

FINAL INTERNAL AUDIT REPORT
REGENERATION & TRANSFORMATION DEPARTMENT

REVIEW OF PLANNING AUDIT FOR 2014-15

Issued to: Development Control Manager (Enforcement & Appeals),
Head of IT,

Cc: Head of Finance, ESD,
Director, Regeneration & Transformation,

Prepared by: Principal Auditor.

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REVIEW OF PLANNING AUDIT FOR 2014-15

INTRODUCTION

1. This report sets out the results of our systems based audit of **Planning Audit for 2014-15**. The audit was carried out in quarter 1 as part of the programmed work specified in the 2014-15 Internal Audit Plan agreed by the Section 151 Officer and Audit Sub-Committee.
2. The controls we expect to see in place are designed to minimise the department's exposure to a range of risks. Weaknesses in controls that have been highlighted will increase the associated risks and should therefore be corrected to assist overall effective operations.
3. The original scope of the audit was outlined in the Terms of Reference issued on 23/2/2015. The period covered by this report is from April 2014-March 31st 2015.
4. The planning enforcement team undertake the monitoring of development and investigate any potential breaches of planning controls. The team will investigate alleged breaches including :-
 - Unauthorised building development
 - Unauthorised changed of use
 - Non-compliance with plans or conditions
 - Protection of listed buildings and conservation areas
 - Unlawful advertisements
 - Untidy sites
5. In the period April 2014 to March 2015 the Council received 649 new complaints about alleged breaches of planning control. A wide range of complaints are received but the most frequent, to date, relate to operational development (35%), change of use (15%), development not built in accordance with plans (13%), untidy sites (12%) and breach of conditions (10%). A substantial number of complaints are received which do not involve breaches of planning control which are not recorded on the enforcement monitoring system.
6. 'The local planning authority may consider that the development may not comply with the permission and therefore has the power to undertake enforcement action. Local planning authorities have discretion to take enforcement action, when they

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regard it as expedient to do so having regard to the development plan and any other material considerations. Development becomes immune from enforcement if no action is taken:

- Within four years of substantial completion for a breach of planning control consisting of operational development;
- Within four years for an unauthorised change of use to a single dwelling house;
- Within ten years for any other breach of planning control (essentially other changes of use).

7. An enforcement notice should enable every person who receives a copy to know:
 - exactly what, in the local planning authority's view, constitutes the breach of planning control; and
 - what steps the local planning authority require to be taken, or what activities are required to cease to remedy the breach.The local planning authority must enclose with the enforcement notice information about how to make an appeal.
8. It is an offence not to comply with an enforcement notice, once the period for compliance has elapsed, and there is no outstanding appeal.
9. A person guilty of an offence is liable, on summary conviction, to a fine currently not exceeding £20,000 or on conviction on indictment to an unlimited fine'.(Planning Portal). In cases where an enforcement notice has been effective and not been complied with, the Council may exercise its powers of prosecution. The Council's solicitors are currently in the process of prosecuting two cases.
10. The budget for planning enforcement for 2014/15 was £396,660 and is subsumed within planning overall.
11. There is an overspend across other running expenses of £34k which mainly relate to staff advertising / recruitment costs incurred during the process of filling vacant posts. Within legal expenses, there was an overspend of £72K. This was due to a combination of appeal costs, where claims have been submitted to the Council following successful appeals.

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12. This audit concentrated on the planning enforcement service and also the implementation of the lessons learnt for the investigation completed in August 2014.
13. The lessons learnt included the following areas:-
 - (a) In cases where staff receive warnings for abuse of systems, line management should ensure that these individuals are adequately monitored to ensure that the appropriate and expected improvements are made.
 - (b) All staff within the Authority should be reminded on a regular basis (annual) of their responsibilities when using the Internet and their use of Council equipment, including their responsibility to control passwords, fobs and the sharing of laptops. It is equally important that all staff are reminded that Council equipment should only be used for Council related work. The electronic circulation of relevant policies will suffice.
 - (c) Departments should ensure that they maintain up-to-date records of assets (including laptops) and ensure that movements of these assets between staff or taken offsite are comprehensively recorded.
 - (d) Line management need to be aware of their responsibilities regarding the completion of staff PADS and to ensure that these are completed at the appropriate times during the year.
 - (e) Line management need to be aware of their responsibilities regarding the maintenance of the required records for staff absence (including TOIL), and for the completion of staff sickness returns, in accordance with current procedures.
 - (f) Line management need to ensure that they familiarise themselves with staff arrival and departure times, and ensure that staff are meeting their contractual responsibilities.
 - (g) Management need to carefully consider the implications when deciding on the level of action to be taken against individuals when reprimanding questionable behaviour.
 - (h) The Authority needs to consider the benefits of purchasing the appropriate system support package to enable more detailed data to be obtained on staff's internet usage. This includes the reporting of entry/closing timescales of internet site activity.
 - (i) There needs to be clarification within existing Codes of Practice/Conduct that the instructions/guidelines relate to both hardware and software.
14. This audit was also approved by Members of Audit Sub Committee to include a value for money assessment. (see below).

