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Council Building
2 High Street
Perth
PH1 5PH

04/06/2021

A meeting of the **Scrutiny Committee** will be held virtually on **Wednesday, 09 June 2021** at **09:30**.

If you have any queries please contact Committee Services on (01738) 475000 or email Committee@pkc.gov.uk.

BARBARA RENTON
Interim Chief Executive

Those attending the meeting are requested to ensure that all notifications are silent on their device and other devices are in silent mode.

Please note that the meeting will be broadcast online and recorded. The recording will be publicly available on the Council's website following the meeting.

Members:

Councillor Sheila McCole (Convener)
Councillor Andrew Parrott (Vice-Convener)
Councillor Liz Barrett
Councillor Harry Coates
Councillor David Illingworth
Councillor Anne Jarvis
Councillor Ian Massie
Councillor Xander McDade
Councillor Crawford Reid
Councillor Willie Robertson
Councillor Fiona Sarwar
Councillor Frank Smith
Councillor Colin Stewart

Scrutiny Committee

Wednesday, 09 June 2021

AGENDA

MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.

PLEASE NOTE THAT ALTHOUGH THE PRE-AGENDA MEETING IS NOT SUBJECT TO THE TERMS OF THE LOCAL GOVERNMENT (SCOTLAND) ACT 1973 IT IS RECOMMENDED THAT THE CONTENTS OF REPORTS AND DISCUSSIONS AT THE MEETING CONSTITUTE INFORMATION WHICH IS EXEMPT IN TERMS OF SCHEDULE 7A TO THAT ACT, AND THEREFORE, YOU SHOULD NOT DISCLOSE TO OR DISCUSS WITH ANY MEMBER OF THE PRESS OR PUBLIC ANYTHING CONTAINED IN REPORTS OR DISCLOSED DURING DISCUSSIONS.

- 1 WELCOME AND APOLOGIES/SUBSTITUTES**
- 2 DECLARATIONS OF INTEREST**
- 3 MINUTE OF MEETING OF THE SCRUTINY COMMITTEE OF 12 MAY 2021 FOR APPROVAL** **5 - 6**
(copy herewith)
- 4 ANNUAL GOVERNANCE STATEMENT 2020/21** **7 - 22**
Report by Head of Legal and Governance Services (copy herewith 21/85)
- 5 LOCAL GOVERNMENT BENCHMARKING FRAMEWORK 2019/20**
Report by Interim Chief Executive (copy to follow)
- 6 DATA PROTECTION COMPLIANCE 2019-20** **23 - 32**
Report by Data Protection Officer (copy herewith 21/87)

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SCRUTINY COMMITTEE

Minute of meeting of the Scrutiny Committee held virtually via Microsoft Teams on Wednesday 12 May 2021 at 9.30am.

Present: Councillors S McCole, A Parrott, C Ahern, (substituting for Councillor H Coates), L Barrett, D Illingworth, A Jarvis, I Massie, X McDade, W Robertson, F Smith and C Stewart.

In Attendance: K Donaldson, Chief Operating Officer; C Mailer (Housing and Environment); L Simpson, K Johnston, K Molley, A Brown, M Pasternak and B Parker (all Corporate and Democratic Services).

Apologies: Councillor H Coates, C Reid and F Sarwar.

Councillor S McCole, Convener, Presiding.

1. WELCOME AND APOLOGIES

The Convener welcomed all those present to the meeting and apologies were noted as above.

2. DECLARATIONS OF INTEREST

In terms of the Councillors' Code of Conduct:

- (i) Councillors C Ahern, A Jarvis and A Parrott declared a non-financial interest in relation to Culture Perth and Kinross in Item 4(i).
- (ii) Councillor A Jarvis declared a non-financial interest in relation to Horsecross Arts Ltd in Item 4(i) and 4(ii).

3. MINUTE OF THE MEETING OF THE SCRUTINY COMMITTEE OF 9 DECEMBER 2020

The minute of meeting of the Scrutiny Committee of 9 December 2020 was submitted and approved as a correct record.

4. UPDATE BY ARMS LENGTH EXTERNAL ORGANISATIONS

- (i) **Joint Update by Culture Perth and Kinross, Horsecross Arts Ltd and Live Active Leisure Ltd**

There was a joint update and slide-based presentation delivered by Culture Perth and Kinross, Horsecross Arts Ltd and Live Active Leisure Ltd. Helen Smout, Chief Executive Officer, Culture Perth and Kinross; Nick Williams, Chief Executive Officer, Horsecross Arts Ltd; and Paul Cromwell, Chief Executive Officer, Live Active Leisure Ltd, were all in attendance.

Throughout the presentation, representatives updated members on the risks, challenges, and future opportunities in relation to their organisations in recovering from the COVID-19 pandemic.

Members sought assurance on matters such as planning for venue capacities and easing of restrictions, digital engagement, monitoring performance and delivery of services across the organisations.

Members thanked staff from all three ALEO's for their support in the running of the vaccination centres throughout Perth and Kinross.

The Convener thanked Helen Smout, Culture Perth and Kinross and Paul Cromwell, Live Active Leisure Ltd for their attendance.

(ii) Update by Horsecross Arts Ltd

There was a financial update and slide-based presentation delivered by Nick Williams, who was also joined by Willie Anderson, Head of Finance and Administration, Horsecross Arts Ltd.

Members sought assurance on matters such as Horsecross Arts Ltd reserve strategy, annual budgets, catering venues, future planning around liability of cash sales and engagement with other ALEO's.

Due to connectivity issues, Colin Hood, Board Chairman of Horsecross Arts Ltd was unable to join the meeting successfully. Members were encouraged to contact him separately if they had any further questions.

Members were in agreement to ask the Leader of the Council to write to the Scottish Government on behalf of Perth and Kinross Council, regarding the creation of a route map to help all performance art venues in Perth and Kinross and across Scotland return to normality and achieve sustainability.

The Convener thanked Nick Williams and Willie Anderson, Horsecross Arts Ltd for their attendance.

PERTH AND KINROSS COUNCIL

Scrutiny Committee

9 June 2019

ANNUAL GOVERNANCE STATEMENT 2020/21

Report by Head of Legal & Governance Services (Report No. 21/85)

PURPOSE OF REPORT

The purpose of the report is to present for scrutiny and review, the Annual Governance Statement (AGS) for the financial year 2020/21 which provides assurance as to the effectiveness of the Council's governance framework and, in particular, the system of internal control.

