

GOVERNANCE AND AUDIT COMMITTEE

Wednesday, 16th September, 2009

9.30 am

Darent Room, Sessions House, County Hall, Maidstone



AGENDA

GOVERNANCE AND AUDIT COMMITTEE

Wednesday, 16th September, 2009, at 9.30 am
Darent Room, Sessions House, County Hall, Maidstone

Ask for: **Andrew Tait**
Telephone: **01622 694342**

Tea/Coffee will be available 15 minutes before the start of the meeting

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

1. Substitutes
2. Declarations of Interest in items on the agenda for this meeting
3. Presentation on the Role and Terms of Reference for the Governance and Audit Committee
4. Minutes - 30 June 2009 (Pages 1 - 4)
5. Trading Activities Sub-Group Notes - 1 September 2009 (Pages 5 - 8)
6. External Audit Review of KCC's Commercial Operations (Pages 9 - 28)
7. 2008/09 Final Accounts and Annual Governance Report (Pages 29 - 50)
8. Insurance Activity and new Performance Indicators (Pages 51 - 60)
9. Internal Audit Benchmarking Results (Pages 61 - 64)
10. Internal Audit Progress Report (Pages 65 - 90)
11. Data Quality (Pages 91 - 106)
12. Ombudsman Complaints (Pages 107 - 126)
13. Other items which the Chairman decides are urgent

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Peter Sass
Head of Democratic Services and Local Leadership
(01622) 694002

Tuesday, 8 September 2009

Please note that any background documents referred to in the accompanying papers may be inspected by arrangement with the officer responsible for preparing the relevant report.

KENT COUNTY COUNCIL

GOVERNANCE AND AUDIT COMMITTEE

MINUTES of a meeting of the Governance and Audit Committee held in the Darent Room, Sessions House, County Hall, Maidstone on Tuesday, 30 June 2009.

PRESENT: Mr R W Bayford, Mr A R Chell, Mr C Hibberd, Mr J F London, Mr R L H Long, TD, Mr J Ozog (Substitute for Mr P W A Lake), Mr R J Parry, Mr T Prater, Mr R Tolputt and Mr C T Wells

ALSO PRESENT: Ms S J Carey and Mr J D Simmonds

OFFICERS: Ms L McMullan (Director of Finance), Mr N Vickers (Head of Financial Services), Mr A Wood (Head of Financial Management), Mrs C Head (Chief Accountant), Mrs D Mattingly (Corporate Risk & Insurance Manager), Miss J Purvis (Improvement & Engagement Officer), Ms J Dawson (Head of Audit and Risk), Mrs J Armstrong (Senior Audit Manager), Mr C Bainbridge (Director of Community Safety & Regulatory Services), Mr P Mulholland (Group Leader, Property and Commercial) and Mr A Tait (Democratic Services Officer)

UNRESTRICTED ITEMS

17. Election of Vice-Chairman

(Item 1)

Mr R Tolputt moved, seconded by Mr A R Chell that Mr M V Snelling be elected Vice-Chairman of the Committee.

Carried with no opposition.

18. Terms of Reference and dates of future meetings

(Item 2)

(1) The Committee noted its Terms of Reference subject to the following minor amendments:-

(f) the deletion of "Best Value Inspectorate" and its replacement by "the Audit Commission; and

(j) the deletion of "Strategic Director (Resources) and its replacement by "Director of Finance."

(2) The Committee noted the following future meeting dates:-

Wednesday, 16 September 2009;

Tuesday, 1 December 2009;

Friday, 30 April 2010;

Wednesday, 30 June 2010;

Wednesday, 15 September 2010; and

Tuesday, 30 November 2010.

- (3) RESOLVED that subject to (1) above, the Terms of Reference and dates of future meetings be noted.

19. Minutes - 4 March 2009 and 25 June 2009 (To Follow)

(Item 4)

- (1) The Minutes of the Committee meeting held on 25 June 2009 were tabled.
- (2) RESOLVED that the Minutes of the meetings held on 4 March 2009 and 25 June 2009 are correctly recorded and that they be signed by the Chairman.

20. Trading Activities Sub-Group (Oral report)

(Item 5)

- (1) The Terms of Reference of the Trading Activities Sub-Group had been circulated in the supplementary papers.
- (2) The Committee agreed to a minor amendment to the Terms of Reference of the Sub-Group so that its membership would be 2 Conservative and 1 Liberal Democrat Member with an invitation also being extended to the Labour Group to nominate one Member.
- (3) RESOLVED that subject to (2) above, the Terms of Reference and membership of the Trading Activities Sub-Group be agreed.

21. Draft Internal Audit Annual Report 2008/09

(Item 6)

- (1) The report has been circulated to Members with the supplementary papers.
- (2) RESOLVED that approval be given to the Head of Audit and Risk's Annual Report.

22. External Audit Progress Report (To Follow)

(Item 7)

RESOLVED that the report be noted.

23. Annual Audit Fee letter 2009/10

(Item 8)

RESOLVED that the report be noted.

24. Annual Inspection Fee letter 2009/10

(Item 9)

RESOLVED that the report be noted.

25. Treasury Management Annual Review

(Item 10)

(1) Mr J D Simmonds, Cabinet Member for Finance was present for this item pursuant to Committee Procedure Rule 2.24 and spoke.

(2) RESOLVED that the report be noted.

26. Annual Audit and Inspection Letter

(Item 11)

RESOLVED that the report be noted.

27. Draft Statement of Accounts 2008/09 (including Annual Governance Report)

(Item 12)

(1) The Audit Commission's Annual Governance Report had previously been circulated to the Committee.

(2) RESOLVED that:-

(a) approval be given to the Statement of Accounts for 2008/09 subject to the Chairman and Liberal Democrat Group Spokesman being informed of any changes which may be made to the Accounts following completion of the external audit; and

(b) the recommendations made in the Annual Governance Report be noted.

28. Ombudsman Complaints

(Item 13)

The Committee deferred consideration of this item to its next meeting.

29. Annual Report on surveillance activities carried out by KCC between January and December 2008

(Item 14)

RESOLVED to:-

(a) note the report;

(b) note the manner in which KCC's formal Policy and Protocol and Surveillance (including the acquisition of Communications data) has been used and followed during the previous year, including the type of criminal offences where surveillance has been used or communications data has been requested; and

(c) note the use of a periodic audit across KCC senior managers to ascertain activities which may fall within the ambit of the Regulation of Investigatory Powers Act 2000 (RIPA).

30. Strategic Risk Register

(Item 15)

RESOLVED that the revised Strategic Risk Register be noted.

31. Internal Audit Progress Report

(Item 16)

(1) The response of the Managing Director of Children, Families and Education to the findings of the audit on Cluster Funding had previously been circulated to the Committee.

(2) RESOLVED that the report be noted.

GOVERNANCE AND AUDIT COMMITTEE

TRADING ADVISORY SUB-GROUP

NOTES of a meeting of the Trading Advisory Sub-Group meeting held at County Hall, Maidstone on Tuesday, 1 September 2009.

PRESENT: Mr R L H Long (Chairman), Mr T Prater and Mr C T Wells.

IN ATTENDANCE: Mr K Harlock (Director of Commercial Services), Mr N Vickers (Head of Financial Services), Mr A Rotolo (Legal Services) and Mr A Tait (Democratic Services).

ALSO PRESENT were Mr G Brown and Mr J Jacobs from the Audit Commission.

1) Terms of Reference (Item 1)

The Sub-Group noted its Terms of Reference as set out below: -

“To ensure that the trading activities of the Council are run properly, transparently and fairly.

Specifically:

- 1. Monitor the financial performance and reporting of all trading accounts and all limited companies owned in whole or in part or controlled by KCC.*
- 2. Receive the annual business plans and annual financial accounts of any KCC limited companies.*
- 3. Oversee the establishment of new limited companies through examination of the business case before the company commences trading and make recommendations to the appropriate Cabinet Member.*
- 4. Monitor trading and commercial activities being undertaken by the Council to ensure that they have the right structure.*
- 5. Monitor adherence to the appropriate legal, regulatory and accounting frameworks governing local authority trading activities.”*

The Sub-Group discussed the overarching objective, particularly in respect of the meaning of the word “fairly.” The intention of the Committee had been to achieve what was reasonable within the market place, but it was considered that thought should be given as to whether there needed to be greater clarity in defining this particular word or indeed, whether the over-arching objective was needed at all.

The Chairman confirmed that it was open to members to raise this matter at the Governance and Audit Committee meeting on 16 September.

2. Audit Commission Review of Commercial Operations (Item 2)

The Sub-Group noted that the final recommendation set out in paragraph 2.1 of the Director of Finance's report should read:-

“The Council should evaluate opportunities to address the concerns expressed by some parts of the public about access to information in respect of its commercial operations, subject to the Council's consideration of commercial sensitivity.”

The Audit Commission representatives introduced the report by saying that that the brief for this work had been agreed in December 2008 but that its conclusion had been delayed from the original target date of March/April 2009 to July. They confirmed that they had received full co-operation from KCC staff throughout the process.

Mr Wells referred to paragraph 11 of the main report and asked why Commercial Services paid interest on a nominal amount of £12 million to the Council annually. Mr Vickers replied that this was an arrangement that had been made many years earlier, before Mr Harlock had been in post. The Sub-Group requested a full explanation in time for its next meeting.

In response to a question from Mr Wells, the Audit Commission representatives said that although Commercial Services had to price its contracts in order to achieve a return, there was no requirement to achieve the same return as a private business. It was, though, essential that no cross-subsidisation took place which enabled Commercial Services aim for a lower return.

Mr Harlock said that Kent Top Temps' turnover figure of £14.4 million set out on page 3 of the Audit Commission's report should be understood as an all inclusive figure. Some fifty percent of the turnover was contracted to other agencies which attracted only a very small percentage from this brokerage.

Mr Harlock commented that Kent Top Temps' final profit of £0.26 million for the year 2008/09 was the figure that had arisen after *all* interest charges and expenses had been accounted for. This figure did not necessarily reflect the growth in value of the business itself.

The Chairman asked whether Commercial Services should be measured by return on capital rather than turnover. Mr Harlock agreed to bring this forward.

Mr Wells and Mr Prater both asked whether the proposed action (for Internal Audit to provide an independent review of Council contracts won by Commercial Services or its subsidiaries) was the best way to meet the Recommendation 3. Mr Brown said that the Audit Commission was satisfied

that Internal Audit was independent within KCC. It was a matter for KCC to decide whether in individual cases it would be more suitable for a review to be carried out by an external body.

Mr Vickers said that if someone were minded to criticise the lack of independence of the reviewing body, they would always be able to find grounds to do so even in the event that an external organisation had carried it out. This was because this organisation would still be working to a KCC contract. He nevertheless understood the concern and would draw it to the Director of Finance's attention.

The Sub-Group discussed whether Recommendation 3 should be redrafted to clarify when it would be appropriate to appoint an external reviewer. It was agreed that if such a redraft were to happen, it would be necessary to ensure that it did not achieve the opposite effect to that intended: namely that an external reviewer was not appointed when there seemed to be a good reason to do so.

The Sub-Group agreed that the proposed actions for Recommendation 6 should be amended to read "...the Council will expand the level of disclosure/narrative up to the point where further information would compromise *proper* commercial sensitivity."

The Sub-Group also discussed whether to invite a representative from the business community to sit on a permanent basis (either as a full member or as a permanent attendee). The Clerk advised that it was open to the Sub-Group to invite people to speak to it. However, making a permanent outside appointment or inviting a regular attendee would require a decision by the Governance and Audit Committee.

3) Existing Trading Activity (Item 3)

The Sub-Group noted that the heading on page 13 under "Trading Operations 2009" should read "Income" rather than "Turnover."

The Sub-Group decided that it would like to have a more detailed discussion at its next meeting on the basis of figures which separated out internal and external trading.

4) Proposed Annual Work Plan (Item 4)

The Sub – Group agreed the proposed work plan as a basis from which its more detailed work would be identified.

5) Other Business (Item 5)

Mr Rotolo informed the Group that following a legal case involving the LB of Brent and the insurance mutual established by a Group of London Boroughs he was instructing external counsel to review all of KCC's trading activities.

6) Items for next agenda (Item 6)

The Sub-Committee agreed to the three items proposed:

- a) Draft protocol relating to companies in which KCC has an interest.
- b) Review of the legal status of KCC trading activities post L.A.M.L (see 5 above)
- c) Review of KCC's limited companies' financial accounts.

7) Date of next meeting (Item 7)

Monday, 23 November 2009 at 2.00pm.

By: Lynda McMullan – Director of Finance
To: Governance and Audit Committee - 16 September 2009
Subject: **AUDIT COMMISSION REVIEW OF COMMERCIAL OPERATIONS**
Classification: Unrestricted

Summary: The Audit Commission was commissioned by Kent County Council to independently review the integrity of its trading activity. This was in response to the criticism made by elements of the business community.

The review has concluded that the Council's trading activity is driven by a requirement to deliver competitively and has been managed in line with all legal requirements, with robust costing methodology. No evidence of cross subsidisation was identified.

Subject to the requirements of commercial sensitivity, the Council should seek to evaluate opportunities to provide more information about these activities.

FOR INFORMATION

1. INTRODUCTION AND BACKGROUND

- 1.1 Kent County Council has successfully operated a Commercial Services operation since the 1960s. Over the years new business has been added, in response to the need to deliver value for money for Kent residents.
- 1.2 This has inevitably led to some tensions within certain business sectors, who have felt that unfair advantage has been given to this operation. This is despite the fact that some 97% of the Council's supplies being directly provided by the private and other sectors.
- 1.3 This has led to a number of internal and external reviews over the years, most recently an internal report presented to Governance and Audit Committee in September 2008. One of the key recommendations of this report was the establishment of this sub committee (appendix A details all the recommendations for information).

- 1.4 In addition to these recommendations, the Council also requested the Audit Commission undertake its own internal review of its trading activities as part of its 2008/09 audit plan. Specifically, the Council wanted to ensure the Audit Commission understood the specific business concerns being raised and responded to these in an independent report.
- 1.5 This report has now been completed and was reported to the Director of Finance on 4th August 2009. This meeting is the first opportunity for Members to review its findings before it is reported to the full Governance and Audit Committee on 16 September 2009.

2. REPORT CONCLUSIONS AND RECOMMENDATIONS

2.1 The Audit Commission made 5 main conclusions to this extensive review:

- the Council's commercial operations are structured in accordance with statute. Commercial Services and the Council's subsidiaries understand the limits to their powers and act within them;
- the Council has a robust methodology for allocating its costs incurred on behalf of its commercial undertakings to the business units operated by Commercial Services directorate and the Council's own subsidiaries;
- we identified no evidence of any financial support or cross-subsidisation of the commercial operations by the Council that gives any competitive advantage;
- the commercial operations are driven by a need to supply goods and services at competitive prices to both the public and private sectors and to both reduce the Council's costs and make surpluses and profits for the Council; and
- the Council should evaluate opportunities to address the concerns expressed by the some parts of the public about access to information in respect of its commercial operations, subject to the Council's consideration of maintaining.

2.2 In total 8 detailed recommendations have been made by the Audit Commission. All of these were either in progress and / or are fully accepted by Kent Council Council. Details are found in Appendix B to this report.

3. RECOMMENDATIONS

The Governance and Audit Committee is asked to:

- (i) NOTE the contents of the Audit Commission's independent review.
- (ii) AGREE the proposed actions to meet the 8 recommendations.

Lynda McMullan
Director of Finance
Ext: 7000 4550

Appendix A

Extract from Minutes of Governance and Audit Committee held on 30 June 2008

Mr N J O Chard, the Cabinet Portfolio Holder for Finance was present for this item pursuant to Committee Procedure Rule 2.34 and responded to questions from Members of the Committee.

- (1) Mr D Smyth, Chairman of the Budget Informal Member Group moved the recommendation set out in Page 12:1 of the report. There were agreed.
- (2) RESOLVED that:-
 - (a) the positive direction of travel for Commercial Services be formally welcomed and that the Director of Commercial Services, Mr Kevin Harlock be congratulated for the achievement of his services;
 - (b) a Sub-Group of the Committee be set up to oversee the governance of the County Council's trading activities;
 - (c) Commercial Services be encouraged to post assessments for medium sized companies as a gesture of greater openness about the County Council's trading activities;
 - (d) the County Council's ability to support private companies (for example by offering its own preferential procurement arrangements to suppliers) within Kent be promoted; and
 - (e) new business cases be considered by the Sub-Group of the Committee prior to being submitted to the relevant Cabinet Member for approval.

Appendix B

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R1 The loan agreement with Kent Top Temps Limited should be re-drawn in the name of Kent County Council rather than Commercial Services.	Head of Financial Services / Head of Strategic Finance for Commercial Services	Review agreement prepared.	September 2009
R2 The Council should develop a dividends policy for its subsidiaries.	Head of Strategic Finance for Commercial Services	A dividend policy will be produced to formalise the decisions taken on dividends documented at each AGM.	December 2009
R3 Independent reviews of Council contracts won by Commercial Services or its subsidiaries should be introduced to ensure that tendering procedures are adhered to fully and that no subsidisation occurs or could be alleged.	Senior Audit Manager	Independent reviews of Council contracts won by Commercial Services (or its subsidiaries) will be reviewed by Internal Audit, and will be included in the Audit Plan, to ensure that tendering procedures are fully adhered to and that no subsidisation occurs or could be alleged. An audit will also be carried out annually to review basis for charging, e.g. oncosts etc.	With immediate effect and ongoing
R4 A business case should be prepared for Kent Top Travel as a trading operation. If new business activities are undertaken in future, business cases should be prepared.	Commercial Services Director	A full business case will be produced to supplement the business plan.	December 2009

Recommendations	Responsible Officer	Proposed Action	Agreed Completion Date
R5 The Council should pay invoices raised by its subsidiaries promptly.	Head of Financial Services / Head of Strategic Finance for Commercial Services	KTT's new on live system Bond is being implemented on a phased basis starting in the main problem area. Head of Financial Services and HoF Commercial Services will review level of outstanding invoices monthly.	September 2009
R6 The Council should seek to maximise disclosure of information in its commercial undertakings, subject to exercising proper commercial sensitivities, including expanding the disclosure of its commercial activities in its own annual financial statements.	Head of Financial Management	Subject to completed accounts on the commercial undertakings being available at an earlier date the Council will expand the level of disclosure/narrative up to the point where further information would compromise commercial sensitivity.	December 2009
R7 Statutory accounts for the Council's subsidiary companies should be prepared in long-form.	Commercial Services Director / Head of Strategic Finance for Commercial Services	The accounts for 2008-09 will be available in medium form with a move to providing additional information in for 2009-10, subject to the continuing exercising of proper control over commercially sensitive information. The benefits of producing an annual report covering all aspects of Commercial Services activities including those of KCC's subsidiary companies will be evaluated.	January 2010
R8 The benefits of the production of an annual report covering all Commercial Services activities including those of its subsidiary companies should be evaluated as part of its engagement with the local business community and other interested parties.			

Review of Commercial Operations

Kent County Council

Audit 2008/09

August 2009



Contents

Summary report	3
Main conclusions	6
Detailed report	7

Status of our reports

The Statement of Responsibilities of Auditors and Audited Bodies issued by the Audit Commission explains the respective responsibilities of auditors and of the audited body. Reports prepared by appointed auditors are addressed to non-executive directors/members or officers. They are prepared for the sole use of the audited body. Auditors accept no responsibility to:

- any director/member or officer in their individual capacity; or
- any third party.

Summary report

Introduction

- 1 There has been considerable interest in Kent County Council's commercial operations over a period of years and more recently this has culminated in a press campaign about the way the Council competes against the private sector following representations from a range of Kent-based businesses. We have received correspondence from a number of people who have concluded that the Council's commercial operations are successful because it provides direct financial support and/or subsidy to them. Particular public attention has been focussed on the activities of one of the Council's subsidiaries which is successfully providing temporary staff and winning passenger transport contracts to both the public and private sectors. Other activities, which are solely offered to the public sector including grounds maintenance and landscaping, have been subject to similar public interest.
- 2 This report sets out our audit approach to this review of the Council's commercial operations and our findings and conclusions.