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AUDIT SCOPE

15. The scope of the audit is detailed in the Terms of Reference.

AUDIT OPINION

16. Overall, the conclusion of this audit was that substantial assurance can be placed on the effectiveness of the overall controls. Definitions of the audit opinions can be found in Appendix C.

MANAGEMENT SUMMARY

17. Internal Audit would like to bring the following to management's attention:-

- Updating codes of practice/ conduct.
- Asset Register was not readily available.
- Enforcement Policy targets were found to be ineffective

The service has undergone a period of instability following the outcome of the investigation with staff changes and the need for change management.

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18. Value For Money

The outcome of the value for money assessment would be a 3.

This would equate to VfM arrangements being substantially met (e.g. benchmarking is complete with figures substantiated; benchmarking shows that the section is generally performing well in comparison with other Authorities).

A benchmarking exercise was completed in 2014/15.

- For Planning and Development Services, Bromley's unit costs were 12.1% lower than the nearest neighbour average and were ranked 12th highest in the group. Compared to other authorities across England, Bromley's unit costs were 53.3% lower than average. Its unit costs were ranked 106th highest out of 123 comparable authorities (with 1 the highest cost).
- Customer satisfaction feedback is regularly requested. Results indicate a satisfaction level of around 62% which is around the average for Local Planning Authorities based on the last available national data.
- Complaints are monitored but improvements are suggested. See Finding 3.
- Liaison with other Authorities performing well is undertaken. Improvements have been made in the time taken to determine planning applications; reduce the number of pending planning applications and enforcement cases and improve staff management in the Enforcement and Appeals team.
- The planning service overall is within budget. However, within planning enforcement, there are overspends within other running expenses of £34K and legal expenses. However, these have been offset by other areas.
- Income has increased in respect of planning applications of approximately 13%.
- Zero based budgeting has not been utilised.

SIGNIFICANT FINDINGS (PRIORITY 1)

19. None.

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DETAILED FINDINGS / MANAGEMENT ACTION PLAN

20. The findings of this report, together with an assessment of the risk associated with any control weaknesses identified, are detailed in Appendix A. Any recommendations to management are raised and prioritised at Appendix B.

ACKNOWLEDGEMENT

21. Internal Audit would like to thank all staff contacted during this review for their help and co-operation.

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
1	<p><u>Codes of Practice/ Conduct</u> Clarification was found to be required of the existing codes of practice/ Conduct as part of the investigation completed in August 2014. The Technology Manager advised that the Information Assurance Manager had been working with HR on this, but this has not progressed due to lack of resources.</p>	<p>Staff may be working to different working practices.</p>	<p>There needs to be clarification within existing Codes of Practice/Conduct that the instructions/guidelines relating to both hardware and software.</p> <p>[Priority 2]</p>
2	<p><u>Asset Register</u> An asset register was provided on 15/7/15 by the Principal Conservation Planner. It was found that LBB asset numbers had not been completed for all assets and for other items the whereabouts of the items were unknown.</p>	<p>Ineffective control over assets.</p>	<p>Departments should ensure that they maintain up-to-date records of assets (including laptops) and ensure that movements of these assets between staff or taken offsite are comprehensively recorded.</p> <p>[Priority 3]</p>

Priority 1
 Required to address major weaknesses and should be implemented as soon as possible

Priority 2
 Required to address issues which do not represent good practice

Priority 3
 Identification of suggested areas for improvement

DETAILED FINDINGS

No.	Findings	Risk	Recommendation
3	<p>Enforcement Policy Within the planning enforcement policy it states that '<i>Effective enforcement is important as a means of maintaining public confidence in the planning system and advises Local Planning Authorities to consider publishing a local enforcement proactively</i>'. It should be noted that there are targets included within the enforcement policy that are not actually targets that the service are measured against. They are merely aims. The policy states;- 'Complainant – targets and timescales • Complaint acknowledged within 5 working days • Site visit within 5 working days wherever possible • Complainants advised of progress at significant stages throughout the process • Notify complainant when notice issued within 10 working days • Notify complainant if appeal lodged within 10 working days • Notify complaint of closed case and reasons why within 10 working days'. Through testing, it was found that the fields relating to the complaint within the Uniform system are not always completed which monitor the actual response time (days) and the actual</p>	<p>Complaints may not be dealt with promptly.</p>	<p>The enforcement policy should be updated to include actual measures for targets and timescales.</p> <p>Fields within Uniform for monitoring complaints targets should be activated to ensure that the relevant data is collected and measured.</p> <p>The department should be acknowledging the complaint within a set process and not by an automated email.</p>

