



Internal Audit Report
Corporate
Information Sharing - Assignment No.16-05
August 2016

Final Report

Finance Division
Corporate and Democratic Services
Perth & Kinross Council
Blackfriars Development Centre
North Port
Perth PH1 5LU

Internal Audit

“Internal Audit is an independent, objective assurance and consulting activity designed to add value and improve an organisation’s operations. It helps an organisation accomplish its objectives by bringing a systematic, disciplined approach to evaluate and improve the effectiveness of risk management, control and governance processes”. Public Sector Internal Auditing Standards (PSIAS)

On 27th March 2013, the Council’s Audit Committee approved the PSIAS as the relevant standard for its Internal Audit activity.

Background and Introduction

This audit was carried out as part of the audit plan for 2016/17, which was approved by the Audit Committee on 30 March 2016.

Information (or data) sharing refers to the sharing of personal information with external agencies and is subject to the provisions of the Data Protection Act (DPA) 1998. The Council is registered with the Information Commissioner’s Office (ICO) for a range of purposes covering the scope of the Council activities including the sharing of information as necessary and required. This includes sensitive personal information as defined by the DPA.

Data sharing occurs where a third party uses the information for their own purpose. It does not apply where a third party processes the information on behalf of the Council, e.g. in performance of a contract. Examples of data sharing would be sharing adult or child concern information with Police Scotland and NHS Tayside, or sharing pupil information with Education Scotland to provide careers advice, etc.

Under the Council’s Data Protection Policy the Senior Information Risk Owner is the Deputy Chief Executive (Sustainability, Strategic and Entrepreneurial Development). Responsibility for developing, publishing, maintaining and administering the Data Protection Policy and the Information Security Management System lies with the Head of Legal and Governance Services. Directors are responsible for all aspects of compliance with the DPA within their Service.

Scope and Limitations

The audit was concerned with corporate guidance, policies and procedures and their implementation including a review of relevant documentation, activities and protocols in place across all Services.

However, the work avoided duplication in respect of the planned audits of the Children and Young Persons Act (Scotland) 2014 scheduled for later in the year, which requires particular information sharing arrangements.

The audit comprised a review of the current guidance available for staff relating to the Data Protection Act 1998 and discussion with the Information Compliance Manager. Relevant officers in Services were also contacted. Testing took place in April and May 2016.

Control Objectives and Opinions

This section describes the purpose of the audit and summarises the results. A 'control objective' is a management objective that requires the maintenance of adequate and effective internal controls to ensure that it is achieved. Each control objective has been given a rating describing, on the basis of the audit work done, the actual strength of the internal controls found to be in place. Areas of good or poor practice are described where appropriate.

Control Objective: To ensure that there are adequate corporate arrangements for data protection when sharing information with other organisations.	
<p>Audit Comments:</p> <p>The Data Protection Policy, which is available on the Council's intranet (ERIC) to all staff with access to Council systems, includes a section on Data Sharing. In particular, it states that where data is shared with another organisation a Data Sharing Protocol (or Agreement) must be used. A template for such agreements is available through a hyperlink from the ERIC Data Protection page which reflects the requirements set out in guidance issued by the Information Commissioner on Data Sharing.</p> <p>The Data Sharing section of the Data Protection Policy requires that, where data is to be shared, this is expressed in a Fair Processing Notice. The current template for a Fair Processing Notice includes a term for letting an individual know if their information will be shared.</p> <p>Employee training on Data Protection is included in the set of "Essential" training packages available through "Learn Innovate Grow" and this includes two slides on Data Sharing. Uptake of the module is reviewed periodically by the Information Compliance Manager, and circulated to the members of Executive Officer Team.</p> <p>The Scottish Government Strategic Framework for Data Sharing for Health and Social Care describes enhancements which should be in place for Fair Processing notices used by local authorities when sharing data to inform the development of relevant frontline services.</p> <p>A review of Data Management at the Council was carried out by Audit Scotland in 2013. An agreed action to establish a Data Sharing Register has yet to be implemented.</p>	
Strength of Internal Controls:	Moderately Strong

Control Objective: To ensure that systems and processes are in place for sharing information which comply with legislation and corporate arrangements.	
<p>Audit Comments:</p> <p>All Services have access to the Information Compliance Manager for guidance. However there is no requirement to consult with, or implement any advice from, the</p>	

Internal Audit Report

Information Compliance Manager with regard to Data Sharing Agreements	
With the exception of guidance relating to information sharing to support children's and young people's wellbeing (which is outwith the scope of this audit) there is no further written guidance for officers e.g.regarding instances where data held is later shared, the completion of data sharing templates, or in relation to decisions whether or not to share personal information.	
Strength of Internal Controls:	Moderate