1. INTRODUCTION

- 1.1 The purpose of the Annual Governance Statement (AGS) is to give assurance to our stakeholders that we have effective arrangements in place to ensure that, as a Council, we are doing the right things for the right people at the right time in an open, honest and accountable way.
- 1.2 The AGS provides an opportunity to review our rules, resources, systems, processes, culture and values to make sure that our governance framework. We are seeking assurance that our system of internal control is:
 - legally compliant
 - ethically sound; and
 - fit for purpose
- 1.3 This thereby enables the Council to achieve its strategic objectives and provide high quality services that meet the needs of our communities, in an appropriate, efficient and affordable way. It is important therefore, that governance issues are identified systematically and comprehensively and reported in an open and transparent manner.
- 1.4 The past year has been unprecedented and challenging in many ways. During this period, restrictions have meant that the majority of staff and all elected members have been working remotely, heavily reliant on new technology as the Council has sought to maintain the delivery of essential council services during a global pandemic whilst at the same time working with fellow Category 1 responders to take on new tasks to manage and mitigate the public health crisis.
- 1.5 The Annual Governance Statement for 2020/21 is attached as Appendix 1 to this report. It has been prepared in accordance with the Chartered Institute of Public Finance & Accountancy (CIPFA) Framework: Delivering Good Governance in Local Government and is required to be published as part of the Council's Annual Accounts.

1.6 The AGS is presented here to allow appropriate review and scrutiny by the Committee.

2. GOVERNANCE ASSURANCE PROCESS

2.1 The assurance process to inform the AGS has been developed and refined to take into account the CIPFA Framework and associated guidance and to better reflect best value. It is designed to test the continuing effectiveness of our governance arrangements and to identify current, emerging and potential future risks to enable the organisation to adjust and improve their internal controls to mitigate and manage these effectively.

2.2 Given the unprecedented situation in which we have been operating over the last year, we engaged with our External Auditors as to how we could best manage the evidence gathering, assessment and assurance process to prepare the AGS. Acknowledging that Council's governance arrangements have been assessed, consistently, as effective, evidence from last year was accepted as a baseline. We, therefore, focussed on considering these within the context of operating under civil contingencies legislation and any material changes to the governance arrangements which required to be made during the period, in response to the pandemic.

2.3 Evidence has been gathered by way of self-assessment from each of the Service Management Teams which was then scrutinised and reviewed through the Policy and Governance Group.

2.4 Executive Directors and the Chief Operating Officer have provided Certificates of Assurance in respect of the adequacy and effectiveness of the controls within their area.

2.5 Certificates of Assurance have also been provided by the following officers in respect of their assessment of key corporate controls:-

- Chief Finance Officer (S 95 Officer)
- Head of Legal & Governance Services /Monitoring Officer
- Chief Internal Auditor
- Corporate Procurement Manager
- Information Compliance Manager
- Senior HR Manager
- Corporate Strategic Policy & OD Manager

2.6 Assurance has been provided from the Head of Culture and Communities, in her capacity as the Contract Monitoring Officer in respect of our Arm's Length External bodies (Horsecross Arts Ltd, Live Active Leisure and Culture Perth & Kinross).

2.7 The Perth & Kinross Integrated Joint Board are obliged to produce their own Annual Governance Statement as are the Tayside Valuation Joint Board and Tayside Contracts. We place reliance on their assurance statements which have been shared with the Council.

3. EFFECTIVENESS OF GOVERNANCE ARRANGEMENTS

3.1 In the main, the system of internal control has provided effective during the year with many of the processes, systems and control mechanisms remaining the same, albeit being applied and implemented in a virtual environment. Throughout the year in response to the pandemic the Council has implemented temporary arrangements in relation to decision-making with appropriate governance arrangements. This saw a blend of:-

- operational decision-making exercised under delegated emergency powers with political oversight via weekly meetings of a Sounding Board comprising all leaders of political groups
- decisions under emergency powers being reported back to meetings full council
- suspension of normal committee timetable with exception of quasi-judicial meetings
- increased frequency of meeting of full council
- normal committee timetable

3.2 The assurance process demonstrates that the Council has had and continues to have adequate internal controls in place that are considered fit for purpose in accordance with the governance framework.

3.3 The Council's identified priorities for the foreseeable future are focussed on recovery and renewal from, and any further response necessary to, the COVID-19 pandemic and its consequences for the people, communities, organisations and business in the area. This will include the adoption of sound governance arrangements appropriate to the circumstances.

3.4 Areas previously identified as requiring ongoing monitoring/review or further improvement action will continue to be scrutinised by Service Management Teams and the relevant Council Committees as and when appropriate.

4. RECOMMENDATION

4.1 It is recommended that the Committee:

- (i) Note the content of this report; and
- (ii) Scrutinise and comment on the draft Annual Governance Statement for the financial year 2020/21

Author(s)

Name	Designation	Contact Details
Lisa Simpson	Head of Legal & Governance Services	legalservices@pkc.gov.uk

Approved

Name	Designation	Date
Karen Donaldson	Chief Operating Officer	3 June 2020

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1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	
Community Plan / Single Outcome Agreement	None
Corporate Plan	None
Resource Implications	
Financial	None
Workforce	None
Asset Management (land, property, IST)	None
Assessments	
Equality Impact Assessment	None
Strategic Environmental Assessment	None
Sustainability (community, economic, environmental)	None
Legal and Governance	Yes
Risk	None
Consultation	
Internal	Yes
External	Yes
Communication	
Communications Plan	None

1. Strategic Implications

Not applicable.

2. Resource Implications

Not applicable.

3. Assessments

Not applicable.