Background

- 3 Kent County Council is a 4 star authority under CPA and is known as being innovative. As part of its ambition to ensure value for money for taxpayers it has set up a number of commercial operations including limited companies. This was partly in response to its concerns at escalating payments to the private sector for some services, such as the employment of temporary staff, specifically supply teachers and care workers.
- 4 The first of the Council's commercial operations were established in the 1960s when a Commercial Services division was created. Over the years new business units have been added. Commercial Services is effectively a directorate of Kent County Council and as at the June 2009 there are 7 business units and three limited companies, one of which is a dormant company. In total the directorate employs around 800 staff. The 7 business units produced an income of £327 million in 2008/09 which gave rise to the surplus reported in the Council's financial statements for 2008/09 of £6.4 million. Of the income, £39 million came from the Council, with £288 million from other public sector bodies. The two operational companies are wholly-owned and neither utilise private capital. They were set up with the intention of trading at a profit including with the private sector. Clear targets have been set to monitor their performance. These companies are:
 - Kent Top Temps Limited provides employment services and also trades under the name of Kent Top Travel which supplies transport services. It had a turnover of £14.4 million in the year to 31 March 2009 and reported a profit of £0.34 million before tax (£0.26 million after tax); and

- Kent County Facilities Limited which trades as Inside Out. It had a turnover of £0.8 million in the year to 31 March 2009 and reported a profit of £0.05 million before tax (£0.04 million after tax). We have given less attention to this company in this review as it is relatively new having started to operate in 2007 when it dealt with public sector business only but has since started to operate in the private sector also. The scale of its business is low and we have undertaken no detailed work in this area.
- 5 The Local Authorities (Goods and Services) Act 1970 provides the power for authorities to trade with other public bodies. There are few constraints on this power and it can be carried out without the creation of a specific department or division of a council to administer its activities under the Act. The decision of a council to use such a power is likely to mean that it will be competing for and winning business from other public sector bodies at the cost of the private sector. The landscape services unit operates within Commercial Services is a good example of this.
- 6 Sections 95 and 96 of the Local Government Act 2003 gave new powers and provided associated regulations to best value authorities, such as the Council, to trade through companies in activities that it has existing powers to undertake. This effectively extended a council's powers to trade 'where this helps to achieve best value and the delivery of public services'. The Act enables the Council to trade with private bodies and persons for profit.
- 7 In July 2004, the Office of the Deputy Prime Minister (now the Department for Communities and Local Government) issued guidance on the power contained in the Local Government Act 2003. The key requirements set were:
 - it must be done through a limited company which can be wholly owned or jointly owned with another entity;
 - it must recover the costs of any accommodation, goods, services, staff or any other thing it supplies to a company in pursuance of any agreement or arrangement to facilitate the exercise of the power; and
 - any assistance should be provided under a formal agreement with the company.
- 8 We understand that plans to expand the activities of either Commercial Services or its subsidiary companies are on hold because of the current economic climate and that it would be in conflict with the Council's 'Backing Kent Business' campaign which seeks to support and advise on a range of issues that affect both new and existing businesses.

Audit approach

9 Our audit approach was set out in a document presented to Members and officers of the Council in December 2008 and centres around establishing the completeness and reasonableness of the recharges made by the Council to its commercial operations and if there are any forms of other financial support. We have reviewed the legal background to the operation of the Council's commercial activities. We also met with a small number of private sector business representatives who had contacted the Audit Commission with specific concerns about the Council's commercial operations. We have also considered a number of other aspects of the Council's arrangements including:

- the structure of Commercial Services and the Council's subsidiary companies;
- how Commercial Services was originally financed when set up in the 1960s;
- how the subsidiary companies are financed;
- the basis on which Commercial Services and the Council's subsidiary companies occupy its premises at Kings Hill;
- how the Council and Commercial Services ensure that contract tendering rules are adhered to strictly in situations where Commercial Services is tendering to the Council;
- how Commercial Services prices its tenders to the public and private sector; and
- the process by which Kent Top Temps Limited established itself as a master vendor for the Council in respect of supply of temporary staff.

Main conclusions

10 Our conclusions reached from this review are:

- the Council's commercial operations are structured in accordance with statute. Commercial Services and the Council's subsidiaries understand the limits to their powers and act within them;
- the Council has a robust methodology for allocating its costs incurred on behalf of its commercial undertakings to the business units operated by Commercial Services directorate and the Council's own subsidiaries;
- we identified no evidence of any financial support or cross-subsidisation of the commercial operations by the Council that gives any competitive advantage;
- the commercial operations are driven by a need to supply goods and services at competitive prices to both the public and private sectors and to both reduce the Council's costs and make surpluses and profits for the Council; and
- the Council should evaluate opportunities to address the concerns expressed by the some parts of the public about access to information in respect of its commercial operations, subject to the Council's consideration of maintaining appropriate commercial confidentiality. The outcomes of this evaluation should be formally reported to members.

Detailed report

Main findings

Financial support to the commercial operations

- 11** Commercial Services has no actual financial borrowing although it pays interest on a nominal amount of £12 million to the Council annually. Interest at 1% above the London Inter-bank Bid (LIBID) rate is calculated on a daily basis on the £12 million less any positive cash balances held by Commercial Services. This arrangement resulted in an internal charge to Commercial Services by the Council of £0.23 million in 2008/09. It was charged before Commercial Services made its agreed contribution to the Council of £5.7 million for 2008/09. This shows that the Council is not providing financial subsidy to its Commercial Services division.
- 12** Kent Top Temps Limited and Inside Out have formal loan arrangements with the Council which are at the lower end of market rates for businesses of their size. We have considered whether the rates charged give competitive advantage to the companies and concluded that they do not. Kent Top Temps Limited has an arrangement with Commercial Services to borrow up to £1.2 million and at 31 March 2009 the amount borrowed was £0.74 million. The loan is repayable on demand and since April 2008, interest is charged at a rate of 5% above the Bank of England's base rate (from April 2007 it was at a rate of 3% above and previously 1% above). Working capital is also provided as required from Commercial Service's positive cash balances at a similar rate. In August 2007 a formal loan arrangement was set up between the Council and Inside Out which allows the company to borrow up to £0.4 million which is repayable on demand. With effect from April 2008 interest is charged at a rate of 3% above the Bank of England base rate (previously 1% above) and as at 31 March 2009 the amount of the outstanding balance under this arrangement was £179k.
- 13** As is required by the Local Government Act 2003, both of these loan arrangements are the subject of formal agreements. These have been seen and are signed and dated by authorised Council officers. Strictly, the Kent Top Temps Limited arrangement should be between the company and the Council rather than Commercial Services which is not an entity in its own right.
- 14** Kent Top Temps Limited has paid a dividend to the Council for the first time recently but there is no policy on dividend payment despite CLG guidance stating that councils who operate trading companies should expect to receive income from them either in the form of dividend or growth in the value of their shares in the company. In the case of this company it would appear to be the intention of the Council to maintain ownership given its role in seeking to regulate a local market which helps it reduce costs but no dividend policy existed despite the company now being four years old and it being profitable.

Recommendations	
R1	The loan agreement with Kent Top Temps Limited should be re-drawn in the name of Kent County Council rather than Commercial Services.
R2	The Council should develop a dividends policy for its subsidiaries.

Allocation of costs to commercial operations

15 The Council has a robust methodology for identifying, allocating and recharging central costs to Commercial Services and to its subsidiaries and it appears reasonable. Commercial Services occupies a large part of a substantial building in Gibson Drive, Kings Hill. The building consists of warehousing and office accommodation and is also used by the Council's subsidiaries. Commercial Services pays rent to the Council (£0.52 million for the year to 31 March 2009) for its occupation of the site and is responsible for all the usual costs including repairs and maintenance to the building and grounds it stands on. Commercial Services has formal agreements with the subsidiaries for use of the office space including charges for electricity, telephone, heating, rent, rates and other costs. The charge is reviewed annually. Council services that are supplied and relate directly to a business unit or subsidiary, such as legal advice, are recharged to that unit or subsidiary. Other costs incurred by the Council on behalf of Commercial Services are recharged to the units and subsidiaries on an appropriate basis, such as central IT costs being allocated on a per employee basis and premises costs according to space occupied. Our testing concluded that these costs are reasonable and comprehensive. Expenditure incurred by Commercial Services itself, such as its own finance, human resources and IT functions, are charged to the units and subsidiaries where attributable directly to them or are distributed across the units in proportion to their turnover where this is not the case. Commercial Services and within it, the individual business units and the Council's subsidiaries, are charged appropriately for the costs incurred elsewhere within the Council.

Kent Top Temps Limited

16 The operation of Kent Top Temps Limited's employment business has led to the Council making significant savings in employee costs as a result of influencing the temporary staff rates charged to the Council. The company's hourly charges for care workers supplied to the Council and other organisations have helped standardise rates at a level below that previously paid. There is anecdotal evidence that the company has also lowered specialist temporary staff costs such as those for supply teachers as they have been provided at the supply teacher pay scale rather than permanent teacher pay scale. This has allowed the Council to budget more accurately.

Detailed report

- 17** The Council acted lawfully in awarding master vendor status to Kent Top Temps Limited. In 2008 the company was awarded this status for the supply of temporary staff to the Council without the need to tender and this was based on legal advice on European Union procurement regulations obtained by Commercial Services from the Council's legal team (for which a fee was charged). We have reviewed this legal advice and have concluded that as the Council's external auditors we would not seek to challenge it. The main factors in determining the award were:
- the vast majority of Kent Top Temps Limited turnover is generated from its business with the Council and in total 90% of its income comes from the public sector;
 - there is no private capital in the company; and
 - the company is a wholly owned subsidiary of the Council.
- 18** Kent Top Temps Limited operates the master vendor arrangement fairly. It uses recognised industry standard systems and has acquired the Recruitment & Employment Confederation gold standard award which involves an external audit to ensure it complies with all relevant regulations. The arrangement has resulted in the Council requiring its managers to refer all requests for temporary staff to the company and if the company cannot supply from their own bank of staff it is required to use other suppliers to meet the Council's needs. When requests for staff are received and cannot be filled by the company they are released to external agencies simultaneously for them to bid to secure the business on an open basis.

Contract tendering arrangements

- 19** Overall the tender prices set by Commercial Services and the subsidiaries reflect the full costs incurred plus a surplus or profit element to cover the investment in the operations and the return required by the Council. We reviewed pricing across several areas of the commercial operations to ensure that they were fairly priced in terms of costs that would be incurred and there were no attempts to distort any local market and/or gain an unfair advantage over competitors.
- 20** The arrangements for Commercial Services bidding for Council-let contracts showed that there were appropriately controlled arrangements in place. For example, the tendering arrangements for bus services are managed by the Council's Corporate Procurement Unit which is located in County Hall, Maidstone. This creates a formal separation between the Kings Hill based Commercial Services and the parts of the Council that award contracts.

- 21** Some bus and coach operators have commented that Kent Top Travel offers such low prices that there must be some form of support or subsidisation by the Council but this has not been identified. We have no access to private sector tendering documents to allow us to undertake a full comparison but we selected and reviewed one Kent Top Travel tender, the Canterbury Park and Ride contract in 2008, and concluded that the tender was comprehensive, based on reasonable principles and priced to produce a margin albeit a small one. This contract was awarded to Kent Top Travel as the second lowest bidder after the lowest withdrew before starting the contract. Kent Top Travel hired vehicles from Kent Fleet, a unit within Commercial Services, for this contract. As part of our work we identified a clause within the contract hire documents that referred to the residual value of the vehicles not necessarily being a realistic value based upon projected market conditions. It stated that "*the residual value has been set on your [Kent Top Travel] advice in order to make the annual payments competitive for your operating customer contract.*" We have discussed this matter with officers who stated that it was an isolated incident which had been identified before our audit and that the officers involved in tender preparations have been advised that this should not be repeated. Evidence was also produced to show that the original residual values set by Kent Fleet were more conservative than the residual values that were likely to be achieved. We concluded that no overall financial advantage would be gained from the use of lower residual values as any shortfall in the residual value at the end of the hire period would have had to be paid by the company. However we also concluded that this incident could give a perception that Kent Top Travel was seeking an advantage from another part of the Council.
- 22** The Council sets an annual target for Commercial Services which requires a contribution to the Council from its operating income. This means that Commercial Services must set prices including a return in order to meet the target. This provides a key focus for Commercial Services management and discourages pricing for a loss. Benchmarking data is used to ensure that prices set are competitive. There is evidence that Commercial Services management is alert to the need to disengage from an activity if the returns expected cannot be achieved and demonstrates a clear focus on having to make a return for the Council on its activities.
- 23** The Council's subsidiaries are run as profit-making business operations and we found no evidence of pricing work unreasonably to win contracts. We looked specifically at the care division of Kent Top Temps Limited to assess if the costs of supplying temporary staff are truly reflected in its pricing. We concluded they are and confirmed that prices are also set to achieve a return.
- 24** Public interest in and comment on how the Council's commercial undertakings are achieving success is likely to continue. There are no routine arrangements for independent reviews of tenders submitted by the undertakings to provide assurances to both the Council and the public that the tenders submitted are based on expected costs, cover the required returns and are without subsidisation. Member and officer time is being diverted into dealing with queries raised on the Council's commercial undertakings. Internal audit could periodically review tenders submitted by Commercial Services to provide such assurance.

Detailed report

Recommendation

R3 Independent reviews of Council contracts won by Commercial Services or its subsidiaries should be introduced to ensure that tendering procedures are adhered to fully and that no subsidisation occurs or could be alleged.

Other issues arising from our review

25 The businesses cases to support the operation of the Council's subsidiaries vary in their depth. The CLG guidance requires councils to produce a detailed business case. Inside Out's is comprehensive and Kent Top Temps Limited's demonstrates a clear objective for the company in terms of its employment services operations but does not extend to its business services provided by Kent Top Travel.

Recommendation

R4 A business case should be prepared for Kent Top Travel as a trading operation. If new business activities are undertaken in future, business cases should be prepared.

26 The Council is not paying its invoices received from Kent Top Temps promptly. The accounts of Kent Top Temps Limited show that debtors amounted to £1.5 million at 31 March 2008 of which the largest debtor was the Council. The debtors listing at 31 January 2009 was £1.6 million, of which the Council owed its subsidiary more than £1.5 million and £1.2 million of this had been outstanding for between one and four months. Kent Top Temps Limited pays fees to Commercial Services finance staff to chase these debts and pays interest to the Council for the loan which supports its cash flow. This payment arrangement does not offer value for money in that there are costs in chasing debts that should be paid more promptly under the subsidiaries own terms of supply and the Council's payments policy. It would be more efficient for the Council to pay its invoices within the agreed terms so that no debt recovery or interest costs are incurred by Kent Top Temps Limited and that the need for a loan to support the company's cash flow might be reduced.

Recommendation

R5 The Council should pay invoices raised by its subsidiaries promptly.

27 The disclosure of commercial activities in the Council's annual financial statements is in line with statutory requirements but other councils with significant commercial operations disclose more information. This applies to activities under both the Local Authority (Goods and Services) Act 1970 and information on subsidiaries created under the Local Government Act 2003. The provision of more information could result in improved engagement of readers and help address any suggestions of secrecy in the way it operates commercially.

28 The statutory accounts of Kent Top Temps Limited conform to the statutory requirements of the Companies Acts but contain limited information having been prepared in an abbreviated format. The Council as owner of the company can elect to prepare the accounts in a longer form containing more detail but this has not been done. This has given the impression to a number of representatives from the local business community that the Council is seeking to hide information and they have expressed frustration in funding the Council as local council taxpayers but cannot get access fully to how it is being used. The representatives have also sought to obtain information from the Council as part of the formal inspection period associated with the external audit of the Council's own accounts and through the Freedom of Information Act powers but the Council has adopted a general policy not to disclose information unless there is a specific legal requirement to do so on the grounds of commercial sensitivity. The Council has stated that it has agreed to a longer-form of financial accounts for Kent Top Temps Limited and Inside Out, although this alone might not satisfy all interested business representatives.

Recommendations	
R6	The Council should seek to maximise disclosure of information on its commercial undertakings, subject to exercising proper commercial sensitivities, including expanding the disclosure of its commercial activities in its own annual financial statements.
R7	Statutory accounts for the Council's subsidiary companies should be prepared in long-form.
R8	The benefits of the production of an annual report covering all Commercial Services activities including those of its subsidiary companies should be evaluated as part of its engagement with the local business community and other interested parties.

The Audit Commission

The Audit Commission is an independent watchdog, driving economy, efficiency and effectiveness in local public services to deliver better outcomes for everyone.

Our work across local government, health, housing, community safety and fire and rescue services means that we have a unique perspective. We promote value for money for taxpayers, auditing the £200 billion spent by 11,000 local public bodies.

As a force for improvement, we work in partnership to assess local public services and make practical recommendations for promoting a better quality of life for local people.

Copies of this report

If you require further copies of this report, or a copy in large print, in Braille, on tape, or in a language other than English, please call 0844 798 7070.

© Audit Commission 2009

For further information on the work of the Commission please contact:

Audit Commission, 1st Floor, Millbank Tower, Millbank, London SW1P 4HQ

Tel: 0844 798 1212 Fax: 0844 798 2945 Textphone (minicom): 0844 798 2946

www.audit-commission.gov.uk

This page is intentionally left blank

By: The Director of Finance – Lynda McMullan
Cabinet Member for Finance – John Simmonds

To: Governance and Audit Committee – 16 September 2009

Subject: 2008/09 Final Accounts and Annual Governance Report

Classification: Unrestricted

1. Annual Governance Report/ 2008- 09 Statement of Accounts

1.1 The Audit Commission issued their Annual Governance Report on the 2008/09 Statement of Accounts at the June Governance and Audit Committee. Subsequent to this meeting there were a small number of items found during the remainder of the audit which were reported to the Chairman of this Committee prior to him signing the accounts. These items are listed in the revised Annual Governance Report presented at this meeting. The accounts were not amended as a result of these findings as they were neither significant nor material.

The Accounts were signed by the Audit Commission on the 31st July and are currently in the process of being published.

Cath Head
Chief Accountant
Ext: 1135

Lynda McMullan
Director of Finance
Ext: 4550

This page is intentionally left blank

Annual Governance Report (updated)

Kent County Council

Audit 2008/09

August 2009

Contents

Key messages	3
Financial statements	4
Value for money conclusion	15
Independence	19
Appendix 1 – Value for money criteria	21
Appendix 2 – Action Plan	22

Key messages

This report updates the Annual Governance Report that was presented to the Governance and Audit Committee on 30 June 2009 for issues that arose in finalising the audit opinion on the 2008/09 financial statements.

I issued an unqualified opinion on the Council's financial statements on 31 July 2009. I also certified that the Council has established appropriate arrangements for securing economy, efficiency and effectiveness in the use of its resources in 2008/09. This is known as the value for money conclusion.

Financial statements

- 1 On 30 June 2009, I reported the results of my opinion audit to the Governance & Audit Committee. At that time there were a number of items that were still being reviewed. As agreed, I wrote to the Committee Chairman with the results of these outstanding matters, inviting him on behalf of the Committee to request officers to amend the accounts for a small number of errors identified. Given the nature and size of the errors, the Council decided not to amend the accounts that were approved by the Governance & Audit Committee on the 30th June. For completeness, I now report all the issues arising from the audit of the financial statements. Issues not previously raised in my report of 30 June, are shown in italics in this report for easy identification.
- 2 The financial statements were submitted for audit on the 5 June 2009 and were of a good quality. The audit identified a small number of errors and omissions that officers corrected within the accounts presented for members' approval on 30 June 2009. In my view, none of these need to be brought to your attention to assist you to fulfil your governance responsibilities. Some errors and omissions were identified that have not been amended for. I am satisfied that these are not material to the Council's financial statements and issued an unqualified audit opinion on 31 July 2009.

Value for money conclusion

- 3 Based on the results of my work undertaken in relation to the Council's arrangements to secure economy, efficiency and effectiveness in the use of its resources, I issued an unqualified value for money conclusion for the year ending 31 March 2009 on 31 July 2009.