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DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>resolution (days). The date the complaint was received should be logged as well as the date the complaint is acknowledged.</p> <p>The Auditor queried this with the Planning Investigation Development Control Manager and it was explained that staff have not been physically able to complete these fields but only in the last month or so.</p> <p>Additionally, the complainant will generally send in a complaint in writing, by letter, email or via the standard complaint form on the Council's website. Emails are sent to the planning investigation team mailbox and they will receive an automatic response for which the service is counting as an acknowledgement to the complaint.</p> <p>It was found that further clarification should be made in relation to the enforcement notices. In relation to the issuing of enforcement notices generally there can be delay of some months from when the original complaint was made.</p> <p>Enforcement notices are formal legal documents that will require the owner or occupier to take specific steps to remedy the planning breach in a specified time. If the notice is not complied with, the planning breach will become a criminal</p>	<p>Reputational risk to the Authority.</p>	<p>Further clarification should be made within the policy in respect of likely resolution times to proactively inform residents.</p> <p>[Priority 2]</p>

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DETAILED FINDINGS

No.	Findings	Risk	Recommendation
	<p>offence which may be liable to prosecution. However the notice may be appealed to an independent government Planning Inspector and therefore the Enforcement Notice is suspended (whilst the appeal is ongoing.) The complainant is left to contact the Council again to be updated on progress.</p>		

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Identification of suggested areas for improvement

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
1	<p><u>Codes of Practice/Conduct</u></p> <p>There needs to be clarification within existing Codes of Practice/Conduct that the instructions/guidelines relate to both hardware and software.</p>	2*	We have a new technology manager starting in October, who will be covering some of the information assurance work until we appoint a new person in that role. We will prioritise the clarification of the codes of conduct and resolve before 31/12/2015.	Technology Manager/Head of IT.	31/12/15
2	<p><u>Asset Register</u></p> <p>Departments should ensure that they maintain up-to-date records of assets (including laptops) and ensure that movements of these assets between staff or taken offsite are comprehensively recorded.</p>	3	Action will include: - -Confirmation of responsibility; -Record to be up-to-date; -Movements to be fully recorded; -Six monthly monitoring by line manager	Planning – Head of Development Plan & Planning Strategy	1/12/2015

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Priority 3
 Identification of suggested areas for improvement

MANAGEMENT ACTION PLAN

Finding No.	Recommendation	Priority *Raised in Previous Audit	Management Comment	Responsibility	Agreed Timescale
3	<p><u>Enforcement Policy</u> The enforcement policy should be updated to include actual measures for targets and timescales.</p> <p>Fields within Uniform for monitoring complaints targets should be activated to ensure that the relevant data is collected and measured.</p> <p>The department should be acknowledging the complaint within a set process and not by an automated email.</p> <p>Further clarification should be made within the policy in respect of likely resolution times to proactively inform residents.</p>	2	<p>Policy to be updated and reported to DCC November 2015.</p> <p>Fields to be activated.</p> <p>New acknowledgment system to be designed and introduced.</p> <p>Policy to be updated and reported to DCC Nov 2015.</p>	Planning – Development Control Manager (Enforcement & Appeals)	<p>25/11/15</p> <p>30/09/15</p> <p>30/10/15</p> <p>25/11/15</p>

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OPINION DEFINITIONS

APPENDIX C

As a result of their audit work auditors should form an overall opinion on the extent that actual controls in existence provide assurance that significant risks are being managed. They grade the control system accordingly. Absolute assurance cannot be given as internal control systems, no matter how sophisticated, cannot prevent or detect all errors or irregularities.

Assurance Level

Definition

Full Assurance

There is a sound system of control designed to achieve all the objectives tested.

Substantial Assurance

While there is a basically sound systems and procedures in place, there are weaknesses, which put some of these objectives at risk. It is possible to give substantial assurance even in circumstances where there may be a priority one recommendation that is not considered to be a fundamental control system weakness. Fundamental control systems are considered to be crucial to the overall integrity of the system under review. Examples would include no regular bank reconciliation, non-compliance with legislation, substantial lack of documentation to support expenditure, inaccurate and untimely reporting to management, material income losses and material inaccurate data collection or recording.

Limited Assurance

Weaknesses in the system of controls and procedures are such as to put the objectives at risk. This opinion is given in circumstances where there are priority one recommendations considered to be fundamental control system weaknesses and/or several priority two recommendations relating to control and procedural weaknesses.

No Assurance

Control is generally weak leaving the systems and procedures open to significant error or abuse. There will be a number of fundamental control weaknesses highlighted.