

GOVERNANCE UPDATE

SUMMARY

- 1.1 This report provides an update on the developments being made within the Council's governance framework.

RECOMMENDATION

- 2.1 To approve the amended Annual Governance Statement 2010/11.
- 2.2 To note the actions and the progress being made to enhance the governance framework.

REASONS FOR RECOMMENDATION

- 3.1 The Audit and Accounts Committee is responsible for providing assurance to the Council on the effectiveness of the governance arrangements, risk management framework and internal control environment.

SUPPORTING INFORMATION

Annual Governance Statement

- 4.1 At the meeting on 30 June 2011, members asked that the following changes be made to the Annual Governance Statement 2010/11.

- Page 7 –a rewording of the 3rd paragraph to read “flow of news in most positive way”.
- Page 8 – 2nd bullet point – reference needs to be made to DORIS.
- Page 9 – a significant governance issue that is missing is the transfer of the repairs team to Derby Homes

The revised Annual Governance Statement incorporating these changes is attached at Appendix 2.

Governance Action Plan and Local Code of Governance

- 4.2 At its meeting on 25 March 2010, Committee approved a Governance Action Plan and revised Local Code of Governance. The fundamental changes to the way in which the Council is organised and services are delivered has impacted on the Council's governance framework. The Governance Working Group is therefore carrying out a new self-assessment of the governance environment in place at the Council. The CIPFA/SOLACE "Delivering Good Governance in Local Government" guidance and framework documents are again being used. The outcome will be an updated governance action plan and a revised Local Code of Governance. Both documents will be brought to a future meeting of this Committee for approval.

Information Governance

- 4.3 It is intended to bring quarterly updates to this Committee on information governance. This will include updates on the level of Freedom of Information (FOI) requests and any issues around data protection. An annual report on information governance will be presented to Committee in February 2012.

- 4.4 Freedom of Information

The number of FOI requests the Council receives each year is increasing. Table 1 below shows the increase in FOI requests over the past 6 years. In respect of 2011, if the average number of FOI requests per month continues for the final third of the year, then the Council will have received around 900 requests for information.

Table 1: Number of FOI Requests Received by Calendar Year

Year	Number of FOI Requests
Jan - Dec 05	183
Jan - Dec 06	239
Jan - Dec 07	250
Jan - Dec 08	358
Jan - Dec 09	581
Jan - Dec 10	685
Jan – Aug 11	600

In accordance with the Freedom of Information Act 2000 where the Council issues a Refusal Notice (e.g. where an exemption has been applied) the applicant has a right of appeal. To date, for requests submitted in 2011, there have been 5 appeals, of which one has been upheld.

The Council does not just receive FOI requests from members of the public. A large proportion comes from commercial organisations, local and national media and political pressure groups. An analysis of requests for information sorted by category of requester for the period from 1 June 2011 to 31 August 2011 is shown in Table 2. Table 3 breaks these same figures down by the Council Directorate responsible for supplying the information.

Table 2: Number of FOI Requests by Category of Requester

FOI Request From	June 2011	July 2011	August 2011
Commercial	19	21	20
Media	14	18	18
Personal	37	26	38
Other Local Authority	2	0	1
Political	11	3	3
Total	83	68	80

Table 3: Number of FOI Requests by Lead Directorate

Directorate	June 2011	July 2011	August 2011
Adults, Health & Housing	11	4	5
Chief Executive's Office	4	2	1
Children & Young People	9	5	10
Neighbourhoods	26	31	27
Resources	31	26	35
Council Wide	2	0	2
Total	83	68	80

4.5 Data protection Issues

The City Council has always taken and continues to take the confidentiality and security of personal information very seriously. However, there are occasions when a data security breach or a failure to comply with Data protection legislation has occurred. Two recent cases are:

- Disciplinary action has recently been taken against an employee for unlawfully using Council data for personal use. The employee has been dismissed pending appeal.
- The Information Commissioners Office (ICO) has found the Council to be in breach of Data Protection legislation. The circumstances of the breach relate to a data subject access request being received by the Legal department who then did not follow the correct procedure on receipt. When the request was eventually passed on to Human Resources they took an unreasonable amount of time to process the request. The applicant made a complaint because the Council took in excess of 40 days to provide access to records. In response to the allegations put to us by the ICO we acknowledged a breach and provided the ICO with documented steps that we would take to make sure it did not happen again. These included
 - a reminder given to both Legal and HR about the correct process and their legal responsibilities in terms of the Data protection Act (DPA)
 - a reminder to be sent out Council wide about responsibilities under Data Protection
 - there is already a business plan activity to roll out mandatory training on Data Protection and information security across the whole Council.