Next steps

- 4 I ask the Governance and Audit Committee to note the matters raised in this updated report and the action plan at Appendix 2.

Financial statements

The financial statements and annual governance statement are important means by which the Council accounts for its stewardship of public funds. As the Governance & Audit Committee you have final responsibility for these statements. It was important that you considered my findings before you adopted the financial statements and the annual governance statement and that you are made aware of any additional findings from the final stages audit of the statements.

- 5** This report outlines all the key findings of our work on the Council's financial statements for the year ended 31 March 2009. It includes any findings in respect of the superannuation fund accounts which are contained within the Council's financial statements. We presented an abridged version of this report which focussed specifically on the Fund's accounts to the Superannuation Fund Committee on 3 July 2009.
- 6** The draft statement of accounts was presented to us for audit on the 5 June 2009, five weeks after the end of the financial year which is a positive achievement. Officers were responsive to audit enquiries which allowed us to complete the majority of our planned work by 30 June 2009 when the Governance & Audit Committee approved the accounts. I stated in my report to that Committee meeting that given the tight timelines there were some matters that remained to be completed and I set out an update on these in my letter to the Chairman of the Committee on 20 July 2009. The Chairman provided me with a letter of representation in line with our standard audit procedures and I gave my audit opinion on 31 July 2009.
- 7** In line with auditing standards we are required to report to you our views on accounting practices and financial reporting, errors in the financial statements and weaknesses in internal control.
- 8** In the earlier version of this report I set out the key areas of judgement and audit risk together with the audit findings up to 30 June 2009. These are reproduced again for the Committee's information in Table 1 below and the matters contained in my letter to the Chairman of the Committee have been added.

Table 1 Key areas of judgement and audit risk

Potential issue or risk	Finding
<p>For a number of the material financial systems there is no effective control over the year end cut off. This is not an unexpected situation but does mean that we have to carry out specific audit testing for cut off in those systems.</p>	<p>Testing of a sample of income and expenditure recorded at the year end identified a small number of errors. These have been corrected by officers in the accounts presented for approval.</p> <p>We considered the risk that further errors may exist in the remainder of the population not tested. Applying the error rate to the population gave an estimated error of £939,000 understatement of both expenditure within the income and expenditure account, and creditors on the balance sheet.</p>
<p>Ongoing problems from 2007/08 were identified in the related systems Swift and TDM.</p> <p>The adult social care packages for individuals are detailed on the SWIFT database which establishes the cost of care packages and is also used to authorise electronic invoices paid via the domiciliary care payment system. There are ongoing discrepancies between the SWIFT and TDM records for individuals' care packages.</p>	<p>The Council undertook a significant amount of work on the Swift and TDM systems to understand the differences in the systems.</p> <p>We reviewed this work and although we are unable to confirm fully the entries originating from these systems within the financial statements 2008/09 we concluded that the entries within the accounts are not materially misstated.</p>
<p>Impairment of investments: Accounting practice requires the value of assets in the balance sheet to be reviewed regularly to ensure that they are not overstated in light of known events. The Council has investments in Icelandic Banks that following their collapse it may not realise. We will review how the Council has reflected the impairment of its investments against accountancy advice from CIPFA.</p>	<p>We reviewed the accounting treatment to appropriately reflect the value of investments in Icelandic banks recorded on the balance sheet. We confirmed that the accounting follows guidance.</p> <p>Since the accounts were produced for audit there has been a court decision in Iceland that allows depositors with Landsbanki and Glitnir to claim interest up to 22 April 2009. This has not been reflected in the accounts presented for approval.</p>

Potential issue or risk	Finding
	<p>The income not accounted for is approximately £640,000.</p> <p>This situation was fluid and we assessed all known information before issuing the audit opinion to ensure that there was not a material misstatement in the accounts.</p>
<p>The Council changed the date of the Kings Hill valuation in accordance with the Statement of Recommended Practice (SoRP) from 31 March to 1 April. However, there has not been any consideration of a reduction in the value of the estate due to current economic circumstances.</p>	<p>The Council had assessed the impact of the economic downturn on the value of Kings Hill site. The value may have reduced by £773,000. Given the relatively small reduction, this is not reflected in the accounts.</p> <p>The Audit Commission appointed an independent valuer, to provide a basis for auditors to assess the reasonableness of councils' assumptions. Whilst the downward trend from the Commission's valuer is greater than that assumed by the Council, the difference is not material.</p>
<p>The SoRP remodels the Fixed Asset note to the accounts. This has led to a change in the treatment of impairments.</p>	<p>We have confirmed that the treatment adopted by the Council is in line with recommended practice.</p>
<p>There are changes to the SoRP requirements in relation to accounting for revenue expenditure funded from capital under statute. This will be a change in accounting policy and gives rise to risks in both treatment and presentation of material amounts.</p>	<p>We have confirmed that the SoRP changes have been correctly implemented by the Council.</p>
<p>The SoRP allows authorities to account for the Performance Reward Grant dependent on their achievement of targets. This could lead to incorrect treatment.</p>	<p>We reviewed the accounting treatment and have confirmed that it is appropriate in our view.</p>
<p>Review of the accounts of East Kent Opportunities LLP (EKO) and the impact on the Council's accounts.</p>	<p><i>In our view, the land sold to EKO should not remain on the KCC's balance sheet as a fixed asset as at</i></p>

Financial statements

Potential issue or risk	Finding
<p><i>The Council sold some land to EKO, which is a joint arrangement (50:50 ownership) between Kent County Council (KCC) and Thanet DC. KCC built a spine road (£4.368 million cost) to allow access to the development site.</i></p> <p><i>A management agreement states that EKO will reimburse the cost of the road within two years of signing the agreement.</i></p> <p><i>As a separate entity, EKO has to prepare its own accounts. Under accounting rules, as a joint owner, KCC has to recognise its share of the balances and transactions of EKO in its own accounts.</i></p> <p><i>Our audit work identified several issues relating to:</i></p> <ul style="list-style-type: none"> <i>• the accounting treatment of the sale to EKO of land owned by the KCC;</i> <i>• the lack of recognition of EKO's liability to contribute to the cost of the Eurokent spine road within KCC's financial statements;</i> <i>• the lack of recognition of EKO's transactions and balances in KCC's accounts and</i> <i>• the late preparation of EKO's own accounts.</i> 	<p><i>31 March 2009. As a result, fixed assets are overstated by £5.62 million and the income and expenditure account and Statement of Movement on General Fund Balance do not reflect the disposal of the land.</i></p> <p><i>KCC's accounts do not include as a debtor, the £4.37 million due from EKO in respect of the costs of construction of the spine road.</i></p> <p><i>EKO's draft accounts (still to be audited by its own independent auditor) show assets (of £10.2 million), reserves and liabilities. Currently the accounts do not include a liability of £4.37 million (as above) due to KCC.</i></p> <p><i>Recognising KCC's share of EKO's balances and transactions in KCC's accounts would change its balance sheet and Income & Expenditure account in a number of areas. A detailed schedule of the accounting entries has been shared with KCC.</i></p> <p><i>Some of the issues noted above are offsetting. For example, writing out the fixed asset (£5.62 million) would be offset by recording the KCC's share of EKO's fixed assets, resulting in fixed assets reducing by £0.6 million. Correcting for all of the above, would not have a material impact on KCC's accounts.</i></p> <p><i>This is an unadjusted error.</i></p>
<p>Foundation schools have remained on the Council's balance sheet after achieving foundation status.</p>	<p>We confirmed that the foundation schools are correctly included in the balance sheet as the risks and rewards remain with the Council.</p>
<p>Receipt of direct confirmation of year end investment balances from external counterparties.</p>	<p>We have now completed this work and confirmed the existence of investments held by the Council at the balance sheet date.</p>
<p><i>Review of all related party</i></p>	<p><i>The Council's arrangement for</i></p>

Potential issue or risk	Finding
<i>transaction declarations from officers and members.</i>	<i>obtaining related party declarations from members needs strengthening for the future. At the time of writing there are 3 outstanding from members of which two relate to members who are unable to make declarations as they are on long-term sickness absence. The completion of declarations is an important aspect of the Council's governance arrangements.</i>
<i>Review of the PFI scheme assumptions and accounting entries.</i>	<i>The off-balance sheet accounting treatment is appropriate for all schemes in our view but we are seeking specific confirmation in the letter of representation that the Council's assessment of the risk of lower pupil numbers at Swan Valley School does not affect the off-balance sheet treatment.</i>
<p><i>Review of reconciliation of directorate bank accounts</i></p> <p><i>Our work on these accounts included a review of Kent Adult Social Services' bank account which is used by Social Services for the collection of direct debit payments relating to clients' contributions towards care packages. The Council was due to receive payments from clients in March 2009 and £1.9 million was received in that month.</i></p>	<p><i>The payments received were not recorded in the financial statements such that debtors in the balance sheet are overstated by £1.9 million and cash overdrawn is overstated by a similar amount.</i></p> <p><i>This is an unadjusted error.</i></p>
<p><i>We test the existence and confirm ownership of fixed assets recorded in the balance sheet.</i></p> <p><i>This work has been completed and there is one matter arising which relates to land at Cradlebridge Farm, Ashford.</i></p>	<p><i>In our view, this is incorrectly classified as non-operational land with a value of £2.9 million.</i></p> <p><i>We have established that the land is valued at £1.2 million and £1 million has been spent as part of the construction of a depot which is now</i></p>

Financial statements

Potential issue or risk	Finding
	<p><i>operational. This means that non-operational land is overstated by £2.9 million and operational assets are understated by £2.2 million. Assets under construction are understated by £0.7 million as costs incurred in the continuing development of other depots.</i></p> <p><i>These items do not affect the total of fixed assets in the Council's balance sheet but the disclosures in Note 17 – Movements on Fixed Assets are not correctly stated.</i></p> <p><i>This is an unadjusted error.</i></p>

Recommendation

R1 The Council should continue its work to resolve the differences between the adult social care systems.

Kent Superannuation Fund

- 9** In February 2009, we reported the planned audit testing for the superannuation fund accounts to the Superannuation Fund Committee. Set out below for members' information is Table 2 which summarises the results against the planned testing. Our overall conclusion is that the results were satisfactory.

Table 2 Superannuation Fund - key areas of judgement and audit risk

Issue or risk	Finding
Compliance with the Statement of Recommended Practice relating to the Superannuation Fund's financial statements.	The accounts submitted for audit comply with recommended practice.
Collection of contributions, payment of benefits and transfers in and out of the Superannuation Fund.	Our audit work confirmed that these transactions are completely and accurately included in the financial statements.
Investment portfolio There is a change in the SoRP requirement about valuing the investment portfolio. We need to ensure this has been reflected in the accounts.	We concluded that the net assets of the Superannuation Fund are fairly stated in the financial statements.
Impairment of investments Some of the Superannuation Fund cash was invested in Icelandic banks. We need to consider how this is now reflected in the superannuation fund accounts given the collapse of these banks.	We reviewed the accounting treatment to appropriately reflect the value of investments in Icelandic banks recorded on the balance sheet. We have confirmed that the accounting follows guidance. We considered how the Council ensures that investment income based on cash from the Superannuation Fund and the Council is accounted for.
Investment management fees: We will seek to ensure these are completely and accurately recorded.	We confirmed the costs included in the accounts.
Fraud and error We have to remain alert to the potential of fraud and error in the accounts.	There are no matters to bring to your attention.
Annual Report	We reviewed the Annual Report and there are no issues to bring to your attention.

Financial statements

Issue or risk	Finding
<p><i>Superannuation Fund – Interest on investments</i></p> <p><i>The Council pools its own excess cash and that of the fund when making investments. Following a review the Council identified that the superannuation fund had been credited with interest at the London Inter bank Bid Rate (LIBID) rate rather than the actual rate of interest earned for its cash invested in 2007/08. It has corrected this in 2008/09. Interest at actual rate was calculated from September 2007 when there was a significant change in policy to increase cash holdings. In the 2008/09 accounts the superannuation fund has been credited with the difference between actual interest rates on investments and LIBID, increasing income to the superannuation fund by £177k for 2007/08 and £1.3m for 2008/09.</i></p>	<p><i>The Council states that prior to September 2007 any excess short term Superannuation Fund cash holding was invested by the Council along with its own cash. Under this arrangement, the Council bore the risk for the money deposited. In September 2007, given the change in policy to hold cash to invest, the Council states that it could not bear this risk and therefore acted as a ‘fund manager’ for the Fund cash investment.</i></p> <p><i>As Council documentation does not clearly set out the distinct nature of these arrangements, I have considered the potential financial impact if the Council did not bear the risk of losing Superannuation Fund cash in the period 2002/03 to 2007/08 and should have paid interest at actual rate rather than LIBID. Under this situation, the Fund would have been credited with additional interest of £147k. This is not material to either the Council’s or the Fund financial statements.</i></p> <p><i>To avoid any unnecessary concerns by other interested parties, the Council has indicated that it will amend the accounts in the current year.</i></p>

Errors in the financial statements

- 10 The audit of the statements seeks to ensure that the statements are materially correct and present fairly a view of the financial transactions of the Council in 2008/09. Materiality is defined in auditing standards as "information is material if its omission or misstatement could influence the economic decisions of users taken on the basis of the financial statements. Materiality depends on the size of the item or error judged in the particular circumstances of its omission or misstatement.
- 11 Our materiality for the audit was set at £22.9 million for the Council's own statements and £2 million (Fund Account) and £20 million (Net Assets Statement) for the Superannuation Fund statements. We also set, in accordance with International Standards on Auditing (UK and Ireland), a threshold below which we judge any errors to be 'trivial' and do not seek any amendments to the accounts. The trivial threshold

was set at £229,000 for the Council's accounts and £20,000 and £200,000 respectively for the Fund.

- 12 During our audit we identified a small number of errors in the financial statements and reported these to management and a number of these have been corrected. None of these in my opinion need to be brought to your attention to assist you to fulfil your governance responsibilities. Unadjusted errors are set out within Tables 1 and 2 for your attention.

Material weaknesses in internal control

- 13 We have not identified any weakness in the design or operation of an internal control that might result in a material error in your financial statements of which you are not aware.
- 14 We have not provided a comprehensive statement of all weaknesses which may exist in internal control, or of all improvements which may be made. We have reported only those matters which have come to our attention because of the audit procedures we have performed.

Accounting practice and financial reporting

- 15 I consider the qualitative aspects of your financial reporting. Table 3 contains the issues I want to raise with you.

Table 3 Qualitative aspects of financial reporting

Issue	Finding
<p>Under ISA (UK&I) 550 'Related Parties' we are required to consider the adequacy of control activities over the authorisation and recording of related party transactions.</p>	<p>We identified that there were a small number of related party transactions that have not been disclosed in the accounts, including transferred land to East Kent Opportunities and movements in loans made to KTT and Inside Out and the interest received in return. Officers have amended the accounts for this.</p> <p>The Council's arrangements for obtaining declarations from members and senior officers over any related party transactions should be strengthened to make it clear that the returns cover not only the main accounts but the Superannuation Fund accounts as well.</p>
<p>The Council creates manual creditors in the MIDAS system in respect of planned projects within environment and regeneration directorate.</p>	<p>The MIDAS system contains a number of balances that have remained dormant since 2007 and before. The Council has undertaken a review of the system and identified a potential error in the accounts of £895,000 for these balances. We agree that this amount cannot be quantified without significant work by the directorate and confirm that as the uncertainty is below our materiality level we did not expect this to be undertaken before giving the opinion on the accounts. We recommend officers review the balances and dispose of dormant balances during 2009/10.</p>
<p>The Council's approach to capitalising expenditure needs to be reviewed for compliance with financial reporting standards.</p>	<p>Our sample testing of capital creditors in the Communities directorate identified that an element of the costs were not capital in nature and should have been treated as revenue expenditure. A detailed review of the contract confirmed that the value is £450,000 a year over five years so we can conclude that there could not be a material misstatement in that the uncertainty over the period of the contract would not exceed £1,000,000.</p> <p>We have not identified this issue in other directorates.</p>

Issue	Finding
Working papers supporting the statement of accounts should be sufficient to understand how the accounts have been constructed.	Last year, we identified some areas that working papers could be improved. Overall the working papers supporting the accounts were of an appropriate standard. As with last year, improvements could be made to the working papers with the use of narrative explanation and information sources.

Recommendations

- R2** The Council needs to improve the arrangements for making related party disclosures in respect of the Superannuation Fund Committee members.
- R3** The Council should review the dormant creditor balances within the MIDAS system and dispose of any inappropriate amounts
- R4** The Council should review the working papers to ensure they meet the best practice standards.

Other reporting issues

- 16** There are no other matters that we need bring to your attention.

Value for money conclusion

I am required to conclude whether the Council has put in place adequate corporate arrangements for securing economy, efficiency and effectiveness in its use of resources. This is known as the value for money conclusion. I certified that the Council had put in place adequate corporate arrangements for securing economy, efficiency and effectiveness in its use of its resources in 2008/09 on 31 July 2009.

Value for money conclusion

- 17** I assessed your arrangements to secure economy, efficiency and effectiveness in your use of resources against criteria specified by the Audit Commission and certified that the Council had adequate arrangements in place on 31 July 2009. My conclusions on each of the criteria are set out in Appendix 1.
- 18** I reached my conclusion based on the results of the following work:
- Use of resources assessment;
 - Review of commercial services;
 - Review of health inequalities;
 - Review of arrangements and practices in respect of staff severances.

Use of resources judgements

- 19** In forming my scored use of resources judgements, I have used the methodology set out by the Audit Commission. Judgements have been made for each key line of enquiry (KLOE) using the Commission's four point scale from 1 to 4, with 4 being the highest. Level 1 represents a failure to meet the minimum requirements which is the level set to score a 2. In undertaking my work I have taken into account, where appropriate, findings from previous use of resources assessments (updating these for any changes or improvements) and any other relevant audit work.
- 20** I have completed the use of resources assessment. The scores are not available for publication at the time of writing but I expect to be able to update the Committee verbally at its meeting on 16 September 2009 and summarise my findings in the annual audit letter presented to the Committee's meeting of 4 December 2009.

Independence

- 21** The Code of Audit Practice and the Audit Practices Board's (APB's) Ethical Standards with which auditors must comply require that auditors act, and are seen to act, with integrity, objectivity and independence.
- 22** We confirm that we comply with the APB's Ethical Standards, that we are independent and that our objectivity is not compromised.
- 23** We communicate to you:
- any relationships between us and the Kent County Council, and its senior management that might affect our objectivity and independence and any safeguards put in place;
 - total fees charged to you for audit and non-audit services; and
 - our arrangements to ensure independence and objectivity.
- 24** We have not identified any relationships that might affect our objectivity and independence.

Audit fees

- 25** We reported our fee proposals as part of the Audit Plan for 2008/09. The table below reports the outturn fee against that plan.

Table 4 Audit fees

	Plan 2008/09 £	Actual 2008/09 £
Total Audit Fees	354,020	354,020
Superannuation fund	55,600	55,600

- 26** The analysis above shows that we anticipate containing our audit fee within the totals you have already agreed.

Our arrangements to ensure independence and objectivity

- 27** We have comprehensive procedures to ensure independence and objectivity. These are outlined in Table 5.