4. Consultation

Internal

- Service Management Teams
- Executive Officer Team
- Corporate Management Group
- Policy & Governance Group
- Chief Internal Auditor
- Corporate Procurement Manager
- Information compliance Officer
- Health, Safety & Wellbeing Manager

External

Staff from the following external organisations have been consulted the preparation of the Annual Governance Statement including:

- Tayside Contracts
- Perth & Kinross Integrated Joint Board
- Live Active Leisure Limited
- Culture Perth & Kinross Limited
- Horsecross Arts Limited
- Tayside Valuation joint Board

5. Communication

- 5.1 The Annual Governance Statement will be published with the Council's Final Accounts for 2020/21

2. BACKGROUND PAPERS

None

3 APPENDICES

- Appendix 1 - Annual Governance Statement 2020/21

ANNUAL GOVERNANCE STATEMENT 2020/21

1 Introduction

- 1.1 Good governance is key to the success of Perth & Kinross Council. It supports better informed decision-making, the efficient use and management of our resources, high quality performance, greater scrutiny and accountability, resulting in better outcomes for the communities we serve.
- 1.2 The purpose of the Annual Governance Statement is to give assurance to the people of Perth & Kinross, our Elected Members, staff, partner agencies and other stakeholders that our governance arrangements are effective, and our system of internal control is robust.
- 1.3 In the year 2020/21 the Council has been operating in an extremely challenging environment due the global COVID-19 pandemic; seeking to maintain key essential service provision at the same time as undertaking vital new operational tasks to support the management of the public health crisis. The requirement for most staff and all elected members to work remotely from home has brought with it both risks and opportunities in terms of governance with resources, systems, processes, tools and technology being deployed differently and innovatively to ensure that democratic decision-making has continued in an open and transparent manner and that we have continued to provide the services that our communities need during this difficult year.

2 Scope of Responsibility

- 2.1 As a public body, the Council must always act in the public interest. It must behave with integrity, conduct its business in accordance with the rule of the law and demonstrate a strong commitment to ethical values. We must demonstrate and ensure that public money is used economically, efficiently, and effectively to deliver sustainable outcomes for the people of Perth & Kinross
- 2.2 The Local Government in Scotland Act 2003 also places a specific duty on the Council to make arrangements to secure best value and ensure continuous improvement in terms of the services it delivers to our communities.
- 2.3 A comprehensive and robust governance framework is integral to the Council's ability to discharge these responsibilities and deliver good outcomes. The Annual Governance Statement seeks to provide assurance that our governance framework is appropriate, adequate and effective in enabling the Council to deliver good outcomes and manage risk.
- 2.4 As well as providing assurance as to the effectiveness of the governance arrangements in place for the Council, this Annual Governance Statement also covers the six organisations that are included in the Council's Group Accounts.
- Live Active Leisure Limited (subsidiary)
 - Horsecross Arts Limited (subsidiary)
 - Culture Perth & Kinross Limited (subsidiary)
 - Tayside Valuation Joint Board (associate)
 - Tayside Contracts (associate)
 - Perth & Kinross Integration Joint Board (joint venture)

3 The purpose of the Governance Framework

- 3.1 Our governance framework comprises our culture and values and the rules, resources, systems and processes designed to help us achieve our strategic objectives and provide good quality services in the most cost-effective way possible. A crucial part of the framework is the system of internal control which is designed to manage and mitigate risk in relation to the achievement of our intended outcomes.
- 3.3 The Council manages risk through a continuous process of identification, assessment, evaluation, prioritisation, and mitigation. We evaluate risk based on likelihood and impact in both financial and non-financial terms. We do however need to mitigate and manage risk proportionately; recognising that risk can never be eliminated completely and that only reasonable assurance can ever be given.
- 3.4 The purpose of the governance framework, therefore, is to ensure that we are using our resources effectively to deliver good outcomes for our communities and to provide assurance that we are indeed doing the right things, for the right people at the right time in an open, ethical and accountable way.

4 Our Governance Framework

- 4.1 We recognise that the following are fundamental elements of good governance within public sector organisations: -

- Leadership, Culture & Values
- Vision, direction & purpose
- Stakeholder Engagement
- Organisational Development
- Effective Decision Making
- Internal Controls
- Scrutiny & Accountability

- 4.2 These fundamental elements of our governance framework reflect and seek to embed the principles of good governance within the International Framework: Delivering Good Governance in the Public Sector developed by CIPFA and the International Federation of Accountants, now incorporated into the 2016 CIPFA Framework for Delivering Good Governance in Local Government, namely :

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
- Defining outcomes in terms of sustainable economic, social and environmental benefits
- Ensuring openness and comprehensive stakeholder engagement
- Developing the entity's capacity, including the capability of its leadership and the individuals within it
- Determining the interventions necessary to optimise the achievement of the intended outcomes
- Managing risks and performance through robust internal control and strong public financial management
- Implementing good practices in transparency, reporting and audit to deliver effective accountability

4.3 Our governance arrangements are underpinned by the fundamental principles and the requirements of legislation and legislative best practice. They can be summarised as follows:

- Our vision is the achievement of the shared priorities and intended outcomes for the citizens of Perth & Kinross defined in our Local Outcome Improvement Plan and our Corporate Plan together with the work being done in developing the Perth & Kinross Offer, our Revenue budget for 2020/21, our Capital Programme and the work being undertaken on our Strategic Investment blueprint, our Housing Investment Programme, and other strategic documents provide the necessary direction to the organisation to enable it to deliver on its vision and achieve its purpose.
- There is effective communication between Members and Senior Management through Leaders Meetings, Convenors meetings, Member Officer Working Groups and all-member briefings where appropriate. There are also regular pre-agenda discussions in respect of each scheduled Council and Committee meeting.
- There are effective arrangements in place for the discharge of the following functions:
 - Head of Paid Service
 - Monitoring Officer
 - Chief Finance Officer
 - Chief Social Work Officer
 - Data Protection Officer
- Our culture and values are reflected in everything we do as an organisation. They are determined by our decision-making and behaviours and are reflected in our key corporate and community documents and strategies, our governance documents, Elected Member and Employee Codes of Conduct, Whistleblowing and anti-fraud and corruption policies, Elected Member Register of Interests, Gifts & Hospitality Policy and in our suite of policies, processes and procedures, ensuring that as a Council we respect the rule of law, behave with integrity, promote a culture of good governance and demonstrate a strong commitment to ethical values.
- We recognise the importance of good stakeholder engagement in redesigning and reshaping public services and we will continue to actively engage and work in partnership with our communities, partners and other stakeholders as part of the Perth & Kinross Offer to ensure that we design and deliver the public services that our communities need and value. The Council has a strategy for engaging with communities and has agreed a Statement of Intent with its Community Planning Partners to support a co-ordinated approach to community engagement. Our approach to consultations is based on the National Standards for Community Engagement and we have established a wide range of consultation processes and procedures. The Community Empowerment (S) Act 2015 provides a framework for improving the quality of engagement and participation which will be reflected in our Local Outcome Improvement Plan.