Risk Management

4.6 Business Continuity Plan - Update:

The Council has a duty under the Civil Contingencies Act 2004 to ensure that it can continue to deliver its critical functions during business disruptive events such as loss of premises or any of its critical infrastructure. The Council has a Corporate Business Continuity Plan in place which sets out the management arrangements for achieving this for 'headquarters' based functions. The Plan lists Council's services with their relative restoration priority. This section of the Plan has now been reviewed and updated to reflect the new structure of the Council. The Plan must be supported by 'Service Area' Plans that address local service resilience. To achieve this, the Emergency Planning Team are currently working with each Directorate to assess the key threats to service delivery and to put in place mitigatory measures as appropriate to reduce their likelihood or impact. The service area plans include local management arrangements for responding to a business disruption.

4.7 Property Risk Audit

In May 2011, the Council's insurer Zurich Municipal was requested to assess risk

management practices within the general property function of the Council and to comment upon current measures in place to reduce losses. This was measured against ZM's risk management standard for general property.

The overall conclusion was that "in general terms there are some good systems currently in place for the management of the building portfolio. This said it's our opinion these good examples are not being adopted across all aspects of building management, with individual interpretations of the requirements in legal or morale terms being used.

Reluctance is also present by some staff responsible for small buildings to adopt the "guide to good stewardship in Council premises" which was published by the City Council some time ago. The reasons for this reluctance was not clearly established during the site visits, although it is evident that building management responsibility for smaller buildings will be in some cases an addition to other City Council duties, so time allocation, understanding of the responsibilities legally / corporately and training may not be clearly defined and understood by some staff members."

The Council did achieve an overall level of "minimum standard". This indicates the Council had achieved an acceptable level of compliance against the risk management standard. There were 2 areas that were assessed as "below minimum" – fire control systems and storm/flood prevention. The Council recognises that improvement is required and officers are currently producing an action plan based on the areas for improvement highlighted in the report. This action plan will be reported to a future meeting of the Committee.

4.8 Departmental/Operational risks

The Council's business planning process for 2011/12 required each department's plan to complete a risk register which should be populated with their 'high level' risks. The Head of Governance and Assurance has reviewed the majority of the departmental risk registers. The standard of the risk registers varies and it has identified a need for further awareness training for officers, particularly around the defining of individual risks and the concept of impact and likelihood. To address this issue, the Improvement Officers in the Performance and Improvement Team will be working with the Head of Governance and Assurance to provide a greater understanding of risk and managing risk within each directorate.

4.9 Strategic Risks

The strategic risks facing the Council have been produced following individual consultation with the Chief Executive and the Strategic Directors (see Appendix 3). Individual Chief Officers have been allocated specific risks and they will nominate an owner for each risk. The risk owner will be responsible for the management of the risk i.e. assuring adequate controls are in place to mitigate the risk and monitoring the risk throughout its life-cycle. It is intended to bring quarterly update reports on the management of strategic risks to this Committee.

Fraud and Corruption

4.10 National Fraud Initiative

Appendix 4 provides Members with background details on the Audit Commission's National Fraud Initiative (NFI) and explains the concept of a data match.

The Council's progress on investigating NFI matches has slowed during the summer months. This year NFI has adopted a different approach to the reports of matches, and have released new matches on an ad hoc basis which has meant that the processing teams have had to rearrange resources to be able to deal with this unexpected workload. Although the matches were released initially in January, there have been a further 8 sets of data released since then, the most recent being within the last month.

Additionally, this year the Audit Commission has introduced the concept of the "mandatory response". In the past, Councils have been allowed to set their own priorities in terms of how many matches they check, with suggestions being provided by the Audit Commission. This year individual matches have been flagged as requiring a response. Dealing with these "mandatory response" cases may have been considered sufficient activity by some authorities but additionally, the Audit Commission are monitoring activity on all reports and are now querying the level of work being done on some reports which do not include any mandatory cases.

A number of areas have been cleared in their entirety, or to such an extent that further work is considered unnecessary. These areas are:-

- Insurance
- Care homes
- Residents parking
- Concessionary Travel
- Blue badges
- Housing
- Right to Buy
- Creditors/payroll matches
- Council Tax / payroll matches.

Areas where there are still uncleared reports are:-

- Creditors
- Housing Benefits
- Housing
- Payroll

The payroll and housing matches are both almost complete. The teams are awaiting data from the Immigration Authorities to be able to make further progress.