Table 5 Arrangements to ensure independence and objectivity

Area	Arrangements
Independence policies	<p>Our policies and procedures ensure that professional staff or an immediate family member:</p> <ul style="list-style-type: none"> • do not hold a financial interest in any of our audit clients; • may not work on assignments if they have a financial interest in the client or a party to the transaction or if they have a beneficial interest in a trust holding a financial position in the client; and • may not enter into business relationships with UK audit clients or their affiliates. <p>Our procedures also cover the following topics and can be provided to you on request:</p> <ul style="list-style-type: none"> • the general requirement to carry out work independently and objectively; • safeguarding against potential conflicts of interest; • acceptance of additional (non-audit) work; • rotation of key staff; • other links with audited bodies; • secondments; • membership of audited bodies; • employment by audited bodies; • political activity; and • gifts and hospitality.
Code of Conduct	<p>The Code of Conduct forms part of the terms and conditions of all Audit Commission employees. The Code of Conduct states that staff have to comply with ethical guidance issued by their relevant professional bodies.</p>
Confidentiality	<p>All staff are required to sign an annual undertaking of confidentiality as a condition of employment.</p>

Appendix 1 – Value for money criteria

KLOE	Met
Managing Finances	
Planning for financial health	Yes
Understanding costs and achieving efficiencies	Yes
Financial reporting	Yes
Governing the business	
Commissioning and procurement	Yes
Use of information	Yes
Good governance	Yes
Risk management and internal control	Yes
Managing resources	
Natural resources	Yes
Strategic asset management	Yes

Appendix 2 – Action Plan

Page no.	Recommendation	Priority 1 = Low 2 = Med 3 = High	Responsibility	Agreed	Comments	Date
	Annual Governance Report 2008/09 - Recommendations					
	R1 The Council should continue its work to resolve the differences between the adult social care systems.	3	Michelle Goldsmith	Yes		
	R2 The Council needs to improve the arrangements for making related party disclosures in respect of the Superannuation Fund Committee members.	2	Nick Vickers	Yes		
	R3 The Council should review the dormant creditor balances within the MIDAS system and dispose of any inappropriate amounts.	2	Richard Hallet	Yes		
	R4 The Council should review the working papers to ensure they meet the best practice standards.	1	Cath Head	Yes		

This page is intentionally left blank

By: Richard Long - Chairman of Governance and Audit Committee
Lynda McMullan - Director of Finance

To: Governance & Audit Committee - 16 September 2009

Subject: **REPORT ON INSURANCE ACTIVITY AND NEW
PERFORMANCE INDICATORS**

Classification: Unrestricted

Summary This report provides an overview of funding of the Council's insurance programme, claims and performance

FOR INFORMATION

INTRODUCTION

1. This first annual report summarising insurance activity provides an overview of funding, claims and performance. Comparisons have been made with previous years where this provides a more comprehensive analysis.
2. This report also introduces new performance indicators for KCC, the Insurance function and external insurers.

INSURANCE FUNDING AND POLICIES

3. Where possible the financial risk associated with operational or commercial activities and schools has been transferred, protected and paid for through a combination of self insurance and a variety of policies arranged through external insurers. This has proven to be the most cost effective model.
4. Through external insurance policies a cap is placed on the amount that KCC will incur for any single claim received or claims as a whole within any year thereby providing improved financial stability. For example, any claim submitted by a third party will be financed from internal funds to a value of £50k under the Public Liability insurance policy thereafter all further costs will be met by the insurer which can, on occasion, be in excess of £1m.
5. Expenditure on insurance is managed through the Kent Insurance Fund. The Fund meets the annual cost of insurance (premiums, claims payments and administrative costs) and maintains reserves for outstanding claims known about and future liabilities that have not yet been incurred or reported to KCC.

6. The Kent Insurance Fund is financed by contributions from corporate funding, commercial activity centres, schools and investment income. A snapshot of the Fund in June 2009 (including forecasted income/expenditure in italics) is shown below:

Expenditure		Income	
Premiums paid to insurers	3,000,000	<i>Opening balance</i>	10,785,240
Adjusting fees	192,000	Contributions received from schools, Commercial Services etc	4,910,000
<i>Claims paid 09/10</i>	5,500,000	Corporate funding (directorates)	2,979,000
<i>Reserve for known claims</i>	9,890,000	<i>Recoveries from third parties</i>	330,500
Reserve for claims incurred but not reported	500,000	<i>Investment income</i>	450,000
Section costs*	650,000	<i>Other</i>	10,000
<i>Misc</i>	75,000		
Total	19,807,000		19,464,740

* includes staffing costs supporting shared services and Corporate Risk Management

7. The Fund currently appears in deficit by £342k.
8. The annual cost of the insurance programme is charged out across the Council and schools. PwC is currently looking at the methodology behind this process. This exercise will also address the level of funding required to avoid any future deficit.
9. The programme of insurance policies is periodically tendered. This exercise took place in late 2008. The main policies within the programme are Public Liability, Employers Liability, Property and Motor.
10. The main insurance programme was awarded to Zurich Municipal under a new five year Long Term Agreement entered into with effect from January 2009. Zurich Municipal is a well established insurer and is thought to underwrite around 60% of the local authority insurance market and has been the main insurer for KCC since 2002.
11. Minor policies were awarded to other insurers where increased value for money was demonstrated or the main insurer could not write the business. The tender process was handled through the Heath Lambert Group which is KCC's appointed insurance broker.
12. The tender process resulted in slightly improved cover and an overall premium saving of £481k in the first year alone.

13. Premium costs for 2009 are detailed below:

Policy	Premium cost	Excess levels per event
Public Liability	£858,341	£50k
Employers Liability	£243,750	£50k
Property	£1,083,430	£100k - £250k
Motor	£111,987	£100k
All other policies	£702,492	Various
Total	£3,000,000	-

The premium payable for any insurance policy is based upon KCC's risk profile, claims history and level of retained financial liability (excess).

14. As part of the recent tender exercise prospective insurers were asked to provide various cost models based upon increased excess levels for each of the above policies. Subsequent analysis indicated that the above levels of excess presented the most cost efficient model for KCC based upon its risk profile. Benchmarking through CIPFA (see below) suggests that the excess levels shown above are in line with many other county councils. It is not possible to provide any meaningful benchmarking assessment in relation to the cost of policies due the aforementioned variables.
15. KCC is a member of the CIPFA Insurance Benchmarking Club. Even though KCC is a member it is still difficult to find authorities with the same risk profile to benchmark performance against. It also has to be borne in mind that every authority has a slightly different approach to how it manages its insurance programme. For example, there will be variances in the type of cover, portfolio of risks, levels of excess, claims history, method of handling claims etc. CIPFA averages data across a five year period. Figures quoted within this report relate to the financial years 2003/04 – 2007/08 and are based upon a benchmarking group consisting of the 16 largest participating authorities.

INSURANCE SECTION

16. The insurance programme and claims are managed through a central insurance section based in CED Finance. The section works closely with external insurers and their solicitors, loss adjusters and KCC's appointed insurance broker. The section comprises of 15 staff. As well as managing all aspects of insurance for KCC the section also provides an insurance service to Kent & Medway Fire Authority and Thanet District Council as part of shared service arrangements.

17. Whilst the section sets its own processing standards it also incorporates external standards where appropriate. For example, when dealing with liability claims processing standards set within the Ministry of Justice Civil Procedure Rules are applied. At a basic level CPR requires all new claims involving a personal injury to be acknowledged within 21 days from receipt and then a decision on liability to be communicated to a claimant at the end of 111 days unless an extension to time has specifically been sought. Failure to adhere to these time frames could result in the courts imposing financial penalties upon defendants. Since personal injury claims are handled by external insurers their performance is monitored to ensure compliance.

New Performance indicator	Target: acknowledgement of injury claims within 21 days of receipt = 95% Target: communication of decision on liability within 111 days where no extension to time sought = 95%
----------------------------------	--

KCC CLAIMS EXPERIENCE

18. Activity within each of the four main policies is summarised below.

Public Liability – third party claims

19. Claims can result from any activity undertaken by KCC. They can range from damage to a tyre going down a pothole through to death / major personal injury or financial loss. The majority of claims received relate to incidents on footways and carriageways. This is a typical profile for a county council with highway responsibilities.
20. The value of minor claims made against KCC is not untypical. Claims made for damage to vehicles due to potholes are typically around £300 each whilst claims for injury are around £8k. Like many authorities KCC has to deal with a number of high value claims i.e. in excess of £250k. Whilst accidents on the highways may generate a number of these, incidents relating to children can also generate exceedingly high value claims which may have the potential to exceed £1m.
21. Claims can take a long time to materialise. For example, asbestos related claims can take up to 40 years before they might be received. Generally the number of asbestos related claims is expected to rise over the next 20 years. Unfortunately the insurance market no longer provides cover for asbestos injury to third parties so any claims made in future years against KCC may potentially have to be met from KCC funds.

22. The number of claims made by third parties (public, visitors, pupils etc) continues to rise:

Year	No of claims	Paid	Rejected	Decision awaited
2004/05	1397	257	1101	39
2005/06	1255	231	946	78
2006/07	1796	471	1163	135
2007/08	1751	460	1026	265
2008/09	2198	347	1024	827
Totals	8397	1766	5260	1344
		£3,273,613		Estimated value of open claims £11,076,307

23. Generally in excess of 90% of claims received relate to KCC's duty to maintain the highway network however this percentage will be exceeded in 2009 due to the detrimental effects of a wet winter upon carriageway surfaces. This experience is similar to that of other south eastern county councils. Claims relating to other causes are not considered to be exceptional, increasing or highlighting any new trend.
24. To date 1460 claims have been received for highway related incidents occurring in 2009. The bulk of these are vehicles damaged by potholes. It is estimated that in excess of 2300 highway related claims could be received during 2009.
25. Claims are decided upon the basis of legal liability. If it is felt that a court would hold KCC to blame for an incident then a claim will be settled as quickly as possible to control costs. If a court might decide that the event was a genuine accident for which KCC could not be held to blame then a claim will be rejected. This approach applies to both Public and Employers Liability type claims and is in line with the practice adopted nationally by local authorities.

New Performance indicator	Target settlement rate for Public Liability claims = Under 25%
----------------------------------	---

26. During 2008 a total of £2,241,306 was paid out in compensation (damages + all legal costs) for Public Liability claims. This sum includes claims that occurred in 2008 as well as many previous years. The amount paid out during any one year provides the best assessment of the true annual cost of Public Liability type claims made against KCC.
27. The potential value of rejected claims is not available however it is thought that this easily exceeds the amount paid out.

28. It is not always possible to reach agreement with claimants on the decision taken in relation to their claims and legal proceedings are sometimes issued against KCC. The number of claims which have resulted in litigation since 2006 is set out below.

Year of incident	No of claims litigated
2006/07	53
2007/08	27
2008/09	13
Total	93

29. Since 2006 proceedings have been brought against KCC in relation to 93 claims. Of these an average of 64% have been successfully defended either pre trial or at court. Claims are only run to trial where there is assessed to be a good chance of success or where fraud is suspected. Taking cases to trial can be a lottery and cases are carefully vetted before this course of action is agreed.

New Performance indicator	Target number of public liability cases won at trial = 65%+
----------------------------------	--

30. For Public Liability the following points are of interest:

From 2004 – 2008

- For all Public Liability claims KCC received 5.8 claims per 1000 population against the CIPFA benchmarking average of 4.5
- For highway claims KCC received 5.2 claims per 1000 population against the CIPFA benchmarking average of 3.8
- For highway claims KCC had rejected 80.7 claims against the CIPFA benchmarking average of 76.6%

Employers Liability – claims made by employees

31. The number of claims made by employees has remained relatively stable for many years. This is thought to be due to improved management of Health & Safety, potential claimants opting to take their grievances through Employment Tribunals and developments in case law which has restricted the ability to bring claims particularly in relation to stress.

Year	No of claims	Paid	Rejected	Decision awaited
2004/05	29	10	9	10
2005/06	42	13	17	12
2006/07	21	2	5	14
2007/08	34	3	3	28
2008/09	35		2	33
Totals	161	28	36	97
		£316,651		

32. Claims brought by employees are quite difficult to defend due to the high duty of care and are often litigated. Activity in this area is considered to be proportionately in line with other authorities

New Performance indicator	Target settlement rate for Employer's Liability claims = 50%
----------------------------------	---

33. Public and Employers Liability claims are handled by the 'Liability' team. They can be quite complex to manage and the amount of information required in order to reach a decision on liability is considerable. In 2008 the team consisted of 5.6 FTEs and provided an annual average of 336 new claims per handler.

Property

34. Due to the size and nature of the property portfolio there will always be a high level of claims.

Year	No of claims	Value of paid claims	Estimated value of open claims
2004/05	660	4,679,998	210,709
2005/06	686	1,821,634	87,456
2006/07	778	1,085,546	4,554,704
2007/08	928	1,561,229	636,907
2008/09	692	566,946	550,947
Totals	3744	9,715,353	6,040,723

35. During 2008 there were no losses over £100k in value. This is unusual when compared with previous years as shown below:

Year	Claims over £100k	Value
2004/05	School – arson Library – arson	£132,989 £3,899,175
2005/06	School – arson	£948,310
2006/07	School – accidental fire School – flood School – accidental fire	£4,173,198 £186,750 £249,450
2007/08	Nil	
2008/09	Nil	

36. The number of low value claims made against the policy fell in 2008 but this is largely due to a reduction in the theft of lead claims. The theft of lead and other metals from buildings is a national problem and has resulted from the demand by developing Asian economies. Whilst the global economic downturn has curbed these markets criminals are now more aware of this largely unprotected source of income. To prevent repeat thefts Insurance only pays for the cost of replacing lead with an alternative product and will pump prime the painting of existing lead to help deter such activity.

37. The breadth of cover within property policies varies greatly amongst authorities making it extremely difficult to benchmark KCC's experience. Benchmarking does indicate that the number of claims from KCC insured schools caused by fire, whether accidental or arson, is in line with the average.

Motor

38. KCC operates a large commercial motor fleet of 1000 vehicles. The number of claims has remained relatively stable within the main fleet:

Year	No of claims	Paid – own damage & third parties	Estimated value of outstanding claims
2004/05	441	312,765	6,692
2005/06	423	275,152	102,516
2006/07	383	307,884	47,926
2007/08	417	334,302	33,791
2008/09	365	250,910	229,516
Totals	2029	1,481,013	420,441

CIPFA benchmarking indicates that KCC has a frequency of 0.4 claims per vehicle on its main fleet compared with the average of 0.44

39. All motor and property claims are handled by a single team consisting of 4 FTEs. These claims do not require the same level of processing as liability type claims. In 2008 a total of 1708 claims were received which provided an annual average of 427 new claims per handler.

COST OF CLAIMS HANDLING

40. CIPFA benchmarking indicates that KCC has an in house cost of £99.5 per claim (across all policies) against an average of £118.30 and an external cost of £79.80 per claim against an average of £73.00. Also KCC spends only £0.60 per claim on loss adjusters against an average of £6.20
41. Although benchmarking indicates that KCC has a higher average external cost per claim the overall average benchmarked cost per claim is £197 against KCC's average of £180.

SUMMARY

42. KCC's insurance programme is one of the largest amongst all local authorities. The annual spend on insurance is considerable but this has to be balanced against the size of KCC and the very wide and diverse range of statutory services provided and the tendency for claims to be made against public bodies. It is inevitable that claims will be received and it is essential that the insurance programme and the funds held in reserve provides the Council with a good level of assurance around its ability to finance its current and future liabilities.

Darryl Mattingly
Corporate Risk & Insurance Manager
Ext: 7000 4632

This page is intentionally left blank

By: Janet Dawson – Head of Audit and Risk
To: Governance and Audit Committee – 16 September 2009
Subject: INTERNAL AUDIT BENCH MARKING RESULTS
Classification: Unrestricted

Summary: This report summarises the 2008/09 Internal Audit Benchmarking Results.

FOR INFORMATION

INTRODUCTION

1. Internal Audit is a member of the CIPFA/IPF Audit Benchmarking Club. Through this, information about Internal Audit's costs and productivity is compared against other county councils. We also compare our costs and productivity to the previous years to establish if we are improving and/or areas where we need to improve.
2. Our benchmarking results have improved considerably this year. The number of 'chargeable' days per auditor has increased from 150 in 2007/08 to 181 in 2008/09, the average is 179. Chargeable days represent the number of days that are spent on direct audit or audit related work. Non chargeable days represent non audit work, for example administration. In 2007/08 our chargeable days were below the average and our non chargeable were above the average, this was therefore an area that we concentrated on so that we could improve.
3. All staff were committed to improving their chargeable time. To achieve this we took the following action:-
 - We reviewed the way we used our internal time recording system to ensure that any non chargeable time could be quickly identified and monitored;
 - All staff were set targets for their chargeable time and this was monitored regularly during 'one to ones', reported on a monthly basis and discussed at each team meeting;
 - All potential chargeable work was identified in advance (for example pro active fraud work, completing terms of references etc) so that any 'down time' and potential non chargeable time was minimised.

4. This also had the effect of reducing our costs per chargeable day, although still slightly higher than the average, this reflects the use of external providers to deliver part of our service (mostly ICT audit work). This will be addressed in 2009/10 through the re-tendering of this part of the service.
5. An area that we will be addressing in 2009/10 is our charge out rates as this is currently below the average.

Summary of 2008/09 position

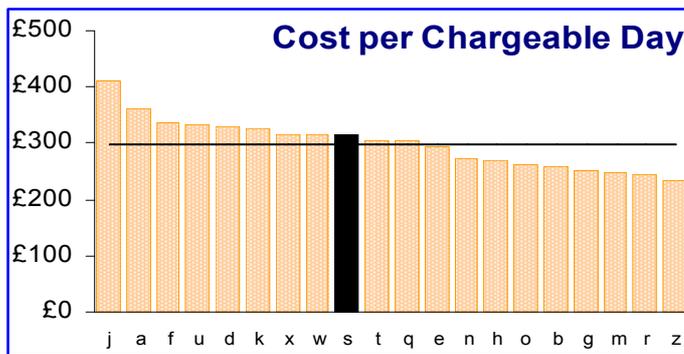
The table below shows Kent's position against other counties.

	Kent	Average	Lower quartile	Median	Upper quartile
Cost/auditor £k					
Pay	£38.4 <i>£40.7</i>	£42.4 <i>£39.1</i>	£38.42 <i>£35.77</i>	£40.0 <i>£37.5</i>	£42.7 <i>£39.4</i>
Overheads	£10.6 <i>£13.7</i>	£10.8 <i>£8.5</i>	£7.26 <i>£4.54</i>	£10.6 <i>£7.8</i>	£13.1 <i>£11.3</i>
Total	£49.1 <i>£54.5</i>	£52.0 <i>£47.6</i>	£46.31 <i>£42.19</i>	£51.2 <i>£44.6</i>	£54.2 <i>£53.7</i>
Days per auditor	181 <i>150</i>	173 <i>169</i>	166 <i>161</i>	171 <i>173</i>	179 <i>180</i>
Cost per day (net to LA)	£315 <i>£406</i>	£299 <i>£279</i>	£261.78 <i>£237.83</i>	£304 <i>£278</i>	£326 <i>£325</i>
Days per £m	1.00 <i>0.95</i>	2.27 <i>2.60</i>	1.71 <i>2.19</i>	2.22 <i>2.45</i>	2.54 <i>3.08</i>
Cost per £m	£316 <i>£384</i>	£666 <i>£705</i>	£537.44 <i>£578.31</i>	£605 <i>£660</i>	£813 <i>£811</i>

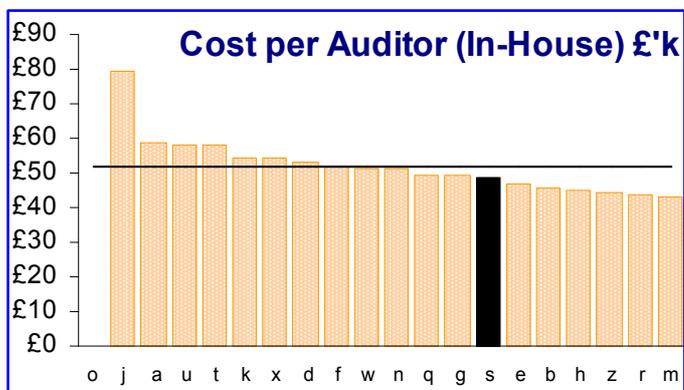
The figures in italics shows data for 2007/08

The following charts provide further details:-

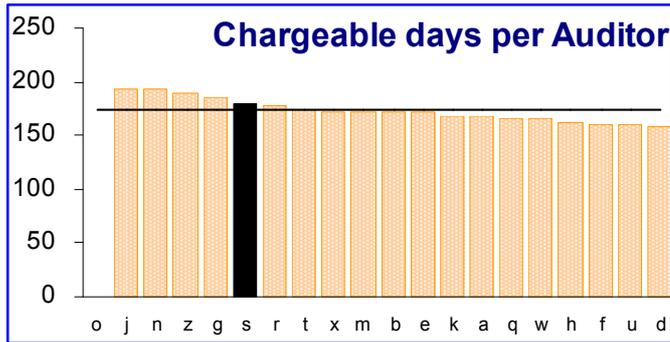
- Our **cost per chargeable day** has reduced from £406 in 07/08 to £315 in 08/09 and this has meant we have moved from the highest to 9th highest. The cost per chargeable day is slightly above the average of £299 per day this is because we have used external providers to deliver part of our service (mostly ICT audit work).