- We recognise that in an increasingly complex and financially challenging public sector landscape we must be able to adapt and evolve our services and workforce to continue delivering cost efficient, high quality services. Our people remain our most valuable asset and as an organisation we will secure the best outcomes for our communities by investing in the development of our workforce and of our leaders to ensure that they have the right skills and have sufficient capacity to deliver. Our approach is outlined in our Corporate Workforce Plan – Developing Talent and our “Learn, Innovate Grow” philosophy is embedded across the organisation to create a highly motivated, skilled and agile workforce. There is a programme of leadership development in place for our managers and an induction programme for Elected Members. An ongoing training programme will be developed in consultation with Members to ensure that it meets their needs going forward.

- The Council’s Scheme of Administration sets out the role of committees in decision-making and the delegated decision-making powers of individual officers. The committees, boards, and panels we have established ensure proper democratic engagement and provide an appropriate mechanism for effective decision making and accountability. As a local authority, the extent of our decision-making powers is determined by statute and regulation. Our report template is designed to ensure that legal and financial checks are carried out before a report is presented for decision. It also provides that appropriate internal and external consultations and where relevant, options appraisals, ensure that decision makers are appropriately informed to determine the best course of action in the circumstances.

- The Council has developed and implemented a suite of policies, procedures and management processes to ensure that there are appropriate **internal controls** in place in respect of: -
 - Workforce Management
 - Financial management
 - Officer /Member relations
 - Performance Management
 - Change & Improvement
 - Workforce Planning
 - Risk Management
 - Procurement
 - Major Investment Project Management
 - Health & Safety
 - Information Management
 - Information Security
 - Civil Contingencies & Business Continuity
 - Anti- Fraud & Corruption
 - Conflicts of interests
 - Gifts & Hospitality
 - Whistleblowing and reporting concerns
 - Complaints handling
 - Funding External bodies / ALEO’s

- As a public body we must be open, transparent and accountable for our decisions, actions and performance. Our management and democratic structures and processes are designed to facilitate effective decision making and the proper scrutiny of those decisions and their impact in terms of performance and the achievement of our intended outcomes.

- Given the high level of uncertainty, the Council has set a budget for the year 2020/21 with a provisional budget 2021/22 (which was part of the three-year budget set in 2020). Each budget is allocated to a named budget holder. Budgets are monitored regularly by Service Management Teams and overall financial performance is monitored regularly by the Executive Officer Team. The Council has received additional financial reporting during the year to help manage the uncertainty and additional financial pressures faced by the Council in responding to the COVID-19 pandemic. The Strategic Policy & Resources Committee receives regular financial monitoring information as part of the budgetary control framework and provides the required political scrutiny of our financial management and performance.
- Capital spend is monitored by Senior Management through the Strategic Investment & Improvement Board and reported regularly to the Executive Officer Team and the Strategic Policy & Resources Committee as part of the budgetary control framework. The Capital Programme Office monitors project milestones.
- The service planning process ensures that Services meet the needs of customers, and that targets for quality improvements are set and monitored. Individual Business Management & Improvement Plans set out detailed actions and outcomes for each Service and include performance indicators. Service performance is reported regularly to the Executive Officer Team and publicly through the Council's themed committees and the Scrutiny committee. Financial performance is publicly reported through the Strategic Policy & Resources Committee and relevant service committees.
- The Council publishes an Annual Performance Report on its performance against the objectives set out within the Corporate Plan and Local Outcome Improvement Plan.
- The Council has a published process for dealing with the following and annually reports on performance in this respect of these areas: -
 - complaints from members of the public
 - requests for access information under the Freedom of Information legislation
 - access information under the Data Protection legislation

5 COVID-19 Pandemic Governance Arrangements

5.1 In light of the COVID-19 pandemic, the Council implemented effective and appropriate civil contingencies arrangements. These have ensured: -

- a clear decision-making framework utilising emergency powers in accordance with the Council's Scheme of Administration
- appropriate political oversight through an Elected Member Sounding Board comprising the leaders of all political groups, during the initial period of lockdown and through the operation virtually of Council and Committees
- an effective operational command structure to deliver essential services and key activities to protect the health and wellbeing of our communities during this time
- adequate and effective risk management at both a strategic and operational level of existing, new and emerging risks
- openness and transparency by the recording and public reporting of decisions taken by the Chief Executive in exercise of her emergency powers under the provisions of Section 15.5 of the Council's Scheme of Administration

5.2 Opportunities to further enhance and improve the internal controls to support the delivery of better outcomes for our communities have been recognised during this period. It is understood, however, that whilst improvement actions can be identified, the focus of the Council has been on maintaining essential services and managing the response and the recovery work that have been required to minimise the impact of COVID -19 on the communities of Perth and Kinross.

5.3 Planning has continued for recovery and renewal in line with the published Scottish Government framework and a key part of that will be ensuring appropriate governance arrangements are in place. These have been flexible to respond to the changing environment during the year to ensure a proportionate response to the impact of the pandemic on our communities and our workforce.

6 Governance Assurance Process

6.1 The Council utilises a robust process of gathering assurance information from Service Management Teams which concludes with Certificates of Assurance being signed by each Director and the Chief Operating Officer.

6.2 In keeping with advice from CIPFA, assurance has been gained from Service Management Teams that governance during the implementation and operation of these contingency measures was subject to adequate and effective controls.

6.3 Corporate assurance has also been provided as regards the adequacy of the internal controls from the following Officers:

- Chief Finance Officer (S 95 Officer)
- Head of Legal & Governance Services /Monitoring Officer
- Chief Internal Auditor
- Corporate Procurement Manager
- Information Compliance Manager
- Senior HR Manager
- Corporate Strategic Policy & OD Manager

6.7 For Arm's Length External Organisations, reliance has been placed upon:

- unaudited financial statements of the companies (audited accounts will be scrutinised when available)
- assurance self-assessment evaluations
- terms and conditions of Service Level Agreements
- contract monitoring meetings with Service
- performance information and financial monitoring reports to Service
- presentations to Scrutiny Committee

6.8 For Tayside Contracts Joint Committee and Tayside Valuation Joint Board, reliance has been placed upon each organisation's own Annual Governance Statement.