Creditors have checked approximately 10% of the reported matches, but for this category there are no mandatory check cases and is further complicated by the separation of schools suppliers from Council suppliers, leading to a high

number of duplicated supplier records.

Benefits matches form the greatest number of separate reports with 2958 matches spread over 41 reports. Within these 571 matches are classed by NFI as requiring a mandatory response. To date 73 matches have been cleared and a further 22 are in progress. The progress on resolving the matches is shown in Table 4.

Table 4: Progress on NFI Matches as at 5 September 2011

NFI Fraud Area	Total number of matches raised	Mandatory responses required	Matches resolved to date	Errors Found	Frauds found	Sums recovered
Blue badges	531	468	516	240	0	0
Concessionary travel	634	633	634	118	0	0
Creditors	7006	0	698	0	0	0
Housing Benefits	2958	571	73	0	0	0
Housing tenancies	103	45	62	0	0	0
Insurance	12	3	12	0	0	0
Mixed	598	169	598	0	0	0
Payroll	294	18	255	2	0	0
Private residential care homes	74	23	74	0	0	0
Residents parking	2	2	2	0	0	0
TOTAL	12257	1960	2885	360	0	0

In previous years, the areas where there have been saving made have been within the Creditors and Housing benefits reports, with frauds only being uncovered within Housing benefits. The limited progress in these areas may be an explanation why this year's exercise has yet to provide any savings.

The NFI 2010/11 exercise includes a requirement for local authorities to submit council tax and electoral register data for a Council Tax Single Person Discount (SPD) data match. The Audit Commission requires the Council to extract the council tax data on 17 October 2011 and submit it as soon as possible after that date and for the electoral register data to be submitted by 20 January 2012

4.11 Housing Tenancy Fraud – Grant

In December 2009, it was reported to this Committee that the Council had applied for government funding to be used for activities to prevent tenancy fraud. The Council received a grant of £30k. At the June 2011 meeting, Members asked for an update on how this grant had been used to fund initiatives to tackle housing tenancy fraud. To date, £415 has been spent on training and travel. It has also been agreed with Derby Homes that some of the grant will be provided to them to fund the overtime payments incurred as part of the exercise to check on fraudulent tenancies. This is estimated to be about £3000.

4.12 Bribery Act 2010

The Bribery Act 2010 came into force on 1 July 2011. This Act modernises the law on Bribery and creates a new corporate offence of “Failure to prevent bribery”. The Council needs to put appropriate arrangements in place to ensure compliance with the new statutory requirements. A policy has been drafted which will be brought to the December meeting of this Committee. All policies that make reference to fraud and corruption or bribery are being reviewed and amended where necessary to reflect the Act.

4.13 Anti-Fraud Related Work

The Anti-Fraud Working Group has continued with its work on updating the policies and strategies relating to fraud. The Group has been involved in 2 new policies, the Corporate Prosecution Policy and the Bribery Act policy. The Group’s Anti-Fraud Action Plan has been completed and is attached at Appendix 5. Members of the Internal Audit section have attended workshops from the National Fraud Authority. Internal data matching is also continuing across the authority, with matches being refined and new matches being developed.

Contracts

4.14 Non-Compliant Contracts

Members have requested a 6 monthly report to identify any contracts that are not compliant with the Council’s procurement practices. No contracts have been identified that are non-compliant.

4.15 Waivers

Rule 6.7 of the Contract Procedure Rules requires that all waivers must also be reported by the Head of Procurement on a quarterly basis to the Audit and Accounts Committee so they can monitor their use. A separate report on contract waivers is on the agenda for this meeting.

OTHER OPTIONS CONSIDERED

5.1 N/A

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Service Director(s) Other(s)	
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For more information contact: Background papers: List of appendices:	Richard Boneham, Head of Governance and Assurance, 01332 643280 richard.boneham@derby.gov.uk None Appendix 1 – Implications Appendix 2 – Amended Annual Governance Statement 2010/11 Appendix 3 – Strategic Risks Appendix 4 – NFI –Background Appendix 5 – Anti-Fraud Action Plan
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IMPLICATIONS

Financial and Value for Money

1.1 None directly arising

Legal

2.1 None directly arising

Personnel

3.1 None directly arising

Equalities Impact

4.1 None directly arising.

Health and Safety

5.1 None directly arising.

Environmental Sustainability

6.1 None directly arising.

Asset Management

7.1 None directly arising.

Risk Management

8.1 The effective management of risk is a core principle of good governance.

Corporate objectives and priorities for change

9.1 The functions of the Committee have been established to support delivery of corporate objectives by enhancing scrutiny of various aspects of the Council's controls and governance arrangements.