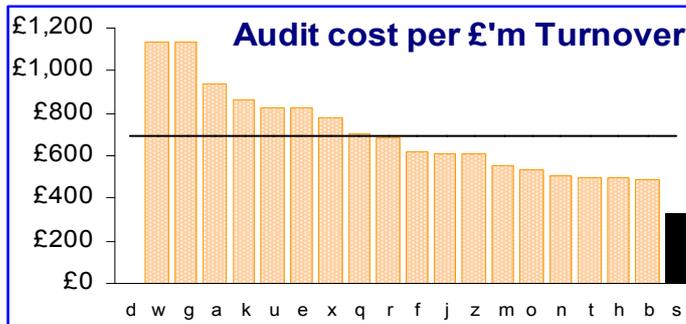
- The cost per chargeable day is affected by two variables: the **cost per auditor** (broken down into pay and overheads) and the **chargeable days per auditor**. Both of these indicators have improved in 08/09.



- Our **cost per auditor** has fallen from £54,458 (5th highest) in 07/08 to £49,051 in 08/09, (13th highest) which is slightly below the average of £52,000.
- The reduction in cost per auditor is due to a reduction in **staff cost per auditor** and **overheads cost per auditor** and reflects the reduced staffing costs as a result of the restructure.



10. The number of **chargeable days per auditor** has improved in 2008/09. In 2007/08 it was 149.7 compared to 2008/09 which was 180.6. The **chargeable days per auditor** is affected by many factors namely bank holidays, annual leave, training, sickness, and other 'non-chargeable' days for example administration.



11. Kent spends the least per £m gross turnover on its audit service than other county councils. However, Kent does not carry out 'school audits' or the Financial Management Standards in Schools (FMSiS) reviews that a number of other councils do. This is carried out by teams in the Children, Families and Education directorate.

12. A full version of the Benchmarking report is available upon request.

Recommendation

13. Members are asked to note this report.

Janet Dawson
Head of Audit & Risk
 Ext: 4614
 3 September 2009

By: Janet Dawson – Head of Audit and Risk
To: Governance and Audit Committee – 16 September 2009
Subject: INTERNAL AUDIT PROGRESS REPORT
Classification: Unrestricted

Summary: This report summarises the outcomes of Internal Audit activity.

FOR INFORMATION

INTRODUCTION

1. This report contains the outcome of Internal Audit's work completed during May, June and July 2009 and audits started, or at draft report stage up to 20 August 2009. Assurances are provided in accordance with the definitions of Internal Audit assurance levels shown in Annexe H.

During this period, 14 audits were completed, 6 draft reports issued, and 11 audits started, these are listed in the table below together with a brief description of the audit.

IRREGULARITIES

2. Since the end of May 2009 two cases of suspected irregularity have been reported, each involving either KCC finances or business processes. No irregularity investigations have been concluded during this period.

PROGRESS REPORT

5. Key points in the report

Annex A shows the audits from the 2008/09 audit plan that are at draft report stage and completed. Annex B shows the status of audits from the 2009/10 audit plan as at 20 August 2009.

Annex D details a summary of each of the audits completed in the period.

Annex E shows the following:

- Directorates' progress against the implementation of recommendations made and agreed which were due to be actioned by July 2009.
- Cumulative progress with the implementation of audit recommendations between April and July 2009.
- Progress with recommendations due to be implemented between April 2008 and March 2009.

Recommendation

6. Members are asked to note this report.

Janet Dawson
Head of Audit & Risk
Ext: 4614
3 September 2009

Progress Against 2008-09 Audit Plan quarter 4

Annex A

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
AW01	Corporate Governance Overview Health Check	Work to include high level review of corporate governance arrangements against best practice and will also consider adequacy of processes underpinning Governance Statement. Include follow-up of prior year report.	Q4	6 Mar 09	21 July 2009			Waiting for information to complete the audit review caused delays in clearing and finalising the review.
AW02	Risk Management	Work to build on the high level review undertaken in 2007/2008 to focus on the adequacy of corporate risk management arrangements and the linkages between; Business planning, Performance appraisal, Budgeting processes.	Q4	16 Mar 09	6 Aug 09			As above
AW04	Contract monitoring and tendering process	Review of tendering procedures and contract monitoring. Scope to include, processes for tender evaluation and selection of suppliers, review of processes to manage key contracts, quality assurance of suppliers processes. The individual contracts that are reviewed will include Building Schools for the Future (BSF)	Q2/3	Apr 09	10 July 09			Delayed at officer request, due to progress of BSF programme Meeting held with directorate to discuss findings, some further work to be carried out.

Progress Against 2008-09 Audit Plan quarter 4

Annex A

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
AW07	Information Governance (original title was Data Management Arrangements)	Review and assurance over implementation of data quality policy council wide, with a focus on management arrangements of critical/sensitive data, including testing to validate controls in place and review of existing guidance available to staff on acceptable practice for data handling.	Q3	15 Oct 2008	9 April 09	30 Jun 2009	Limited	There were no clear lines of responsibility for this area which was identified during this review and contributed towards the delay in clearing findings and finalising the report.
AW08	Third party ICT Provision - Procurement	Review the contractual arrangements for the provision of ICT services by third parties to business-critical computer systems. Sample to be agreed with management prior to audit.	Q3	16 Mar 2009				Report being drafted and clearance meetings arranged
AW	Software Legitimacy	An audit to review processes for identifying, recording and tracking of KCC's software				30 June 2009	Limited	Completed
S04	Fixed Assets – Property Title Deeds	Systems based approach considering key risk exposures. Include mapping of key control areas.	Q4	4 Feb 2009	9 June 2009	23 July 2009	Substantial	Some delays caused by information on assets not being available. In addition a number of meetings were held after the fieldwork was completed to discuss the findings of the review before the report was issued.

Progress Against 2008-09 Audit Plan quarter 4

Annex A

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
S08(b)	Payroll Amendments	Substantive "Cradle to Grave" approach, following through samples of payments for example, permanent and temporary changes to pay.	Q4	1 Dec 2008	7 Aug 2009			
CED02/ CED03	Operating System Security (Windows XP)	Review of operating system security, administration, support and maintenance procedures (as extension of network security review 2007/08). This will be done as one audit.	Q3	19 Jan 2009	15 April	3 June 2009	Substantial	Completed
CED05	Oracle Review HRMS, Payroll & I procurement	Oracle application security controls covering Oracle system embedded controls configured in the system design within selected modules as identified from the previous 0708 Oracle Application Security audit.	Q3	25 Nov 2008	16 March 09	9 July 2009	N/A	Completed
CED07	One – Office Application Security	One Office application security controls, focussing on users' access rights and segregations of duties.	Q4	9 Feb 2009	1 April 2009	19 Aug 2009	Limited	Completed

Progress Against 2008-09 Audit Plan quarter 4

Annex A

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
CED10	Expenditure - Direct Purchases	A review to provide assurance that purchasing of direct materials at Commercial Services business units are properly managed, controlled and accounted for.	Q4	9 Feb 2009	29 April 2009	20 August	Substantial	Completed
CMY05	Tribal EBS	Review of operational, support and maintenance procedures system security and data integrity controls.	Q4	11 Mar 2009	11 May 2009	10 Aug 2009	Limited	Completed
CMY07	Registrars' Income	An audit to assess the adequacy of the systems and procedures for recording and accounting for income.	Q4	17 March 2009	5 May 2009	11 Aug 2009	Substantial	Completed
KASS01	Capital Projects	To examine the planning of capital projects, contracts/estimates and how these are drawn up and the corresponding governance arrangements (i.e. is the authority clearly set out and understood by all parties).	Q4	12 Jan 2009				Delay in completion due to the audit being done as two separate pieces of work and other work taking priority. Reports currently being drafted.
KASS09	Occupational Therapy Service Equipment	Review to assess the controls in place over the assessment of eligibility for occupational therapy equipment and the subsequent monitoring and return to the Directorate.	Q4	16 Feb 2009	2 June 2009	29 July 2009	Substantial	Completed

Progress Against 2008-09 Audit Plan quarter 4

Annex A

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
KASS11	Transitional Arrangements for Learning Disability client group	A review to identify the effectiveness of the transitional arrangements for the Learning Disability client group from Health to Social Care.	Q4	9 March 2009	1 May 2009	7 July 2009	Substantial	Completed
KASS	Compliance with Adult Protection Procedures – East Kent	A review to provide assurance that the framework in place to assist with all stages of the adult protection process is operating effectively and that protocols are adhered to.	Q4			11 May 2009	Limited	Completed
KASS	Compliance with Adult Protection Procedures – West Kent	A review to provide assurance that the framework in place to assist with all stages of the adult protection process is operating effectively and that protocols are adhered to.	Q\$			11 May 2009	Limited	Completed
ER08	Local transport plan	Examine system and process for prioritising KCC transport schemes.	Q4	6 April 2009	3 Aug 2009			

Audits highlighted in bold indicate completed audits

Progress Against 2009-10 Audit Plan quarters 1 and 2

Annex B

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
AW04	Pro-active Fraud work - Contracts	Review procurement practices in a sample of areas to provide assurance that potential of fraud is minimised.	Q1					This will be on going throughout the year
AW07	Premises Security	A review of premises security including the processes in place for decommissioning premises. Communities directorate in 2009/10	Q1	12 May 2009	10 July 2009			
S01	Year End Accounts Closedown	Assurance that income and expenditure are accounted of in the correct financial year.	Q1	7 Apr 2009	15 May 09	11 June 2009	Substantial	Completed
S04	Imprest Accounts	A review of imprest accounts in the Authority to assess whether they are operated within approved limits and identify any accounts surplus to requirements.	Q1	29 June 2009				Ongoing
S07	Treasury Management	A review of treasury management arrangements	Q1					This audit will take place in Q3/4 to allow officers to embed changes made recently in the staffing roles & responsibilities.
S13	Management Review	To provide assistance at year end for the 'close down'.	Q1	8 May 2009	N/A	N/A	N/A	Completed

Progress Against 2009-10 Audit Plan quarters 1 and 2

Annex B

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
CED01	Income – Legal Department	Provide assurance that all income due is completely recorded, invoiced and collected in a timely manner.	Q1	15 June 2009				Report being drafted
CED03	Property Management System Security	Property management application security controls, including users' access rights, web access and segregations of duties.	Q1	16 July 2009				Ongoing
CED07	Axis Pensions System	A review of application controls, security and management of the operation of the Axis Pensions system	Q1	18 Aug 2009				
CFE01	Data Quality	An audit to assess controls the Directorate rely upon to ensure the accuracy of the information used to complete DCSF statutory returns.	Q1	19 Aug 2009				
CFE12 2010	Asylum Imprest Account	A follow up to the work undertaken in 2008/09 to confirm that the imprest account is managed and accounted for correctly	Q1/2	18 June 2009				Ongoing
CFE12	Children's Centre Resource system	Review of project management or review of the design of the application controls within the system.	Q3/4	6 May 2009				Ongoing – providing pro active input to the project

Progress Against 2009-10 Audit Plan quarters 1 and 2

Annex B

Ref	Audit	Description	Planned Start	Audit commenced	Draft Report issued	Final Report Issued	Audit Assurance	Comments
CMY03	Business and Project Risk Identification	An assessment of the processes that enable the Directorate to identify and respond to key risks.	Q1					This was a management request, but the directorate has decided that they have processes in place to identify risks as part of their business risk assessments. Another audit will be substituted, still to be agreed.
CMY05	Coroners' Imprest Accounts	A follow up audit to review the progress of the implementation of recommendations made.	Q2	10 Aug 09				
CMY07 (a)	Key Training	A review of the processes for forecasting and managing the budget. Part (b) will review the effectiveness of action plans to address the budget deficit.	Q2	9 July 09				These audits replace CMY06
KASS01	CRB - Volunteers	Follow up audit of controls relating to CRB checks on volunteers used in KASS	Q1	10 June 09				Ongoing
KASS09	Swift – Client Billing	Post implementation review	Q1	6 May 09				Report being drafted
ER01	Kent Highways Service	Evaluation of costings	Q1					Will now take place in Q3/4

Audits highlighted in bold indicate completed audits

National Fraud Initiative

- Collation and submission of data sets to the Audit Commission as part of the National Fraud Initiative (NFI) has been completed and reports of potential matches (ie matches with other data sets) have been received. A number of the reports for matched data have been investigated resolved and are still ongoing. The data matching exercise also involves liaison with other local authorities, providing information and investigating matches for them as required.

Advisory Work

- Attendance at various working groups/forums, including, Procurement Forum; ICT Operations Board, Client Billing Group, Self Directed Support, Oracle R12.

Irregularities

- Working on a number of investigations. (See also the Irregularity report on concluded investigations).

AW – Information Governance (Data Management Arrangements)**Scope**

To review the Information Governance framework in place across the Authority by considering the following areas of control:

- Policies and procedures for the classification of information, including the risk assessment process to identify the sensitivity / importance of information sets
- Information security policies and training programmes in place to raise awareness and provide guidance to staff on their roles and responsibilities
- Policies and procedures for the copying, sharing and disposal of information, including the protocols for sharing information with third parties

Technical controls to secure the information held by the Authority and to ensure information being copied and transferred is protected appropriately.

Overall Assurance - Limited

The audit found there was no clear Information Governance lead to set the tone across the Authority, which directorates / business units could then follow in terms of strategic direction or guidance on the types of policies and procedures that are / should be in place. A clearly defined set of policies needs to be established across the Authority that formally defines the processes that must be followed when identifying, classifying, sharing, encrypting and disposing of information. In some instances policies do exist; however, these have often not been communicated or reviewed for a considerable period of time to ensure they still meet the Council's needs. A formal training programme to raise staff awareness of information governance / security is required,

although it is recognised a number of initiatives have already been undertaken and ISG is already supporting directorates as they address this area.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified

AW – Software Legitimacy**Scope**

The objective of the audit was to review processes for the identification, recording and tracking of KCC's software and to ensure compliance with relevant software copyright law.

Overall Assurance - Limited

The audit confirmed that there are policies and guidance in place to notify KCC's employees and Members using KCC systems of their responsibilities and the legal implications of using unauthorised or unlicensed software. However, the Authority does not maintain detailed software inventories and there is no clear requirement, accountability/responsibility to maintain inventories. The main area of risk arises from the software used by the individual directorates, rather than software used by ISG. The overall risk to which KCC is exposed is likely to be low, however, until a review has been undertaken by each directorate to ensure they have an accurate record of the software in use and the licensing arrangements in place, it is difficult to determine the overall level of risk that is faced. There are strong mitigating controls through the Technology Refresh Programme (TRP) process and the restrictions of procurement and installation of

software. Two recommendations have been made which have been accepted by management.

CED – Fixed Assets – Property Title Deeds

Scope

The objective of the audit was to ensure that KCC has the 'rights and obligations' for all properties in its books of accounts.

Overall Assurance – Substantial

We were able to provide assurance that KCC has the rights and obligations for all properties in its books of accounts. However, we found that the system in place for tracking the movement of deed packets within Legal Services is not always adhered to by the officers working on the packets and files are not always kept up to date. There is a risk that deed packets may be lost and not be available to prove KCC's title to its properties.

Capita One Unix (ICS Operating System) Review

Scope

To review key controls over the security and operation of the Unix operating system underpinning the Capita One integrated children's social car system.

Overall Assurance - Substantial

The audit found there was a robust control framework in place to manage user access to the information held by the system,

control changes in terms of the configuration and operation of the system, resolve operational problems when they occur, and ensure data is backed up appropriately. Some areas for improvement were identified, for instance, where the user activity could be monitored more closely and some of the systems logical security parameters could be further strengthened.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified. Some of t

CED - Oracle - HRMS, Payroll and iProcurement Review

Scope

The first part of this review was to consider whether there were any system features that could be used to reduce the level of manual processing activity and realise some of the benefits of the Oracle e-Business suite in automating existing processes and controls.

The second part of the review was to focus upon the Oracle iProcurement module, which is being used less than had originally been expected. Users had provided feedback that the system was not user friendly and the anticipated benefits to be achieved through the automation of the processing of purchase orders and invoices were not being realised. Therefore, the review was also to consider the way in which the iProcurement module was being used.

Overall Assurance –Audit opinion not required

The Authority uses the Oracle e-Business Suite to provide an integrated financial management system including: Purchasing, Accounts Payable, iProcurement, Accounts Receivable, Cash Management, Human Resources, Payroll, Learning Management, Fixed Assets, Lease Management, General Ledger, and System Administration modules.

The audit found that the HR / Payroll modules had been heavily customised during their implementation to meet the needs of the Authority as the standard functionality was unable to handle the number of different remunerations that were operated. The Personnel Information Systems Development Team are currently reviewing these as the Authority moves toward Oracle R12 to reduce the level of customisation, make more use of the newly available standard functionality, and address some of the ongoing problems that have been encountered, such as difficulty in recording staff absences and calculation of maternity pay without system errors occurring. There is also an opportunity to reduce the number of processes and systems used to record staff time.

The purchasing approval hierarchy also needs to be reviewed within the iProcurement module to ensure it is aligned to the agreed levels of delegated authority, after a number of users with significant purchase approval limits were identified, and instances where staff are allowed to approve their own purchase orders need to be reviewed to ensure this is appropriate. Furthermore, a total of 23,000 suppliers were identified as being active on Oracle against which purchase orders can be raised, which needs to be rationalised if the use of iProcurement is continued.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified.

CED – Year End Accounts Closedown**Scope**

The objective of the audit was to ensure that all expenditure and income, particularly that occurring at the end of the 2008/09 financial year, is accounted for in the final accounts of the correct financial year.

Overall Assurance – Substantial

We found that the majority of invoices were accounted for in the correct year, appropriate creditor/debtors had also been set up to ensure invoices were correctly accounted for. A few errors were identified and these were corrected when queried with the relevant directorates, who made the necessary corrections. Recommendations from previous audits have been satisfactorily implemented and there were no recommendations arising from this audit.

CED – OneOffice system**Scope**

To review One Office application security controls, focussing on users' access rights and segregations of duties.

Overall Assurance – Limited

The OneOffice system is used by Kent Commercial Services (KCS) to manage the sales process for the educational and office supplies it provides, including warehouse management, stock movement management and order processing.

Formal policies and procedures for problem management (problems / issues), or managing the roll-out of changes to OneOffice are not in place, although these are in the process of being developed. Furthermore, the system backup and disaster recovery procedures also need to be documented, to ensure all of the information required during the recovery of OneOffice is available in the event of system disruption. Areas were also identified where the access controls over OneOffice can be improved, to reduce the risk of unauthorised users gaining access to the information held, or segregations of duties being breached and unauthorised transactions being processed.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified.

Page
79

ED – Expenditure – Direct Purchases

Scope

The objective of the audit was to review the processes in place for 'direct purchases' (where delivery to the customer is made directly from the supplier), to ensure that orders are processed correctly and that customers are invoiced on a timely and accurate basis.

Overall Assurance - Substantial

The audit found that there are controls to ensure that only valid and correct suppliers are on the Commercial services database. Customer orders are processed correctly and checks are made with customers for high value orders to ensure delivery has been made. Our testing confirmed that corresponding customer invoices had been raised accurately for all supplier invoices

received raised, although there were delays between receipt of the supplier invoice and input to OneOffice (system used by Commercial Services) which resulted in the sales invoices being delayed. This issue is now being addressed. There is an issue regarding the segregation of duties within OneOffice, but this has been addressed and recommendations made as part of the audit of the system. Therefore, we have not made any recommendations for this audit.

