> <p>The Council also maintains a gifts and hospitality register for both Councillors and officers which is held in a file in Democratic Services.</p>	<p><b>High Standard</b></p>



No.	Observation and implications		
2.1	<p>Sample testing confirmed that up to date registers of business interests &amp; Code of Conduct had been completed by all Councillors, as well as any other appointed Co-opted Members, had been reviewed within the last 12 months and the registers published on the website.</p> <p>In respect of Officers of Devon County Council, only those where there is a conflict of interest are required to complete a register of business interests form. These forms are held in a file within Democratic Services, and are subject to annual review and update. The existing procedure of completion by exception would seem appropriate for most staff. However, Cabinet have delegated down statutory / legal responsibility and accountability to Chief Officers and Heads of Service, and in the absence of a declaration form, reduces the level of transparency and openness of strategic decision-making, and increase the risk of accusations of bias.</p>		
	Recommendation	Priority	Management response and action plan including responsible officer
2.1.1	<p>Consideration should be given to business / conflicts of interest forms being completed by all members of LG14, and where there are no interests, a "nil" entry should be recorded, and the form signed and dated. Also consider publishing these on line. The process for all other staff need not change.</p>	Medium	<p>This is agreed. A review will be undertaken to obtain business / conflict of interest forms from Chief Officers and Heads of Service, even when this might be a 'nil' return.</p>

## Definitions of Audit Assurance Opinion Levels

Assurance	Definition
High Standard.	The system and controls in place adequately mitigate exposure to the risks identified. The system is being adhered to and substantial reliance can be placed upon the procedures in place. We have made only minor recommendations aimed at further enhancing already sound procedures.
Good Standard.	The systems and controls generally mitigate the risk identified but a few weaknesses have been identified and / or mitigating controls may not be fully applied. There are no significant matters arising from the audit and the recommendations made serve to strengthen what are mainly reliable procedures.
Improvements required.	In our opinion there are a number of instances where controls and procedures do not adequately mitigate the risks identified. Existing procedures need to be improved in order to ensure that they are fully reliable. Recommendations have been made to ensure that organisational objectives are not put at risk.
Fundamental Weaknesses Identified.	The risks identified are not being controlled and there is an increased likelihood that risks could occur. The matters arising from the audit are sufficiently significant to place doubt on the reliability of the procedures reviewed, to an extent that the objectives and / or resources of the Council may be at risk, and the ability to deliver the service may be adversely affected. Implementation of the recommendations made is a priority.

## Definition of Recommendation Priority

Priority	Definitions
High	A significant finding. A key control is absent or is being compromised; if not acted upon this could result in high exposure to risk. Failure to address could result in internal or external responsibilities and obligations not being met.
Medium	Control arrangements not operating as required resulting in a moderate exposure to risk. This could result in minor disruption of service, undetected errors or inefficiencies in service provision. Important recommendations made to improve internal control arrangements and manage identified risks.
Low	Low risk issues, minor system compliance concerns or process inefficiencies where benefit would be gained from improving arrangements. Management should review, make changes if considered necessary or formally agree to accept the risks. These issues may be dealt with outside of the formal report during the course of the audit.
Opportunity	A recommendation to drive operational improvement which may enable efficiency savings to be realised, capacity to be created, support opportunity for commercialisation / income generation or improve customer experience. These recommendations do not feed into the assurance control environment.

## Confidentiality under the National Protective Marking Scheme

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Marking	Definitions
Official	The majority of information that is created or processed by the public sector. This includes routine business operations and services, some of which could have damaging consequences if lost, stolen or published in the media, but are not subject to a heightened threat profile.
Secret	Very sensitive information that justifies heightened protective measures to defend against determined and highly capable threat actors. For example, where compromise could seriously damage military capabilities, international relations or the investigation of serious organised crime.
Top Secret	The most sensitive information requiring the highest levels of protection from the most serious threats. For example, where compromise could cause widespread loss of life or else threaten the security or economic wellbeing of the country or friendly nations.