6.9 For Perth & Kinross Integration Joint Board, reliance has been placed on their own Annual Governance Statement.

6.10 The draft Annual Governance Statement is considered by the Executive Officer Team and the Council's Scrutiny Committee prior to inclusion within the final draft Annual Accounts.

6.11 The Annual Governance Statement is considered by the Audit Committee as part of the Annual Accounts.

7 Prior Years' Governance Statements: Improvement update

7.1 The following areas have been identified for further review and/or improvement: -

- Communication and engagement
- Performance management
- Community empowerment
- Information governance
- Workforce planning
- Arm's Length External Organisations
- Integration Joint Board – relationship governance

7.2 Given that services have and continue to be focussed on the response to the COVID-19 pandemic, improvement activity has been delayed and progress in these areas will continue to be scrutinised by Service Management Teams and the appropriate Council Committees as and when possible.

8 Effectiveness of Governance Arrangements for 2020/21

8.1 Based on the assurance process outlined above, in terms of effectiveness, the Council's governance arrangements continue to be regarded as fit for purpose in accordance with the governance framework, subject to the areas identified for review or improvement set out in sections 7 and 10. .

8.2 Our financial management arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Chief Financial Officer in Local Government (2015). Financial risks arising from the continuing response to the COVID-19 pandemic are highlighted and managed through our effective processes, with regular reporting to Elected Members.

8.3 Our assurance arrangements conform with the governance requirements of the CIPFA Statement on the Role of the Head of Internal Audit (2010)

8.4 The Council has designated the Head of Legal & Governance Services as the Senior Information Risk Owner with the Head of Corporate IT and Revenues as Depute. Our information security measures have been reviewed in 2020/21 to ensure continuing compliance with the Public Service Network (PSN) requirements.

8.5 The Chief Internal Auditor is the Council's nominated Money Laundering Reporting Officer. There has been no relevant activity in respect of Council and its group during the year.

8.6 We have structures in place which support constructive challenge and effective scrutiny to our system of internal control and our broader governance arrangements. In particular; -

- Scrutiny Committee
- Strategic Policy & Resources Committee
- Audit Committee
- Themed Committees
- Executive Officer Team
- Corporate Management Group
- Strategic Improvement & Investment Board
- Policy & Governance Group
- External Audit (presently KPMG)

8.7 Where it has been necessary to suspend Committees, any urgent business has been considered by more frequent meetings of Perth & Kinross Council.

8.8 In addition, the Council has implemented and reviewed temporary arrangements for the COVID-19 pandemic with appropriate governance arrangements throughout the year.

9 **Opinion of the Chief Internal Auditor**

9.1 Audit activity and performance will be detailed in the Annual Report by the Chief Internal Auditor for the year 2020/21 when it is presented to the Council's Audit Committee. The draft report contains the Chief Internal Auditor's opinion in respect of the effectiveness of the governance arrangements in place, as follows: -

"In the Chief Internal Auditor's opinion, reasonable reliance can be placed on the Council's risk management and governance arrangements, and systems of internal control for 2020/21, subject to management implementation of the agreed actions detailed in Internal Audit reports."

10 **Areas for review /continued improvement action**

10.1 The Council's identified priorities for the foreseeable future are on recovery and renewal from, and any further response necessary to, the COVID-19 pandemic and its consequences for the people, communities, organisations and businesses in the area. This will include the adoption of sound governance arrangements appropriate to the circumstances.

10.2 The last year has demonstrated our reliance on technology and the way in which technology can shape and influence how we deliver services and work as an organisation in the future. It is essential therefore that we continue to monitor, review and improve our cyber resilience and data management as part of recovery and renewal activity in the coming year.

10.3 Areas previously identified as requiring ongoing monitoring/review or further improvement action will continue to be scrutinised by Service Management Teams and the relevant Council Committees as and when appropriate.

10.4 In addition to these areas, there are some specific areas which will be held under review:

- Leadership capacity within Perth & Kinross because of changes within the management structure
- Ongoing development of the Perth & Kinross Offer
- Resourcing risks and opportunities arising from recovery from the COVID-19 pandemic
- Working with the Integration Joint Board to ensure that there is appropriate leadership capacity and corporate support to ensure the delivery of the Board's strategic objectives

STATEMENT

The Council is legally required to review of the effectiveness of its governance arrangements and to publish an Annual Governance Statement, with its Annual Accounts. The Council's Governance Framework is considered robust and effective. During 2020/21 arrangements were implemented to take account of the COVID-19 pandemic. These contingency arrangements continue to operate and therefore it has not been possible to undertake the usual comprehensive review of our corporate governance arrangements. In accordance with guidance from the Chartered Institute of Public Finance and Accountancy (CIPFA) however, the Council has reviewed the effectiveness of the existing governance framework and in particular, the internal controls.

The review of the effectiveness of the Council's system of internal control and overall governance framework has been informed by different sources assessing risk and providing assurance: -

- Executive Officer Team
- Service Management Teams
- Chief Finance Officer
- Monitoring Officer
- Chief Internal Auditor/ Internal Audit
- Policy & Governance Group
- External Audit
- External agencies and inspectorates.

The Chief Internal Auditor has provided assurance for the year 2020/21 and an Internal Audit plan will be developed for 2021/22 which that will focus on areas which have been identified as corporate or service specific risks in relation to core business and any additional risks which have arisen as a result of the COVID-19 pandemic.

Each Director, who has responsibility within the Scheme of Delegation for the development and maintenance of the system of internal control, have reviewed the current governance arrangements and internal controls within their service area and provided assurance that these are effective.

The Chief Finance Officer has provided assurance that the financial arrangements in place conform to the relevant CIPFA requirements and that our expenditure is lawful. The Monitoring Officer has provided assurance that our governance arrangements ensure compliance with relevant laws, regulations, internal policies and procedures.

We are satisfied that our governance arrangements and in particular, our system of internal control, continue to be regarded as fit for purpose in accordance with the governance framework; any identified improvement actions will continue to be delivered through existing improvement plans and change programmes to avoid duplication of effort.