CMY – Registrars' Income

Scope

The objective of the audit was to review the processes in place for identifying, recording, collecting and banking income (fees) for the Registrars' Service.

Overall Assurance – Substantial

The audit identified that whilst some fees are statutory, others are decided by the Authority, although these fees are reviewed and approved on an annual basis, the fees charged for ceremonies have not been calculated to ensure that they cover all reasonable costs for several years.

We found from our sample tested that income had been recorded and banked promptly and accurately and had also been recorded on Oracle.

In two of the offices visited we found that access to the strong room was not adequately restricted. We also found that sealed packs of blank certificates (to be used specifically in the event of a pandemic outbreak) could be removed and would potentially not be identified as missing until the sequentially numbered certificates in that pack were due to be used.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified.

CMY - Tribal EBS system

Scope

To review key areas within the Tribal contract and service level agreement and the controls over the security and operation of the EBS system.

Overall Assurance –Limited

The Tribal EBS system is a web-based student record and management system used by Kent Adult Education Services (KAES) to facilitate the provision, and collection of payments, for educational courses.

The audit found that the service level agreement between KAES and Tribal has not been formally agreed, although a draft agreement is in place. This could make it difficult for KAES to receive the service credits due if the provision of services by Tribal. Furthermore, areas were identified where the security of the EBS system can be improved, to reduce the risk of unauthorised users gaining access to the information held.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified

KASS – Compliance with Adult Protection Procedures East and West Kent areas

Scope

The objective of the audits was to provide assurance that the Adult Protection Protocols ‘framework’, designed to assist with all stages of the adult protection process was operating effectively.

Overall Assurance - Limited

The audits reviewed a sample of closed case files. In both areas, we identified that the CM31 pro forma (the form used for recording information regarding adult protection cases) information were not always completed, eg decision and action points were not always recorded, details of discussions with other agencies not recorded etc. We also identified that a proportion of staff that had involvement with adult protection cases needed to undertake formal training to ensure that they could carry out the roles as required for Investigation Officer and Designated Senior Officer.

Recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified.

KASS – Occupational Therapy Service Equipment

Scope

The objective of the audit was to review the processes in place, for carrying out assessments, the partnership arrangements with other bodies (eg Primary Care Trusts, district councils), arrangements for monitoring and maintenance of equipment and achievement of key performance indicators.

Overall Assurance – Substantial

The audit found that the procedures manual was not up to date, but this was because KASS was undergoing a change of structure at the time. One of the key performance indicators for the service is that clients' should be assessed for the provision of equipment within 28 days of referral. Some in our sample did not meet the 28 days target, however, staff are very aware of this requirement and try to comply, however, we have been informed that referrals have increased and outstrip available resources.

We also identified some inconsistency with how staff record referrals, involvement and assessment dates which could lead to inaccurate information for monitoring KPIs.

Five recommendations have been made which have been accepted by management and an action plan is in place to address the issues identified dates.

KASS – Learning Disability Client Transfer

Scope

The objective of the audit was to provide assurance on the processes in place for ensuring that the transfer of clients and associated costs from the Health Service to KASS is being managed effectively.

Overall Assurance – Substantial

The budget team within KASS regularly monitor and compare lists of clients. At the time of the audit the Section 256 agreement between KCC and the primary care trusts had not been signed. This agreement is needed to ensure that any expenditure incurred on this client group can be recovered from Health.

KASS is ensuring that good records are maintained of clients that transfer and is lobbying Government to try to persuade funding to be made on the basis of client numbers rather than through the formula.

One recommendation has been made which has been accepted by management.

**Directorates Progress with the Implementation of Audit Recommendations
(Covers May, June and July 2009)**

Annex E

Directorate	Total actions due to be in place by end of July 2009	Actions in place	Priority of outstanding actions as at 31 July 2009			Comments on recommendations		
			C	H	M	Audit		To be completed by
Authority wide and S151	2	1		1		Payroll – other allowances	General variances are monitored, a report is in the process of being created to identify market premium. This will be in place for the October payroll run	October 2009
	1	1				Data Protection – CFE	The information audit in CFE is now complete. The audits in other Directorates are due to be completed at a later date	
	1				1	Accounts Receivable	Written evidence of the correct and up to date delegation from the Heads of Finance, for approving debt write-offs above £3,000, has been provided to the Exchequer Services Manager by E&R, CFE and Communities. Response awaited from CED	
Chief Executive's Department	0							
Children, Families & Education	3	3				Eligibility for Foster and Adoption Allowances	All recommendations on this audit have been completed	
Kent Adult Social Services	4	4				Review of procedures supporting care management – East Kent	All recommendations on this audit have been completed	
	4	4				Review of procedures supporting care management – West Kent	All recommendations on this audit have been completed	

**Directorates Progress with the Implementation of Audit Recommendations
(Covers May, June and July 2009)**

Annex E

Directorate	Total actions due to be in place by end of July 2009	Actions in place	Priority of outstanding actions as at 31 July 2009			Comments on recommendations		
			C	H	M	Audit		To be completed by
Environment and Regeneration	2				2	Securing Adequate Funding	Awaiting a response - Member of staff on annual leave.	
Communities	5	0		4	1	Internet Access by the Public – KEY Training	Progress has been made on all the recommendations and an action plan has been put in place to implement policies, procedures, internet monitoring forms and website filtering to prevent inappropriate use of KCC computers	July 2009
	2	0		1	1	Health and Safety – Direction of travel	Work has been started on training for conducting Health and Safety audits and induction booklets will be distributed to all new starters from September 2009 onwards	December 2009
	2	1		1		Internet Access by the Public – Libraries	Work has been started on translating information into languages other than English, and will be in place by September 2009	September 2009
	5	5				Internet Access by the Public – Youth Services	All recommendations on this audit have been completed	
TOTAL	31	19	0	7	5			

**Cumulative Progress with the Implementation of Audit Recommendations
(April to July 2009)**

Annex E

Directorate	Number of recommendations due to be implemented April 2009 – July 2009			Number of recommendations implemented			Number of recommendations still outstanding		
	Critical	High	Medium	Critical	High	Medium	Critical	High	Medium
Chief Executive's Department									
Kent Adult Social Services	6	2		6	2				
Communities	1	9	4	1	4	1		6	2
Environment & Regeneration			2						2
Children, Families & Education		3			3				
Authority Wide & S151		3	1		2			1	1
Totals	7	17	7	7	11	1	0	7	5

**Progress with recommendations due to be implemented
between April 2008 and March 2009**

Annex E

Directorate	Actions due to be implemented	Actions in place	Actions still outstanding	Date actions will now be implemented	Audit title
Chief Executive's Department	14	11	2	August 2009	Microsoft Exchange
			1	November 2009	Payroll – Appointment to Payment of new employees
Kent Adult Social Services	23	21	2	Work in progress	SWIFT System Review
Communities	7	5	2	December 2009	Health and Safety – direction of travel
Environment & Regeneration	6	5	1	October 2009	Landfill Allowance Trading Scheme
Children, Families and Education	22	21	1	August 2009	School Funding
Authority Wide and S151	27	18	3	August 2009	Schemes of Delegation
			1	October 2009	Purchase cards
			2	Partially completed - ongoing	Property Rent Income
			1	March 2010	Data Protection
			1	December 2009	Governance of Partnerships
			1	Partially completed and ongoing	Accounts Payable
TOTAL	99	81	18		

Internal Audit performance

The following table is designed to provide Members with Internal Audit's performance against Key Performance Indicators.

Performance Indicator	Target	Actual (Apr – July)
<p><u>Effectiveness</u></p> <ul style="list-style-type: none"> • % of recommendations accepted • % of recommendations implemented • CPA/CAA Score for Internal Control 	<p>98%</p> <p>90%</p> <p>Level 4</p>	<p>100%</p> <p>61%</p> <p>3*</p>
<p><u>Efficiency</u></p> <ul style="list-style-type: none"> • % of plan delivered – • % of available time spent on direct audit work • % of draft reports completed within 10 days of finishing fieldwork • Preparation of annual audit plan • Periodic reports on progress • Preparation of annual report and Annual Governance Statement 	<p>95%</p> <p>80%</p> <p>80%</p> <p>By March</p> <p>G&AC meetings</p> <p>By May</p>	<p>20%</p> <p>89%</p> <p>87%</p> <p>March</p> <p>G&AC meetings</p> <p>May</p>
<p><u>Quality of Service</u></p> <ul style="list-style-type: none"> • Average Client Satisfaction Score – 	<p>70%</p>	<p>97%</p>

* Percentage of plan delivered as at 31 July 2009

Team Structure

Number of staff 11 FTE

Qualified 6

Number of staff training 3

* Performance Assessment (CPA) in 2007/08 was assessed by the Council's external auditors. The Council was scored 3 for each aspect of the internal control judgment. A summary of external audit's key findings that prevented achievement of the target score of 4 are summarised below:

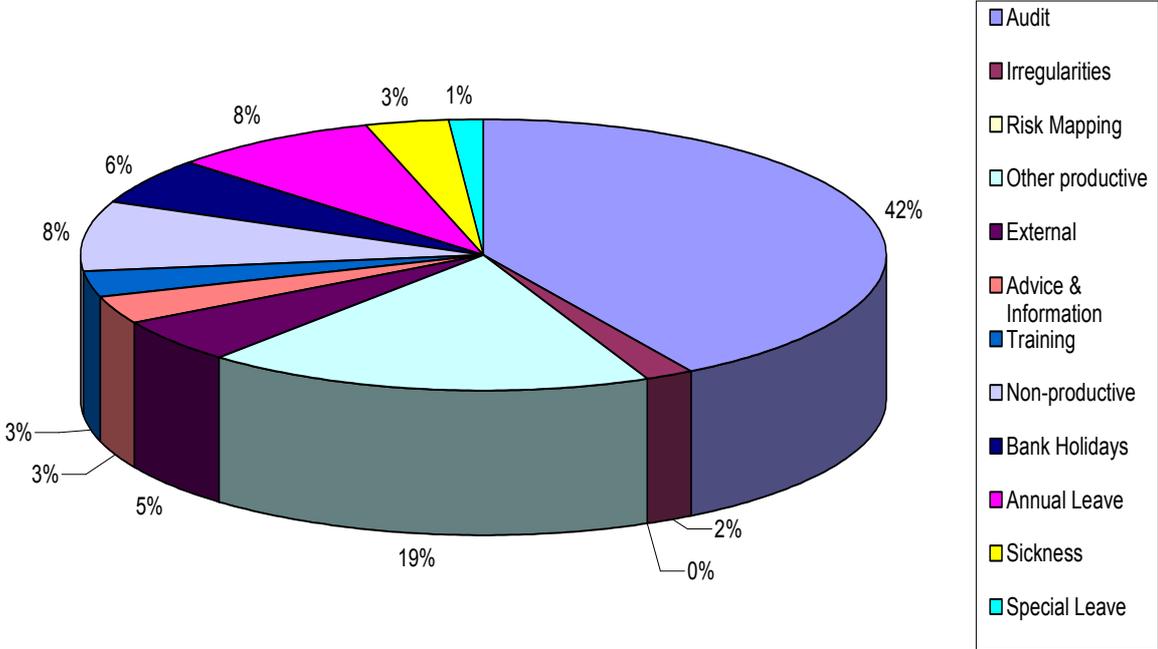
- There has been no risk management training for Cabinet Members other than those who serve on the Governance and Audit committee. Due to the role that the Cabinet has in making key policy and strategic decisions, risk management training is regarded as key for all Cabinet Members
- All strategic policy decisions and PID's include a risk assessment. However, the documents do not include a 'sustainability impact appraisal' section. Despite being identified as an area for improvement in the previous year's Corporate Assessment report, the action to address this recommendation was not undertaken until June 2008 and hence outside the assessment year
- The Council demonstrated how partnerships are monitored by managers during 2007/08, but this did not specifically cover the governance arrangements. Therefore, the external auditors could not satisfy themselves that Council subjects partnership governance arrangements to regular review and updating
- Whilst the Council holds copies of the business continuity plans for key partners and major contractors, there was only limited evidence of review of the viability of these plans
- There is a high level of awareness of fraud raised by Internal Audit through presentations and Irregular Happenings publications. However, it is difficult to demonstrate how staff have acknowledged and accepted their responsibility at all grades across the whole Council

- The external auditors were not satisfied that sufficient steps had been taken by the Council to demonstrate that its staff and contractor organisations had confidence in its whistle-blowing procedures.

Actions to implement recommendations are in progress, for example risk management training is included in the financial training modules available to members. Although not all of the 2007/08 Use of Resources judgments translate exactly to the new Continuous Area Assessment regime, work will be undertaken as far as possible by the external auditors in 2008/09 to assess the extent of progress made.

CAA – The organisational assessment scores for 2008/09 are due on the 19 October 2009.

Breakdown of all time in Internal Audit
April 2009 to July 2009



Assurance Level	Summary description	Detailed definition
High	Strong controls in place and complied with.	The system/area under review is not exposed to foreseeable risk, as key controls exist and are applied consistently and effectively.
Substantial	Controls in place but improvements beneficial.	There is some limited exposure to risk of error, loss, fraud, impropriety or damage to reputation, which can be mitigated by achievable measures. Key or compensating controls exist but there may be some inconsistency in application.
Limited	Improvements in controls or the application of controls required.	<p>The area/system is exposed to risks that could lead to failure to achieve the objectives of the area/system under review e.g., error, loss, fraud/impropriety or damage to reputation.</p> <p>This is because, key controls exist but they are not applied, or there is significant evidence that they are not applied consistently and effectively.</p>
Minimal	Urgent improvements in controls or the application of controls required.	<p>The authority and/or service is exposed to a significant risk that could lead to failure to achieve key authority/service objectives, major loss/error, fraud/impropriety or damage to reputation.</p> <p>This is because key controls do not exist with the absence of at least one critical control, or there is evidence that there is significant non-compliance with key controls.</p>

This page is intentionally left blank

By: Roger Gough – Cabinet Member for Corporate Support Services
and Performance Management

To: Governance and Audit Committee – 16th September

Subject: DATA QUALITY

Classification: Unrestricted

Summary:

KCC is required by the Audit Commission to have a Data Quality Policy in place covering management arrangements for the production of strategic performance indicators. Following the Data Quality Audit for 2007/08 the Policy has been updated and approval for the revised policy is now being sought. A summary of progress on the recommendations of the Audit report are also provided for information.

FOR DECISION

1. Introduction

1 Data quality and the strength of management arrangements to secure it within public bodies have been subject to increasing concern and focus by government, the Audit Commission and other regulators.

2 As part of the Audit Commission's annual Use of Resources, Local Authorities are subject to an annual audit of the strength of management arrangements for securing data quality.

3 As a result of the audit report on data quality for 2007/08, received earlier this year, the KCC Data Quality Policy has been updated and approval for the revised policy is now being sought.

4 An update on progress against other recommendations of the audit report is also provided below for information.

2. The 2007/08 Data Quality Audit

5 Earlier this year the Audit Commission provided KCC with a report on the audit of the council's management arrangements to secure data quality 2007/08.

6 The overall finding was that the council's arrangements are consistently above minimum standards, which is a good rating.

7 Areas where the council should consider improvements were provided through a series of five recommendations. Some of the recommendations required revisions to the KCC Data Quality Policy.

8 Progress against the five recommendations is as follows :

Recommendation	Progress Report
The role of all councillors should be specified in the data quality strategy.	Data Quality Policy updated.
Councillors should have data quality training provided commensurate with their role in data quality.	Awareness has been raised by providing all POC's with a copy of the Data Quality audit report. Copy of new Policy to be circulated to all members. Performance reports to POC's to include relevant information on Data Quality processes in relation to information provided.
That the Council at a strategic level formalises protocols and standards on data quality received from outside bodies to ensure that all data used by the Council is sound.	An extensive framework is already in place through the Kent & Medway Three-Tier Model for Information Sharing. Standards are also being put in place within Kent Partnership working groups with the Multi-agency Data Group of the Kent Children's Trust leading the way. Data Quality Policy updated.
The Council should report on the effectiveness of the various levels of data quality training provided so that it can assure itself that any data quality gaps in staff are being met.	Directorates reviewing training provided.
Ensure that the profile of data quality is raised by reporting the results of spot-checks of data systems to councillors.	Improvement in reporting of Data Quality and integrating this into relevant performance reports to POCs is in hand.

9 The specific items where updates have been made to the Kent County Council Data Quality policy as a result of the audit report are :

- The role of councillors
- Information and guidance on training
- Further guidance on reporting of data quality issues
- Additional standards in relation to data quality received from outside bodies

10 It was the council's expressed intention to review the Data Quality Policy on a regular basis and a number of other minor changes in wording and emphasis have also been made at this time, which were not specific recommendations from the Audit Commission.

4. Recommendation

11 Members are asked to APPROVE the revised Data Quality Policy.

Richard Fitzgerald
Performance Manager
Chief Executives Dept.
01622 (22) 1985
Richard.fitzgerald@kent.gov.uk

This page is intentionally left blank

Kent County Council

Data Quality Policy

(for strategic performance indicators)

August 2009

Contents

Foreword	3
The commitment to data quality	4
Characteristics of good data quality	5
Governance Arrangements	6
Policies and Procedures	8
Systems and Processes	9
People and Skills	10
Data use and Reporting	11

Foreword

- 1 To ensure that we fulfil our commitment to continually improve services and provide better outcomes for Kent residents we need to be confident that we are making decisions based upon high quality information. The robustness and use of our data is also something which is increasingly scrutinised by our regulators, reflecting its importance and value.
- 2 Data supports our planning process, helping us identify what we need to do to deliver high quality services. It underpins our performance management framework, helping us assess when things are working well and where we need to take action to make improvements. We also use data to help us focus services around our customers and ensure that we are making the best use of our resources and delivering value for money.
- 3 The policy is intended to address the quality of information/data used for decision making, otherwise known as performance indicators and ensuring such information is fit for purpose.
- 4 Performance Indicators includes aggregate data and summary statistics relevant to performance management at a strategic level. This does not include records at a individual level more relevant to personalised services at an operational level, although the former is often built upon the latter and these two levels of data are clearly interlinked.
- 5 The performance data covered by this policy include National Performance Indicators including Local Area Agreement Targets, targets in unit business plans and in the strategic priorities of the council (eg Towards 2010).
- 6 Data Protection and information governance have separate, although related requirements to the general requirements around management arrangements for securing data quality and are addressed in more detail within existing policies and documentation. In some cases data security is related to data quality through a subordinate role, for example if data is not secure, its quality could be comprised.
- 7 This document sets out the expectations for data quality across the organisation and provides specific policy guidelines for performance data. It brings together the good work we are already doing around data quality, provides a framework for sharing best practice and outlines our commitment to improving data quality.

The commitment to data quality

8 The aim of this policy is to :

- communicate the Council's commitment to data quality, giving the necessary assurance to those using information to make decisions, assessments or judgements; and
- outline some specific good practice guidance and advice to those involved in the production and use of data.

9 The Council recognises the importance of having good quality data. The overarching objective of this policy is therefore to improve the quality of all data used by the Council.

10 We aim to support this by:

- providing clarity about the characteristics of good data quality;
- defining the roles and responsibilities of those staff who produce, handle or use data;
- and providing general guidance relating to all other aspects relevant to delivering data quality such as systems and processes.

11 In turn, improved data quality will:

- support corporate and service planning;
- enable effective performance management, helping us deliver improved services by identifying and resolving issues rapidly and managing risks;
- support the provision of value for money, helping us manage our resources efficiently and effectively;
- facilitate benchmarking with other authorities to identify best practice and support improvement;
- inform customers, citizens, partners and other stakeholders about the quality and cost of services.