Control Objective: To ensure that adequate protocols are in operation between the Council and organisations with which we share information	
<p>Audit Comments:</p> <p>Testing confirmed that there were no adequate arrangements in place for the management of existing data sharing protocols. Frontline Services were requested to provide details of all information sharing protocols. However, only two fully completed examples of data sharing agreements had been provided to Internal Audit.</p> <p>Nineteen draft protocols are held by the Information Compliance Manager. However none had been signed by both Council representatives and the third party. There is no requirement for the Information Compliance Manager to be notified when such agreements are entered into which could ensure that the agreements were in accordance with relevant legislation.</p> <p>There is little evidence of review of data sharing protocols by Services in accordance with the agreements themselves, the Data Protection Policy and good practice.</p>	
Strength of Internal Controls:	Weak

Management Action and Follow-Up

Responsibility for the maintenance of adequate and effective internal controls rests with management.

Where the audit has identified areas where a response by management is required, these are listed in Appendix 1, along with an indication of the importance of each 'action point'. Appendix 2 describes these action points in more detail, and records the action plan that has been developed by management in response to each point.

It is management's responsibility to ensure that the action plan presented in this report is achievable and appropriate to the circumstances. Where a decision is taken not to act in response to this report, it is the responsibility of management to assess and accept the risks arising from non-implementation.

Achievement of the action plan is monitored through Internal Audit's 'follow up' arrangements.

Management should ensure that the relevant risk profiles are reviewed and updated where necessary to take account of the contents of Internal Audit reports. The

Internal Audit Report

completeness of risk profiles will be examined as part of Internal Audit's normal planned work.

Acknowledgements

Internal Audit acknowledges with thanks the co-operation of Information Compliance Manager, Education and Children's Services, the Environment Service and Housing and Community Care during this audit.

Feedback

Internal Audit welcomes feedback from management, in connection with this audit or with the Internal Audit service in general.

Distribution

This report has been distributed to:

B Malone, Chief Executive

J Fyffe, Senior Depute Chief Executive, ECS (Equality, Community Planning and Public Service Reform)

J Valentine, Depute Chief Executive, Environment (Sustainability, Strategic and Entrepreneurial Development)

J Walker, Depute Chief Executive, HCC (Corporate and Community Development Services) and Chief Operating Officer

S Devlin, Director, Education and Children's Services;

B Renton, Director, The Environment Service;

B Atkinson, Director, (Social Work), Housing and Community Care

D Fraser/ C Johnson, Joint Heads of Community Care;

J Symon, Head of Finance

L Simpson, Head of Legal and Governance Services

A Taylor, Head of Corporate Revenues and IT; Housing and Community Care;

S MacKenzie, Head of Performance and Resources, The Environment Service;

D Henderson, Information Compliance Manager

P Davison, Corporate Research and Information Manager, Education and Children's Services;

K McNamara, Head of Strategic Commissioning and Organisational Development;

G Taylor, Head of Democratic Services

P Dickson, Complaints and Governance Officer

External Audit

Internal Audit Report

Authorisation

The auditor for this assignment was A Gallacher. The supervising auditor was M Morrison.

This report is authorised for issue:

Jacqueline Clark
Chief Internal Auditor
Date: 6 September 2016

Internal Audit Report

Appendix 1: Summary of Action Points

No.	Action Point	Risk/Importance
1.	Data Protection Policy	Medium
2.	Data Protection Webpage	Low
3.	Fair Processing Notices for Health and Social Care	Medium
4.	Information Sharing Management	High
5.	Review of Data Sharing Protocols	High
6.	Information Sharing Risk - Integration Joint Board	Medium

Appendix 2: Action Plan

Action Point 1 - Data Protection Policy

The Data Protection Policy is available on ERIC together with other resources on a dedicated Data Protection page. The policy includes a section on Data Sharing.

The Data Sharing section states the requirement to hold data sharing protocols/agreements for all data sharing and details the elements to be included in Fair Processing Notices. However, the Data Protection Policy does not define data sharing and, whilst it details the limitations of the policy as regards Council Tax, it does not provide examples of where the creation of a data sharing agreement would be necessary or which officers may authorise such an agreement.

Furthermore, there is no written requirement to consult with, or implement advice received from, the Information Compliance Manager with regard to data sharing agreements. As a result, there is a risk that the Council may be sharing data and/or have entered into data sharing agreements which are not compliant with legislation.

Management Action Plan

The Data Protection Policy will be amended appropriately.

Importance:	Medium
Responsible Officer:	D Henderson, Information Compliance Manager
Lead Service:	Corporate and Democratic Services
Date for Completion (Month / Year):	December 2016
Required Evidence of Completion:	Approved Data Protection Policy

Auditor's Comments

Satisfactory

Action Point 2 - Data Protection Webpage

There is scope to improve the presentation on the Council's website page on Data Protection in relation to information sharing. Currently, the Data Protection page only states that the Council may share data in relation to protecting public funds and the legal requirements to share information with other public bodies which are responsible for auditing or administering public funds.