We have been reassured by the way in which this Council has adapted to the challenges presented by the COVID-19 pandemic. Our governance framework and understanding of key risks have not only ensured that essential services have been maintained but that innovative arrangements could be implemented to meet new and emerging needs as these arose. As we move from emergency response measures to supporting our communities to recover from the impact of COVID-19, our governance framework will continue to be reviewed and adapted where necessary to ensure

Signed:

Barbara Renton, Acting Chief Executive
Date

Signed:

Murray Lyle, Leader of the Council
Date

PERTH AND KINROSS COUNCIL

Scrutiny Committee - 9 June 2021

DATA PROTECTION COMPLIANCE 2020-21

**Report by Data Protection Officer
(Report No. 21/87)**

PURPOSE OF REPORT

This report is the professional assessment of the Council's compliance with the UK General Data Protection Regulation (GDPR) by the Data Protection Officer (as is required to be provided by him in accordance with the legislation). This report relates to the year 2020-21.

1. BACKGROUND

- 1.1 The GDPR requires a public authority, such as the Council, to appoint a Data Protection Officer (DPO) and defines tasks that the person must undertake. These tasks include monitoring and reporting on compliance with the GDPR.
- 1.2 The Council's Data Protection Policy sets out that the DPO will present a report on the Council's data protection compliance to the Council's Senior Management and the Scrutiny Committee annually or more frequently, if considered necessary.
- 1.3 It should be noted that responsibility for compliance with data protection legislation lies with the Council rather than the DPO.

2. EXECUTIVE SUMMARY

- 2.1 Given the breadth and volume of the Council's activities, it is unlikely that any Council will ever be able to state categorically that it is fully compliant with data protection legislation. The DPO is confident, however, that the current level of compliance is reasonable and continues to gradually improve.
- 2.2 The DPO is satisfied that the principal pillars of GDPR compliance are all in place and are generally becoming accepted as normal practice across the Council. Where procedural failings have occurred regarding data protection, these can reasonably be attributed to human error, a lack of training/awareness, and workload pressures.
- 2.3 The Council has been working under different circumstances this year, requiring a rapid adjustment to often unfamiliar technology and working without the assistance of physically close colleagues. In itself, this has probably generated more issues requiring the attention of the DPO team, but there also has been a significant amount of additional work for the DPO team generated by the implementation of measures in response to the pandemic. Despite periods of reduced staff numbers, the DPO team has managed to cope with the workload reasonably well.

- 2.4 Whilst the Council would wish to avoid any data breach, the total number of breaches recorded in the year remains very small given the volume and wide range of personal data that is processed across the Council in the course of a year. Of the breaches recorded, few were considered as needing reported to the information Commissioner's Office.
- 2.5 The DPO has highlighted issues arising from a lack of adequate resources in the DPO team, supplier intransigence, and international transfers of personal data.

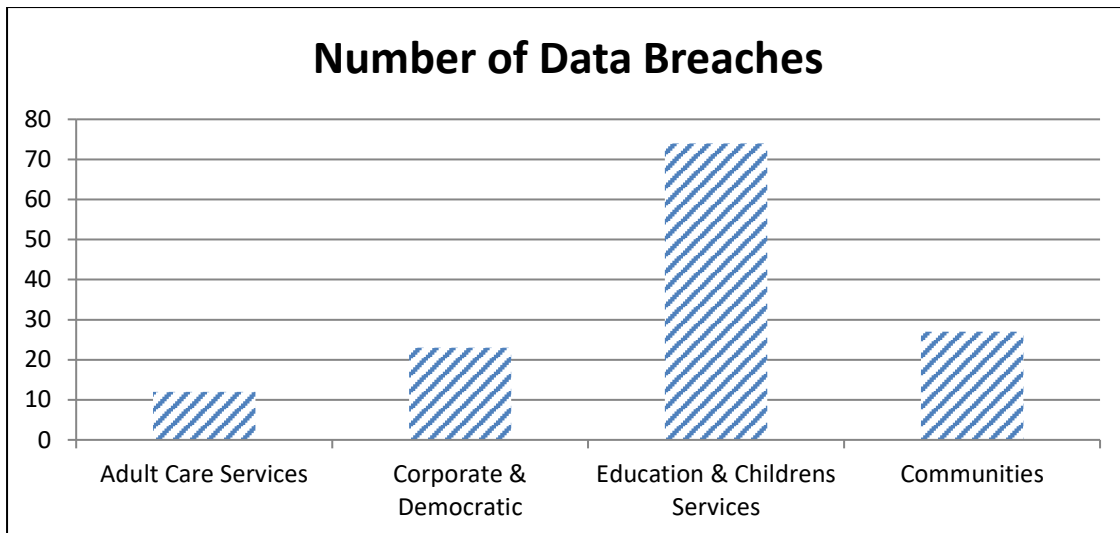
3. COMPLIANCE

3.1 Policy

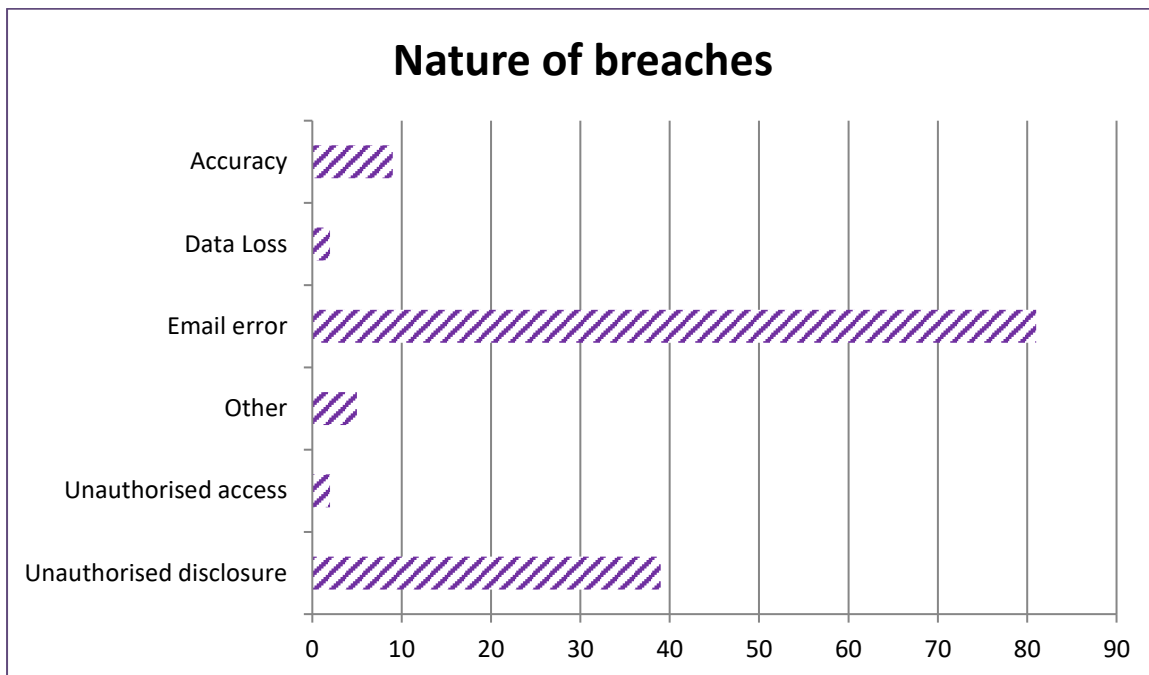
- 3.1.1 The Council has a Data Protection Policy which satisfies the separate requirements of the UK GDPR and the Data Protection Act 2018. It should be noted that the UK GDPR is the implementation in UK law of the original EU GDPR, it came into force on 1 January 2021 and is, in all relevant aspects, identical to the original.
- 3.1.2 The current version of the policy was approved in November 2018 and will be reviewed during 2021-22.