Characteristics of good quality data

- 12 Good quality data should be sought for all information used for decision making purposes. The primary focus of this policy is to address strategic information – that is information relating to strategic priorities and national statutory indicators. However the same principles are applicable to all information used by the Council
- 13 In the past data quality was often seen simply as accuracy of data but it is now widely acknowledged that data quality is a multi-dimensional concept which can be summed up as “fitness for purpose”. Accurate data is of little value if it arrives too late for timely decisions to be made. The following are characteristics to be considered when addressing issues of data quality.
- 14 In seeking to achieve good quality data, we recognise that a balance may be required between some of these characteristics. It is also important that the resources used to achieve these characteristics should be proportionate to the perceived value it provides to the organisation and therefore consideration must be given to its purpose/use of the data.

Relevance	Data should be defined/selected, collected, recorded and analysed with the intended use and audience in mind.
Accuracy	Data should provide a true account of what it is intended to represent to enable informed decisions to be made.
Timeliness	Data should be available frequently and promptly enough for it to be valuable for managing service delivery and decision making, providing the opportunity to take corrective action where needed.
Accessibility	Data should be easily available to those who need access to it. This also refers to the format used to present the data and accompanying notes of explanation to ease interpretation.
Coherence	This refers to data being consistent with other available information, either from other sources or with different frequency.
Comparability	Data should be comparable across time and space, which requires consistency of method in preparation of the information.

- 15 There are different frameworks available for describing the various characteristics of data quality. The above categorisation is based on that used by the Office for National Statistics (*Guidelines for Measuring Statistical Quality*), which is in turn based on recognised international standards.

Governance Arrangements

- 16 Data quality will be explicitly considered, planned for and managed in relation to all new information technology systems which produce any form of management information.
- 17 Responsibility for data quality will be clearly defined throughout the organisation with accountabilities made clear in unit operating plans, job descriptions and personal action plans. See Table 1 on the next page for more detail on responsibilities across the organization.
- 18 All directorates will have named contacts with specific responsibility for ensuring that information provided meets with the defined characteristics of data quality. Responsibility also includes highlighting any concerns/caveats and cascading requirements to others involved in producing this data.
- 19 Directors and heads of service should consider and receive reports which include information on data quality as relevant to their own operations and this will be integrated within other planning and monitoring processes.
- 20 Management will promote and make clear to staff the importance of data quality.
- 21 Where data quality is found to be lacking, specific action plans should be implemented to deliver improvements
- 22 Internal audit will consider issues of data quality in relevant audit work and provide recommendations where appropriate with a risk based approach taken in this work.
- 23 Data quality will be considered within corporate risk management arrangements and the Statement of Internal Control.

Table 1 – Specific roles and responsibilities for data quality

Role	Areas of responsibility
Councillors	<ul style="list-style-type: none"> • Awareness of this Data Quality policy • To ensure that services have sufficiently robust systems in place to ensure good data quality for key management information and to consider the quality of data before them when making decisions
Chief Officers Group	<ul style="list-style-type: none"> • Overall responsibility for ensuring that arrangements are in place to assure the quality of data (in particular that which is business critical) and that improvement action is taken where necessary
Data quality champions	<ul style="list-style-type: none"> • Ensuring that the Data Quality Policy is communicated, understood and implemented • Reviewing data quality and agreeing actions for improvement where required • Keeping councillors informed of data quality issues • Ensuring data quality training is available and sufficient
Divisional/Unit Managers (or equivalent)	<ul style="list-style-type: none"> • Ensuring staff have the necessary skills required to deliver high quality data and that their responsibility for data quality is reflected in job descriptions and monitored and supported through the staff appraisal process. • Ensuring that appropriate systems and processes are in place to deliver high quality data, and contingency arrangements and appropriate controls are in place to give assurance about quality
Performance /Information Management Staff	<ul style="list-style-type: none"> • Keeping knowledge of relevant performance measures, requirements and issues up to date and cascading appropriate information to any other staff involved in producing this information • Ensuring high quality information is regularly provided within the timescales agreed, highlighting any changes, caveats or potential issues relating to the information provided (e.g. changes to systems, sources and definitions) so that sound judgements can be made about how this information should be used and interpreted. • Ensuring that the information provided is supported by underlying working papers/records and that these are retained as appropriate
All Staff	<ul style="list-style-type: none"> • Awareness of their individual responsibilities relating to data quality and how their day to day work can impact upon the quality of data and add value for the organisation
Internal audit	<ul style="list-style-type: none"> • Annual audit programme to include review of underlying systems used to produce performance information where data quality issues have been identified using a risk based approach

Policies and procedures

- 29 All directorates should have in place a Data Quality Framework which is kept under review and which supports the principles of the overall KCC Data Quality Policy.
- 30 All significant information systems which provide strategic information should have documentation providing comprehensive procedures and guidance for users and this should be easily accessible on k-net.
- 31 Such documentation will cover, among other things, data entry, database management, report production and will also define how any key indicators based on the information are compiled.
- 32 Staff should be fully involved in the development of such documentation and documentation should be reviewed annually to ensure it stays fit for purposes.
- 33 Each system should have nominated data quality champions who oversee the production of documentation, promote the policies and report and review on compliance with the policy.
- 34 Systems which produce strategic information should be subject to audits and spot checks with results incorporated into monitoring reports provided to managers and Councillors.
- 35 Where information from third parties is used the following standards should be applied:
 - Agree expected levels of data quality to ensure everyone is clear about the standards expected, and to ensure that these standards are met. This includes notification of any changes to methods of data collection that may impact upon the data provided.
 - Provide, or request, clear definitions of data requirements, and terminology where these may differ across services
 - Ensure that Data Quality is not compromised by data adjustment, e.g. it should be clear where estimates or sampling are being used.
 - Any issues or questions over the data should be raised with the supplier of the data.

Systems and processes

- 36 Arrangements for collecting, recording, analysing and reporting data (including frequency and quality standards required) should be considered as part of the business planning process, for example when new indicators are agreed.
- 37 Responsible officers should ensure that systems and processes are in place to provide data in line with the characteristics of good quality data.
- 38 Systems and processes should be designed, and staff trained, in line with good practice guidance. These systems and processes should be set up in a way that maximises our ability to achieve high quality data first time, avoiding the need to divert resources and cause delays due to excessive checks, controls and 're-works'.
- 39 The level of checks and controls should be proportionate to the value of the data and risk of poor quality. These should be appropriate to the systems and processes being used and include lead officer 'sign off' to assure the quality of data.
- 40 The interface between systems and processes should be streamlined as far as possible. Replication and ineffective/inefficient overlaps in data storage and reporting systems should be avoided where possible to minimise duplication of effort and reduce opportunities for errors and inconsistencies.
- 41 Contingency arrangements should be established to ensure data can be delivered when circumstances change. This should include, as a minimum, producing back-ups of data, creation/retention of audit trails and ensuring that there is a deputy in place who would also have some knowledge of the relevant data and processes and/or systems used to produce it.
- 42 Where data is provided by a third party or shared externally, quality standards and frequency of exchange should be agreed and documented.
- 43 Relevant supporting information should be held for all performance data, including a document outlining the definition of measures.
- 44 Definitions/guidance documents should be referred to by performance staff when results are calculated. Any definition changes should be documented and clearly highlighted in any resulting analysis or reports. These will act as detailed procedure notes, enabling continuity where there are staff changes and will be used to support any audit work.
- 45 Systems and processes should be regularly tested to ensure they remain fit for purpose. Data quality should be regularly reviewed in year using appropriate tools and techniques to enable necessary actions to be taken where issues are identified.

People and skills

- 46 Staff at all levels within the organisation need the appropriate knowledge and competencies for their roles in relation to data quality, recognising that they are the key to recording accurate and reliable data.
- 47 All staff involved in producing data/information have a responsibility for quality. Staff should be aware of how any data they record or handle is used (and its relative value to the organisation) and how their role can impact upon quality.
- 48 Staff and members have a responsibility to consider the quality of information (and underlying data) when making decisions based upon it.
- 49 The recruitment, performance appraisal and ongoing staff development processes should clearly reflect and reinforce the importance of data quality for those staff working with data. These processes should take account of the aspects of data quality that are relevant for individual roles, reflecting these aspects in job descriptions, personal action plans and ongoing training and support.
- 50 Staff involved in the production or use of this data should be provided with appropriate training and support to ensure data is produced and used in a way that adds value for the organisation, taking account of the characteristics of high quality data. This should be discussed and reviewed in annual performance appraisals.
- 51 Training for staff and councillors includes being aware of the KCC Data Quality Policy.
- 52 Training provided should be kept under review by Data Quality champions to ensure it is adequate and that it is being provided to those who require it.

Data use and reporting

- 53 To provide most value, data should be focused upon supporting the organisational priorities and be defined in a way that will support decision making and help the organisation take appropriate action. Relevance should be kept under review and data may need to be modified to reflect changing circumstances.
- 54 Data should be presented in a format that is meaningful and accessible to the user. User feedback should be sought to ensure outputs continue to be valuable.
- 55 Data can be most effectively used if it is produced, communicated and reported in a timely way, aiming for as near to 'real time' reporting as possible to allow management action to be taken where needed. In order to achieve this it may be necessary to accept a lesser degree of accuracy.
- 56 The collection and reporting timetable should be staged in a way that enables the quality of information to be assured, issues discussed and content approved and/or improved with any additional information before final reporting.
- 57 Where performance data or other business critical information is not available frequently the creation of proxies/alternative data sources should be considered in the interim where these will support decision making. In these instances, care needs to be given to ensure that data shows what it is intended to and limitations of such proxies are communicated and taken into account by users.
- 58 Data used for decision making should be complete and balanced. This might best be achieved by presenting/interpreting data alongside other complementary information. Data that isn't already scaled may be best considered against relevant population/volume data.
- 59 To get most value from data, supporting commentary and contextual information needs to be maintained and kept relevant and up to date, with any caveats or data quality issues clearly outlined.
- 60 Data should be at an appropriate level of detail to influence management decisions e.g. broken down to underlying activity, district or service level data where meaningful.
- 61 Comparison to earlier periods and/or other organisations or groups should be considered to help with interpretation of data and identifying potential areas of good practice.
- 62 Where there is significant variation in performance against target and/or over time, underlying information and causes should be considered to identify whether this is a performance issue or data quality issue. Monitoring and reporting should include a review of latest progress on such issues and any management action being taken to address these.
- 63 Where data quality issues are raised internally through self-assessment or externally, e.g., through matters arising from audit, this should be taken into account in any interpretation and analysis.

By: Chief Executive

To: Governance and Audit Committee – 16th September 2009

Subject: OMBUDSMAN COMPLAINTS

Accountable Officer: Corporate Access to Information Coordinator

Classification: Unrestricted

Summary and Recommendations: To report:-
the latest position on complaints to the Local Government Ombudsman against the County Council;

FOR INFORMATION

1. New Local Government Ombudsman Complaints since 1st October 2008

(1) In the six months from 1st October 2008 to 31st March 2009, 30 new complaints about the County Council were made to the Local Government Ombudsman. This excludes the 10 additional complaints which were classified by the Ombudsman as “premature” (i.e. the Ombudsman considered that the Council had not yet had sufficient opportunity to consider them first) and which will not therefore be included in the annual statistics on complaints when it is published by the Ombudsman shortly. The latest position in the Ombudsman’s consideration of these 30 new complaints and brief details of them on a Directorate by Directorate basis are set out in Tables A and B respectively:-

Table A

Total new complaints 1/10/08 – 31/3/09	30
<i>of which:-</i>	
KCC investigating/collating information	0
Ombudsman’s decision awaited	10
Complaint closed - local settlement	5
Complaint closed - Ombudsman’s discretion	8
Complaint closed - outside Ombudsman’s jurisdiction	4
Complaint closed - no evidence of maladministration	3

Table B

Adult Social Services	1
Chief Executives	3
<i>of which:-</i>	
Commercial Services	2
Miscellaneous/policy	1
Children, Families and Education	13
<i>of which:-</i>	
School Transport	1

Special Educational Needs	1	
Children's Social Services	9	
Other	2	
Communities		1
<i>of which:-</i>		
Trading Standards	1	
Environment and Regeneration		12
<i>of which:-</i>		
Kent Highway Services	8	
Planning Applications	1	
Environment & Waste/Public Rights of Way	3	

2. Current position on existing cases received in the financial year 2007/2008 and still under investigation by the Ombudsman

The Ombudsman has now issued a decision on all eleven cases that were received in 2007/2008 that were still outstanding at the time of my last report (December 2008).

Complaint 07/A/03721 – Special Educational Needs

A summary of this complaint as the Ombudsman understands it is that the Council

- (i) Delayed unreasonably in assessing complainant's stepson and issuing a Statement of Special Educational Needs
- (ii) Unreasonably asked complainants to visit several schools within the county which were not suitable for their step-son's needs.
- (iii) Unreasonably refused to consider a residential placement until just before the SENDist hearing was about to take place and
- (iv) Failed to provide suitable education while stepson was excluded from his mainstream school

The Ombudsman's proposals for settlement, which the Council contested is that the Council pay £39,395 compensation to the stepson for the education he missed for half a term and £5,300 compensation to the complainant to cover some of his legal fees. The Council has agreed to pay £6,868 for the loss of day provision, £750 for legal fees and £1000 to complainant for time and trouble in pursuing complaint. Having considered the Council's arguments, the Ombudsman accepted a local settlement of £13,962 which was duly paid to the complainant.

Complaints 07/A/15602, 16249, 16250, 16251 & 16435 – Failure to keep adequate records re the highway status of Longfield Place

A summary of these complaints from residents as the Ombudsman understands it is that there is an administrative fault in the Council's failure to keep adequate records of the highway status of Longfield Place, Maidstone and in its inconsistent or inaccurate advice to Maidstone Borough Council and others about that matter. This has resulted in development of land opposite the complainants residences which a ransom strip that they purchased was supposed to prevent. Following an inspection of the Council's records, the Ombudsman recommended that the Council pay each complainant £500 compensation to settle the matter locally as the Ombudsman recognised that the complainants could have pursued the land issues through the courts for a definitive position.

Complaint 07/A/12559 – Refusal to address traffic issues

A summary of this complaint as the Ombudsman understands it is that the Council has failed to consider properly alternative measures to address the problem of speeding traffic on Church Road, Eastchurch. Following their investigation, the Ombudsman considered there was no evidence of maladministration.

Complaint 07/A/14391 – Refusal to address traffic issues

A summary of this complaint as the Ombudsman understands it is that the Council has failed to take adequate steps to address the issue of speeding cars on Charing Hill. Following their investigation, the Ombudsman considered there was no evidence of maladministration.

Complaints 07/A/16114 & 16081 – Removal of specialist services without notice/consultation.

A summary of this joint complaint as the Ombudsman understands it is that the Council is at fault in that

(a) it removed specialist services provided by organisation KIDS to the complainants' children in January 2007 without reasonable notice or consultation and

(b) it has failed to make adequate or appropriate alternative provision since January 2007.

The Ombudsman's proposals for local settlement, which the Council accepted, are that the Council pay £1250 compensation to one complainant and £2000 to the other.

Complaint 07/A/07845 – Unfair action re trees & hedges

A summary of this complaint as the Ombudsman understands it is that the Council has taken unnecessary and unfair action against complainant in respect of trees and a hedge on her property. Following their investigation, the Ombudsman considered there was no evidence of maladministration.

3. Current position on existing cases received last financial year (1st April 2008 to 31st March 2009) and still under investigation by the Ombudsman

Complaint 08 007 079 – Failure to provide full-time education following exclusion

A summary of this complaint as the Ombudsman understands it is that the Council has failed to provide the complainant's son with full time education since he was excluded in November 2007. It has also failed to provide the support to complainant's son which is indicated in his statement of Special Educational Needs. This has caused a financial loss for the complainant who runs a small business but is unable to work when son is at home.

The Ombudsman has suggested that the Council pay £4000 in compensation for loss of educational provision and a further £1000 to the complainant for injustice and loss of business. The Council are still deliberating this local settlement proposal

Complaint 08 011 660 – Maintenance of Customer Care Plan

A summary of this complaint as the Ombudsman understands it is that the Council has failed in its duty of care towards complainant. In particular, it has not provided him with the care services specified in his Care Plan since July 2007, or appointed a replacement Care Manager for him. Nor has the Council responded appropriately to complainant's enquiries and complaints about this lack of provision and other related issues.

This is actually an NHS Trust matter and the Ombudsman has been made aware.

Complaint 08 005 202 – Review of family’s needs

A summary of this complaint as the Ombudsman understands it is that the Council has failed to fulfil its statutory duty to carry out reviews of complainant’s family’s needs even when recommended to do so by a Complaints Review Panel and that this failing has resulted in complainant’s family not receiving the level of support it requires.

Following investigation, the Ombudsman has issued a report indicating that the Council is guilty of maladministration causing injustice and has indicated that the Council should pay the complainant £12,500 in recognition of missed direct payments and time and trouble in pursuing complaint.

Complaint 08 013 106 – Dispute with B&Q

A summary of this complaint as the Ombudsman understands it is that there is an administrative fault in the Council's willingness to allow B&Q to sell as new products which have been returned by customers and the way in which the Council considered the complainant’s complaint about this issue.

Following their investigations, the Ombudsman has suggested the Council issue a “modest apology” to conclude matters but has asked to delay sending this until a final decision has been made.

Complaint 08 012 031 – InsideOut, Personal Financial Losses, Approved Contractors List and Tendering Process

A summary of this complaint as the Ombudsman understands it is that the Council has attempted to remove the complainant’s company from the Approved List on two occasions without valid reason; has set up its own company, subsidised by Kent taxpayers and not subject to the same costs and overheads, and with which the complainant’s company cannot reasonably compete; has attempted to block the tendering opportunities available to the complainant’s company; and has interfered with the tendering process when the complainant’s company has been awarded the contract.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman’s investigations

Complaint 08 008 346 – Children’s’ social services

A summary of this complaint as the Ombudsman understands it is that the Council has failed to properly consider complaints regarding his concerns about his children.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman’s investigations

Complaint 08 017 038 – Development of North Barracks at Deal

A summary of this complaint as the Ombudsman understands it is that both the District & County Councils have failed to take action on various issues (road condition, adoption of roads, sewerage, landscaping, yellow lines, access etc) raised by residents who have purchased properties whilst the development of this site is ongoing.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman’s investigations

Complaint 08 017 112 – Traffic problems at A228 Mereworth

A summary of this complaint as the Ombudsman understands it is that Kent Highways Services’ transport policy does not take account of the effect on the complainants and their neighbouring

residents of the impact of heavy traffic using the A228 which bisects their road. They are also concerned about lack of visibility at the exit from the road on to the A228; lack of safe provision for pedestrians crossing the A228; and lack of routine and planned maintenance.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman's investigations.

Complaint 08 017 678 – Special educational needs

A summary of this complaint as the Ombudsman understands it is that the Council delayed unreasonably in making appropriate special educational needs provision for complainant's son with the consequence that son left school without GCSEs.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman's investigations

Complaint 08 019 073 – Assisted home-to-school transport

A summary of this complaint as the Ombudsman understands it is that there was administrative fault in the Council's consideration of the complainant's application and appeal for free transport for his son, between his home, and Sir Roger Manwood's Grammar School, Sandwich.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman's investigations

Complaint 08 013 687 – Claim to have route recorded as Byway Open to all Traffic

A summary of this complaint as the Ombudsman understands it is that that the Council has failed to properly consider complainant's request for a route between Foxes Cross Road and Pean Hill, Whitstable to be recognised as a byway open to all traffic and recorded as such on the Council's definitive map. Complainant has also complained about the Council's decisions on her claims made in 1991 and 1997 and the Council's delay in considering her requests.

The Council has provided the information requested by the Ombudsman to the Ombudsman and is awaiting the outcome of the Ombudsman's investigations

3. Local Government Ombudsman Annual Letter 2008/09

(1) Each year the Local Government Ombudsman produces an individual Annual Letter for every Council. The Annual Letter for 2008/09 is attached as Appendix 1 to this report.

(2) The purpose of the Annual Letter is to help Councils learn from the outcome of complaints to the Ombudsman, underpin effective working relationships between Councils and the Ombudsman's office, identify opportunities for the Ombudsman and his staff to provide assistance that a Council may wish to seek in bringing about improvements to its internal complaint handling, and generally provide complaint-based information which the Ombudsman hopes Councils will find useful in assessing and reviewing their performance.