Consideration could be given to providing further details as to the activities where personal information is shared with other agencies, for example to provide integrated care and to develop and improve services.

Management Action Plan

The website will be updated to provide information about data sharing arrangements.

Importance:	Low
Responsible Officer:	D Henderson, Information Compliance Manager
Lead Service:	Corporate and Democratic Services
Date for Completion (Month / Year):	October 2016
Required Evidence of Completion:	Updated web pages

Auditor's Comments

Satisfactory

Action Point 3 - Fair Processing Notices for Health and Social Care

The Scottish Government Strategic Framework (2014 – 2020) for Information Sharing in Health and Social Care identifies that where data is used to inform the development and planning of services there is a need to ensure that Fair Processing Notices reflect this use of data.

“Fair Processing notices should cover the sharing of data for integrated care and analysis for joint planning decisions.”

The current consent forms in use do not address this use of personal data.

Management Action Plan

Fair processing notices used in consent forms for Social Care, will be amended to reflect the uses of personal data in the development and planning of services, as outlined in the Scottish Government Strategic Framework.

Importance:	Medium
Responsible Officer:	Diane Fraser/ Colin Johnson, Heads of Community Care
Lead Service:	Housing and Community Care
Date for Completion (Month / Year):	October 2016
Required Evidence of Completion:	Documents containing revised consent form.

Auditor's Comments

Satisfactory

Internal Audit Report

Action Point 4 - Information Sharing Management

A review of Data Management at the Council was carried out by Audit Scotland in 2013 and an agreed action to establish a Data Sharing Register has yet to be implemented.

Moreover, there is scope to improve the management of Information/Data Sharing protocols in place across the Council.

Requests were made to each of the Services to provide information as to all data sharing agreements in place – using 19 draft agreements, provided by the Information Compliance Manager, as a baseline.

Only two copies of completed data sharing protocols in use within Services were returned to the Auditor, one of which was additional to the original list of agreements.

Management Action Plan

Finalised/signed Data Sharing protocols held by Services will be identified and submitted to the Information Compliance Manager to ensure appropriate data management across the Council, and to inform the production of the corporate Data Sharing Register which will include review arrangements for each protocol.

Importance:	High
Responsible Officers:	S Devlin, Director B Renton, Director B Atkinson, Director
Lead Service:	Education & Children's Services The Environment Service Housing and Community Care
Date for Completion (Month / Year):	December 2016
Required Evidence of Completion:	Presentation of current Data Sharing Protocols held by each Service

Auditor's Comments

Satisfactory

Internal Audit Report

Action Point 5 - Review of Data Sharing Protocols

Reviews of Data Sharing Protocols are in line with good practice and the Data Protection Policy. These reviews should ensure that all terms of the agreement are current and applicable.

However, of the 19 draft agreements, only one had evidence of review and one had been implemented in 2016. The additional agreement, as noted in Action Point 4, had also been recently reviewed.

The remainder dated from 2007 to 2015. Services have not confirmed whether there had been any review of the protocols in operation. A similar point was identified by Audit Scotland in their review of Data Management in 2013.

Management Action Plan

All Data Sharing Protocols held by the Service will be reviewed in line with the requirements of each protocol and good practice. Reviewed protocols will be notified to the Information Compliance Manager to inform the production of the Data Sharing Register.

Importance:	High
Responsible Officer:	A Taylor, Head of Corporate Revenues and IT S MacKenzie, Head of Performance and Resources P Davison, Corporate Research and Information Manager
Lead Service:	Housing and Community Care The Environment Service Education and Children's Services
Date for Completion (Month / Year):	December 2016
Required Evidence of Completion:	Version control for Data Sharing Protocols included in Action Point 4

Auditor's Comments

Satisfactory

Internal Audit Report

Action Point 6 - Information Sharing Risk - Integrated Joint Board

The Risk Management Register presented to Perth and Kinross' Integrated Joint Board on 23 March 2016 identified Information Sharing as one of the Board's main risks. The report named two managers, responsible for the Council's IT infrastructure, as the responsible owners of the Council's risks in relation to Information Sharing for the Integrated Joint Board.

The managers had not been consulted during the preparation of the report, and have no responsibility for staff employed by the Council who may be involved in the sharing of information in respect of Integration Joint Board. It is noted that the Board had asked the Chief Officer to further develop the Risk Register.

Management Action Plan

The Risk Register for the Integrated Joint Board will be revised to ensure that the responsible officers are relevant to Service provision within Health and Social Care.

Importance:	Medium
Responsible Officer:	D Fraser/C Johnson, Heads of Community Care
Lead Service:	Housing and Community Care
Date for Completion (Month / Year):	November 2016
Required Evidence of Completion:	Revised Risk Register for Integrated Joint Board

Auditor's Comments

Satisfactory