3.2 Data Breaches

- 3.2.1 A data breach is defined as an incident involving "a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data". The term 'security' refers to both technical measures and organisational measures such as policy, procedure and practice.
- 3.2.2 The Council is required to maintain a register of data breaches and, where appropriate, report them to the Information Commissioner's office.
- 3.2.3 Between 1 April 2020 and 31 March 2021, the Council recorded a total of 146 data breaches (compared to 96 during the previous year). Any data breach is a matter which the DPO takes seriously but in terms of numbers, this needs to be considered in the context of the many millions of interactions and transactions involving the processing of personal information entailed in the delivery of all Council services.
- 3.2.4 The split of data breaches by Service is illustrated below:-



3.2.5 The nature of the data breaches was as follows: -



3.2.6 Many of the breaches in the year, particularly email error and unauthorised disclosure breaches, are attributable to time pressures and unfamiliarity with new ways of working and the associated technology, all brought about by the pandemic.

3.2.7 Almost all of the breaches were reported promptly to the DPO. In some cases, however, there were delays in providing the DPO with additional information or taking remedial action as quickly as requested by the DPO.

3.2.8 The DPO is satisfied that, in the main, where breaches have been identified, the relevant area has been keen to engage with the DPO to amend and improve practice.

- 3.2.9 Of the 146 breaches, the DPO considered seven required to be reported to the Commissioner's Office (ICO). This was based on an assessment of the likely level of risk to the individuals arising from the breach in each case.
- 3.2.10 For five of the breaches reported, the ICO considered that the actions taken by the Council in response to the breaches were appropriate and did not require any further action. For one of the breaches, the ICO did require further actions; these have been completed. The ICO has not yet concluded its consideration of the most recent breach.
- 3.2.11 Three of these breaches were due to email errors, three to unauthorised disclosure of information and one to the loss of personal data.
- 3.2.12 It would appear that employees across the organisation understand breaches caused by email error and through other unauthorised disclosure. The DPO is confident that all significant data breaches of this type were reported during the year. The DPO is aware, however, that the other types of data breach are less well understood and will continue to provide advice and guidance about breaches and breach reporting.

3.3 Data Subject Requests

- 3.3.1 The GDPR gives data subjects a number of specific rights. Requests to exercise these rights have to be responded to within 1 month (interpreted by the Council as 28 calendar days). The DPO has responsibility for dealing with requests to exercise data subject rights received by the Council.
- 3.3.2 Between 1 April 2019 and 31 March 2020, the Council received 137 requests for access to personal information, of which:-
- 16 are still in progress
 - 37 are on hold awaiting further information from the requester (normally proof of identity and often never provided)
 - 84 have been completed
- 3.3.3 Of the 84 requests that were processed
- 60 were completed within the statutory timescale (71%).
 - 24 were late (many of these requests were complex and involved the processing of a very large volume of information).
- 3.3.4 It is anticipated that a number of the requests still in progress will also be late.
- 3.3.5 It should be noted that processing requests for access to information were adversely affected by the Council's initial suspension of non-essential services at the beginning of 2020-21. The implementation of coronavirus measures across the Council has also slowed the availability of information from Service areas on occasion due to the involvement of staff in other essential activities.

3.3.6 The Council received 8 other requests: -

- 1 request for erasure
- 5 requests regarding processing
- 1 request regarding access to information
- 1 request for rectification

3.3.7 The Council also received 21 complaints, either directly from the data subjects or via the ICO, about the way personal data had been handled. All of the complaints were dealt with appropriately and timeously.

3.3.8 The DPO is satisfied that data subject requests are being handled appropriately within the resources available.

3.4 Training

3.4.1 The DPO team has not delivered any general training sessions this year, partly due to the circumstances and partly to workload. Training has been provided for individual teams, when requested.

3.4.2 During the year, a number of data protection related Inside News Bulletins have been published as well as several 'Spotlight' slots on the Council intranet. These have been used to highlight particular issues or the availability of new guidance.

3.4.3 The DPO considers that there appears to be a good level of general awareness across the Council and there is an apparent willingness for employees to clarify particular issues with the DPO team when they arise.

3.4.4 The Council does have basic data protection training in place, but the DPO is concerned at the level of uptake, particularly in relation to regular refresher training. It is the DPO team's intention to revise the current training module, when resources become available to do so, to make it more engaging and better able to influence general behaviour regarding the protection of personal data.

3.5 Documentation

3.5.1 There is a statutory requirement for the Council to be able to provide evidence of its compliance with the legislation at all times. This is achieved through a number of key pieces of documentation: -

- Data Protection Impact Assessments (DPIAs)
- Details of Processing Arrangements
- Privacy Notices
- Data Sharing Agreements (DSAs)

3.5.2 Responsibility for the creation of the first three all lie with the Council; the DPO has responsibility to assist and advise in their creation and to maintain registers of the documentation.

- 3.5.3 The pre-DPIA checklist, introduced last year to allow the early identification of projects that would require a full DPIA prior to the project going live, has proved successful and has been transferred to an online process. The DPO team is aware of a backlog of incomplete DPIAs and hopes to progress this during 2021-22, if resources are available within the DPO team.
- 3.5.4 The DPO team had also intended to review the Register of Processing Activities during the year, but this has not been possible due to resource availability in the DPO team.
- 3.5.5 In general, short privacy notices appear correctly wherever personal data is collected (i.e. electronic and physical forms). It is known that the matching detailed privacy notice does not exist in many cases. The DPO team had intended to try and address this situation during the year, but this proved impractical due to resource availability both within the DPO team and within Services who are required to provide the team with details of processes undertaken.
- 3.5.6 The DPO team continue to work on Data Sharing Agreements as and when the requirement is identified. These are specialised documents and tend to be lengthy and time-consuming pieces of work, often needing extensive consultation with the other organisations involved.
- 3.5.7 The DPO team's continuing inability to address these major issues of compliance for the Council is concerning.

3.6 Data Protection Officer

- 3.6.1 The role of the DPO is defined in the GDPR and the legislation places particular restrictions on both the DPO and the Council in terms of roles and responsibilities. The DPO, like the other Statutory Officers within the Council, has an independent and autonomous role and the Council cannot instruct the DPO how to undertake the role.
- 3.6.2 All formal advice provided by the DPO to the Council has been accepted to date.
- 3.6.3 The current postholder will retire during 2021-22. The Council has plans to address this.

3.7 DPO Resources

- 3.7.1 The legislation provides that adequate resources should be made available to the DPO to enable him to fulfil his role.
- 3.7.2 The Data Protection Officer function does not have a dedicated team but is supported from the Information Governance Team who have significant other responsibilities, in addition to data protection - freedom of information, information security, information and records management, and corporate complaints handling.

- 3.7.3 Within that team, the following have specialist knowledge and expertise in data protection
- the Information Governance Manager, who is the DPO
 - the Senior Information Governance Officer
 - Information Governance Officer (0.5 FTE)
- 3.7.4 Both officers can deputise for the DPO. The team is also assisted by one of the Council's solicitors.
- 3.7.5 As with many other teams across the organisation, resources are an issue as reflected in the outstanding activities identified above. Much of the section's business is responsive, with statutory timescales and constraints attached, which often means that to manage the associated risks, strategic and development activities are sacrificed.
- 3.7.6 The DPO considers that, whilst directing resources to "urgent" work has been adequate in the short-term, the continuing inability to deliver an appropriate level of training or review practice and policy, is likely to become a significant issue for the Council in the next 24 months.
- 3.7.7 In the reports for both 2018-19 and 2019-20, the DPO advised that the demands of the function could not be met within current resources but was mindful of the financial climate in which the organisation was operating. That being acknowledged, the DPO flagged the lack of resources to the Council as a risk.
- 3.7.8 The DPO considers that this situation has not changed and the lack of adequate resources for the DPO function is an increasing risk to the Council. This situation will be compounded by the retirement of the current postholder and the consequent loss of knowledge and experience.
- 3.7.9 The DPO considers that the function is currently being exercised appropriately and effectively.

3.8 Compliance Monitoring

- 3.8.1 This report has been based on the compliance information currently available to the DPO team.
- 3.8.2 It is planned to ensure a more robust assessment in the future by building additional questions into the Council's preparations for the Annual Governance Statement. These will provide appropriate evidence of the Council's compliance with the data protection legislation.

4. ISSUES

- 4.1 The DPO is aware of issues with a small number of both live and planned projects where the processing of personal data is likely to be considered unlawful without changes being made. In all these cases, the Council is dependent on suppliers acceding to the Council's wishes, but the suppliers

are proving reluctant to make the necessary changes. The DPO has highlighted these issues to the relevant officers.

- 4.2 There have been a number of occasions recently where data protection has not been considered relevant to projects and the DPO has not been involved appropriately until a relatively late stage. This inevitably results in delays to the project. These occurrences may be due to the circumstances of the last year or simply to a lack of awareness and understanding. The latter can only be addressed through a comprehensive awareness and training programme for the Council for data protection.
- 4.3 The situation for data protection regarding the UK's exit from the EU should be clarified shortly, with an 'adequacy decision' expected from the EU regarding the UK's data protection arrangements. This will mean that the Council's personal data can continue to be held and processed in the EU.
- 4.4 Following the UK exit from the EU, and also the court decision in 2020 regarding data transfers to the USA, the situation regarding the international transfer of information is now being monitored much more closely. The Council's standard contractual terms now take account of this and a risk-based approach is taken in each case. In one significant instance steps were taken during the year to re-locate information from the USA to the EU.

5. CONCLUSION AND RECOMMENDATIONS

- 5.1 Whilst, like all other local authorities and organisations undertaking a similar range of functions and volume of activities, the Council is not fully compliant with data protection legislation, the DPO is confident that a reasonable degree of compliance has been achieved and that progress towards increased compliance across all Services will continue.
- 5.2 It is recommended that the Committee:-
- (i) Note the DPOs assessment of the Council's compliance with the requirements of data protection legislation;
 - (ii) Scrutinise the work of the Council in terms of compliance with GDPR.

Author(s)

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Approved

Name	Designation	Date
Karen Donaldson	Chief Operating Officer	

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All Council Services can offer a telephone translation facility.

1. IMPLICATIONS, ASSESSMENTS, CONSULTATION AND COMMUNICATION

Strategic Implications	Yes / None
Community Plan / Single Outcome Agreement	n/a
Corporate Plan	n/a
Resource Implications	n/a
Financial	n/a
Workforce	n/a
Asset Management (land, property, IST)	n/a
Assessments	n/a
Equality Impact Assessment	n/a
Strategic Environmental Assessment	n/a
Sustainability (community, economic, environmental)	n/a
Legal and Governance	n/a
Risk	n/a
Consultation	n/a
Internal	n/a
External	n/a
Communication	n/a
Communications Plan	n/a

1. Strategic Implications

Not applicable.

2. Resource Implications

Not applicable.

3. Assessments

- Equality Impact Assessment – not applicable
- Strategic Environmental Assessment – not applicable
- Sustainability – not applicable
- Legal and Governance – not applicable
- Risk – not applicable

4. Consultation

Not applicable.

5. Communication

Not applicable.

4. BACKGROUND PAPERS

None.

5. APPENDICES

None.