(3) The Annual Letter reflects the generally good working relationship which exists between the County Council and the Ombudsman's office.

4. Complaints Statistics

(1) The Ombudsman has changed the reporting format slightly this year; appendix 2 of his letter contains detailed statistics relating to complaints made to the Ombudsman against KCC for the last financial year only whereas in the past, complaints received for the two years prior to that were also shown. The statistics compare KCC's response times to first enquiries over the past three years and compare KCC's performance in this respect with other councils.

(2) The figures tabled in appendix 2 shows that 164 complaints about KCC were received by the Ombudsman in 2008/09 compared to 146 in 2007/08 and 148 in 2006/07. (These figures include premature complaints, that is ones that the Ombudsman was unable to investigate because he didn't feel that KCC had had the opportunity to look at the complaint first and try and resolve it). This appears to be due to an increase in complaints about Children & Family Services (30, 8 more than last year), Transport & Highways (30, 7 more than last year) and "Other Service Areas" – this includes planning applications, consumer affairs, trees and waste management – (17, 9 more than last year). The number of Education complaints has fallen for the third year in a row.

(3) A main criticism of KCC in this year's letter is the deterioration of the Council's response times to their enquiries from 29.4 days in 2007/08 to 38.1 in 2008/09. The Ombudsman expects a response to their initial approach within 28 calendar days and the Council was well outside of this target. Although some responsibility does lie with a few operational units who have been slow to provide the Council's designated link officer (Caroline Dodge, Corporate Access to Information Coordinator) with the information requested by the Ombudsman, the link officer's own lack of resources, increased workload and her prioritising responses to FOI requests (which have a statutory deadline to meet) over complaints were primary factors. However, a new member of staff was recruited at the beginning of this financial year and Claire has already had a positive effect; the average number of days to respond to the Ombudsman has fallen to 21.4 so far this year, well within the Ombudsman's target. Another criticism is KCC's reluctance to settle complaints locally until ordered to do so by the Ombudsman. If KCC was perhaps more proactive or creative in trying to resolve complaints, then the 35 local settlement decisions may not have escalated to the Ombudsman in the first place.

(4) On a positive note, there were no reports of maladministration, so 90 of the 125 complaints that the Ombudsman issued a decision on, couldn't have been avoided as KCC had done nothing wrong but the complainant was simply unhappy with perhaps a decision or policy that went against them.

5. Further Information

Further information about any of the complaints, statistics or other matters mentioned in this report can be obtained from the Corporate Access to Information Coordinator.

Caroline Dodge
Corporate Access to Information Coordinator
Ext 1652

Copy to COG
Caroline Dudgeon

Local Government
OMBUDSMAN

16 June 2009

KENT COUNTY COUNCIL

Mr Peter Gilroy OBE
Chief Executive
Kent County Council
DX 123693
MAIDSTONE 6

23 JUN 2009

DP + FOI CO-ORDINATOR

CHIEF EXECUTIVE
210 18 JUN 2009
THE KENT COUNTY COUNCIL

If telephoning please contact Frank Edwards on 020 7217 4690
email address: f.edwards@lgo.org.uk

Dear Mr Gilroy

Annual Review 2008/09

I am writing to give you a summary of the complaints about your Council that my office has dealt with over the past year, set out in the annual review attached. We have changed the name from annual letter to annual review to better describe the updated document format. I hope you find the review a useful addition to other information you have on how people experience or perceive your services.

The review is split into two sections. The first concerns complaints about your Council and the second section provides a general update on LGO developments. This includes our proposal to introduce 'statements of reasons' for Ombudsmen decisions. I would welcome your views on this and any comments you may have on the form and content of the review.

We will publish all the annual reviews on our website (www.lgo.org.uk) and share them with the Audit Commission. We will wait for four weeks after this letter before doing so, to give you an opportunity to consider the review first. If any material factual inaccuracy is found we will reissue it. We will also publish on our website a summary of statistics relating to the complaints we have received and dealt with against all authorities.

I would again be happy to consider requests for me or a senior colleague to visit the Council to present and discuss the letter with councillors or staff. We will do our best to meet the requests within the limits of the resources available to us.

I am also arranging for a copy of this letter and the review to be sent to you electronically so that you can distribute it easily internally and put the annual review on your Council's website. You do not need to include this covering letter on your website.

Yours sincerely

Tony Redmond

10th Floor
Millbank Tower
Millbank
London
SW1P 4QP

T: 020 7217 4620
F: 020 7217 4621
DX: DX 149243 Victoria 13
W: www.lgo.org.uk
Advice Team: 0845 602 1983

Tony Redmond
Local Government Ombudsman
Peter MacMahon
Deputy Ombudsman

Local Government
OMBUDSMAN

**The Local Government Ombudsman's
Annual Review**

Kent County Council

**for the year ended
31 March 2009**

The Local Government Ombudsman (LGO) provides a free, independent and impartial service. We consider complaints about the administrative actions of councils and some other authorities. We cannot question what a council has done simply because someone does not agree with it. If we find something has gone wrong, such as poor service, service failure, delay or bad advice, and that a person has suffered as a result, the Ombudsmen aim to get it put right by recommending a suitable remedy. The LGO also uses the findings from investigation work to help authorities provide better public services through initiatives such as special reports, training and annual reviews.

Contents of Annual Review

Section 1: Complaints about Kent County Council 2008/09	3
Introduction	3
Enquiries and complaints received.....	3
Complaint outcomes	3
Liaison with the Local Government Ombudsman	6
Training in complaint handling	6
Conclusions	7
Section 2: LGO developments	8
Introduction	8
Council First.....	8
Statement of reasons: consultation	8
Making Experiences Count (MEC)	8
Training in complaint handling	8
Adult Social Care Self-funding.....	9
Internal schools management	9
Further developments	9
Appendix 1: Notes to assist interpretation of the statistics 2008/09	10
Appendix 2: Local authority report 2008/09	

Section 1: Complaints about Kent County Council 2008/09

Introduction

This annual review provides a summary of the complaints we have dealt with about Kent County Council. We have included comments on the authority's performance and complaint-handling arrangements, where possible, so they can assist with your service improvement.

I hope that the review will be a useful addition to other information your authority holds on how people experience or perceive your services.

Two appendices form an integral part of this review: statistical data for 2008/09 and a note to help the interpretation of the statistics.

Changes to our way of working and statistics

A change in the way we operate means that the statistics about complaints received in 2008/09 are not directly comparable with those from 2007/08. Since 1 April 2008 the new LGO Advice Team has been the single point of contact for all enquiries and new complaints. The number of calls to our service has increased significantly since then. It handles more than 3,000 calls a month, together with written and emailed complaints. Our advisers now provide comprehensive information and advice to callers at the outset with a full explanation of the process and possible outcomes. It enables callers to make a more informed decision about whether putting their complaint to us is an appropriate course of action. Some decide to pursue their complaint direct with the council first.

It means that direct comparisons with some of the previous year's statistics are difficult and could be misleading. So this annual review focuses mainly on the 2008/09 statistics without drawing those comparisons.

Enquiries and complaints received

Last year, our Advice Team handled 164 enquiries and complaints about your Council. Of these 28 related to complaints which we considered were premature, and we referred them to your Council for investigation. We gave advice to 26 other enquirers on a variety of matters, including my jurisdiction. Our Advice Team passed 110 complaints to the investigative team. The issues which prompted the most significant numbers of enquiries were Education, Social Services, and Transport and Highways. These subjects also accounted for the majority of the complaints forwarded to the investigative team.

Complaint outcomes

This year, I made decisions on 125 complaints against your Council. There were 43 complaints in which I found no, or insufficient, evidence of fault by the Council to warrant further investigation. I used my discretion not to pursue investigations into 34 complaints, for example where the injustice to the complainant was not significant enough to warrant a remedy, or where the remedy which the Council had provided was adequate. I found that 13 complaints were outside my jurisdiction.

Local settlements

A 'local settlement' is a complaint where, during the course of our investigation, a council takes or agrees to take some action that we consider to be a satisfactory response to the complaint. In 2008/09, 27.4% of all complaints the Ombudsmen decided and which were within our jurisdiction were local settlements. Of the complaints I decided against your authority, which were within my jurisdiction, 35 (31.3%) were local settlements. These settlements resulted in the Council making payments totalling £23,812. Among these payments, £3,350 arose from three complaints about children and family services, £3,250 from eight complaints (six of which were related) about highways matters, and £16,962 from three complaints about special educational needs.

Complaints by service area

School admissions

I decided 58 complaints about applications and appeals for admission to Community and Voluntary Controlled schools, where the Council is the admissions authority. One complaint was outside my jurisdiction. In 23 complaints, there was no, or insufficient, evidence of maladministration and, in 20 others, I used my discretion not to pursue an investigation.

I agreed to settle 14 complaints. In a number of appeals, the written cases presented on the Council's behalf contained mistakes and, in others, the Panels took account of irrelevant factors in reaching their conclusions. In eight cases, a place at a preferred school was offered to a pupil, by various means including a successful appeal. The Council offered a rehearing, with a completely different Appeal Panel and a different Clerk, in respect of the appeals of six other pupils.

Nevertheless, the Council was reluctant to accept our recommendations that some appeals should be reheard, and more resistant to our suggestion that, in a very exceptional case where the Council and the Appeal Panel had been at fault, the Council should exercise its discretion to admit the pupil without requiring a further appeal. The Council has agreed to review a range of procedures and published material relating to applications and appeals for school places.

School transport

I decided four complaints about school transport. In one complaint, there was no, or insufficient, evidence of maladministration and, in one other, I used my discretion not to pursue an investigation. Another complaint was outside my jurisdiction.

I settled the last complaint. The Council had allocated too many places on a school bus so that it was overcrowded. The complainant's children were transferred to another bus which deposited them slightly further from their home. The Council reinstated the original provision and apologised for the error, caused by an officer overriding a computerised system.

In another case, which did not call for a formal settlement, the Council agreed to give further attention to procedural issues connected with eligibility for free home to school transport and with its scheme for non-statutory appeals against the refusal of transport.

Special educational needs

I decided six complaints about special educational needs. In two complaints, there was no, or insufficient, evidence of maladministration and, in one other, I used my discretion not to pursue an investigation.

I agreed to settle three complaints. In one case, there was a shortfall, of eight hours each week for more than three months, in provision to meet a pupil's special educational needs. The Council paid £1,750 to meet the cost of the lost provision.

In a second case, the Council failed over two years, partly through difficulty in recruiting therapists, to provide speech and language therapy for a pupil who had moved into its area. The Council paid £1,000 to recognise two years' lost provision, and £250 to acknowledge the complainant's time and trouble in complaining.

In the third case, the Council delayed unreasonably in finalising a pupil's statement of special educational needs at the transfer to secondary school. There was then delay in identifying a suitable residential placement, during which the Council maintained that the pupil could attend a local day school. The pupil was without education for some time. When alternative education was provided, it was inadequate. The Council was resistant to providing information about the complaint, despite a personal approach by me, and to settling the complaint. It finally agreed to make a payment of £13,962, representing £6,868 in respect of lost day provision, £5,344 in respect of lost residential provision, a contribution of £750 to the complainant's legal fees, and £1,000 to recognise the complainant's time and trouble.

Children and family services

I decided 17 complaints about children and family services. Two complaints were outside my jurisdiction. In five complaints, there was no, or insufficient, evidence of maladministration and, in five others, I used my discretion not to pursue an investigation.

I agreed to settle five complaints. Two complaints related to the Council's withdrawal of a play scheme service without adequate notice, and without providing suitable alternative provision for about 18 months. The Council paid a total of £500 to recognise its failure to give adequate notice of the change, and a total of £2,500 to acknowledge its failure to make prompt alternative provision. It also paid one complainant £250 to recognise a potential breach of confidentiality through its persistently sending correspondence to a wrong address.

Highway management

I decided 22 complaints about highway management. Three complaints were outside my jurisdiction. In seven complaints, there was no, or insufficient, evidence of maladministration and, in one other, I used my discretion not to pursue an investigation.

I agreed to settle 11 complaints. In one case, the Council agreed to use its best endeavours to ensure that a highway on a relatively recent development was adopted by 31 July 2008. As the Council was unable to implement that settlement, I am investigating a further complaint about that matter.

Another complaint concerned four years' delay in adopting a highway, it emerged that the delay had been caused solely by the Council's delay in undertaking a transfer of land. The delay had meant that the complainants' entitlement to claim for the loss of value of their property had expired. The Council agreed to settle the complaint by reconsidering the claim as though it were still valid, subject to negotiation in the usual way.

In another case, there was delay, totalling three months, in repairing a street lamp and in replying to the complainant's correspondence. The Council agreed to pay £150 to recognise its faults. I have asked it to review the handling of complaints about highways issues.

A further case showed that the Council had allowed a footpath to become blocked in a way which endangered the complainant. The Council wrongly told the complainant that the road in question

was the responsibility of the Highways Agency, and not its responsibility. The Council acknowledged, by paying £100, that it had put the complainant to avoidable time and trouble.

There were six related complaints about the way in which the Council had kept and maintained its highway records, and given inconsistent advice about the status of a highway and land adjoining it. While there were other issues outside my jurisdiction which could have been the subject of legal proceedings between the parties, it was apparent that the Council's actions had led to a lack of clarity as to the complainants' positions. The Council has apologised for its faults, reviewed the procedures governing its highway records, and paid each complainant £500.

Other service areas

I considered other complaints against the Council in relation to other service areas. They included planning applications, trees, student support, consumer affairs, and waste management. The Council settled one complaint relating to a planning application, in respect of which we secured a payment of £250 for the complainant.

Liaison with the Local Government Ombudsman

The average time taken by the Council to reply to our written enquiries about complaints was 38.1 days. This represents a significant deterioration, compared with the time taken last year (29.4 days) to respond to our enquiries. Delayed responses were not confined to any particular departments. I hope that the Council will make every effort to achieve the target (28 days) which we set for responding to our first written enquiries.

The Council's responses to our enquiries as well as being slow do not always provide full answers to the questions raised. This can lead to the need to make further enquiries. Some service areas provide their own responses directly to my investigative staff, instead of through the Council's designated link officer and this can cause difficulties. While some responses have been thin, others have contained an excess of detail. On occasion the Council is reluctant to offer to settle complaints.

Some of the Council's responses on admission appeal cases have been incomplete, with pages missing from Clerks' manuscript notes of Admissions Appeal Panels. Our concern about the quality of responses applies not only to complaints about appeals where the Council is the admissions authority for the school in question, but also where the Council provides an appellate and clerking service on behalf of the Governors of Voluntary Aided and Foundation schools who are their own admissions authorities.

I appreciate the assistance the Council gives my office in dealing with a significant number of complaints. My officers keep in touch with your Corporate Access to Information Coordinator, and visit your Council's offices from time to time, in particular in relation to issues about social services. We find these contacts useful. I am sure it will assist if our staff meet in the coming year to discuss the concerns I have expressed above.

Training in complaint handling

Part of our role is to provide advice and guidance about good administrative practice. We offer training courses for all levels of local authority staff in complaints handling and investigation. All courses are presented by experienced investigators. They give participants the opportunity to practise the skills needed to deal with complaints positively and efficiently. We can also provide customised courses to help authorities to deal with particular issues and occasional open courses for individuals from different authorities.

I am pleased that during 2008/09 we provided training in Effective Complaint Handling to 15 first line managers from children's services within your authority.

I have enclosed some information on the full range of courses available together with contact details for enquiries and bookings.

Conclusions

I welcome this opportunity to give you my reflections about the complaints my office has dealt with over the past year. I hope that you find the information and assessment provided useful when seeking improvements to your Council's services.

**Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Millbank
London SW1P 4QP**

June 2009

Section 2: LGO developments

Introduction

This annual review also provides an opportunity to bring councils up to date on developments – current and proposed – in the LGO and to seek feedback. It includes our proposal to introduce a 'statement of reasons' for Ombudsmen decisions.

Council First

From 1 April 2009, the LGO has considered complaints only where the council's own complaints procedure has been completed. Local authorities have been informed of these new arrangements, including some notable exceptions. We will carefully monitor the impact of this change during the course of the year.

Statement of reasons: consultation

The Local Government and Public Involvement in Health Act 2007 made provision for the LGO to publish statements of reasons relating to the individual decisions of an Ombudsman following the investigation of a complaint. The Ombudsmen are now consulting local government on their proposal to use statements of reasons. The proposal is that these will comprise a short summary (about one page of A4) of the complaint, the investigation, the findings and the recommended remedy. The statement, naming the council but not the complainant, would usually be published on our website.

We plan to consult local authorities on the detail of these statements with a view to implementing them from October 2009.

Making Experiences Count (MEC)

The new formal, one stage complaint handling arrangement for adult social care was also introduced from 1 April 2009. The LGO is looking to ensure that this formal stage is observed by complainants before the Ombudsmen will consider any such complaint, although some may be treated as exceptions under the Council First approach. The LGO also recognises that during the transition from the existing scheme to the new scheme there is going to be a mixed approach to considering complaints as some may have originated before 1 April 2009. The LGO will endeavour to provide support, as necessary, through dedicated events for complaints-handling staff in adult social care departments.

Training in complaint handling

Effective Complaint Handling in Adult Social Care is the latest addition to our range of training courses for local authority staff. This adds to the generic Good Complaint Handling (identifying and processing complaints) and Effective Complaint Handling (investigation and resolution), and courses for social care staff at both of these levels. Demand for our training in complaint handling remains high. A total of 129 courses were delivered in 2008/09. Feedback from participants shows that they find it stimulating, challenging and beneficial in their work in dealing with complaints.

Adult Social Care Self-funding

The Health Bill 2009 proposes for the LGO to extend its jurisdiction to cover an independent complaints-handling role in respect of self-funded adult social care. The new service will commence in 2010.

Internal schools management

The Apprenticeship, Skills, Children and Learning Bill (ASCL) 2009 proposes making the LGO the host for a new independent complaints-handling function for schools. In essence, we would consider the complaint after the governing body of the school had considered it. Subject to legislation, the new service would be introduced, in pilot form, probably in September 2010.

Further developments

I hope this information gives you an insight into the major changes happening within the LGO, many of which will have a direct impact on your local authority. We will keep you up to date through LGO Link as each development progresses but if there is anything you wish to discuss in the meantime please let me know.

Tony Redmond
Local Government Ombudsman
10th Floor
Millbank Tower
Milbank
London SW1P 4QP

June 2009

Appendix 1: Notes to assist interpretation of the statistics 2008/09

Introduction

This year, the annual review only shows 2008/09 figures for enquiries and complaints received, and for decisions taken. This is because the change in the way we operate (explained in the introduction to the review) means that these statistics are not directly comparable with statistics from previous years.

Table 1. LGO Advice Team: Enquiries and complaints received

This information shows the number of enquiries and complaints received by the LGO, broken down by service area and in total. It also shows how these were dealt with, as follows.

Formal/informal prematures: The LGO does not normally consider a complaint unless a council has first had an opportunity to deal with that complaint itself. So if someone complains to the LGO without having taken the matter up with a council, the LGO will usually refer it back to the council as a 'premature complaint' to see if the council can itself resolve the matter. These are 'formal premature complaints'. We now also include 'informal' premature complaints here, where advice is given to the complainant making an enquiry that their complaint is premature. The total of premature complaints shown in this line *does not include* the number of resubmitted premature complaints (see below).

Advice given: These are enquiries where the LGO Advice Team has given advice on why the Ombudsman would not be able to consider the complaint, other than the complaint being premature. For example, the complaint may clearly be outside the Ombudsman's jurisdiction. It also includes cases where the complainant has not given enough information for clear advice to be given, but they have, in any case, decided not to pursue the complaint.

Forwarded to the investigative team (resubmitted prematures): These are cases where there was either a formal premature decision, or the complainant was given informal advice that their case was premature, and the complainant has resubmitted their complaint to the Ombudsman after it has been put to the council. *These figures need to be added to the numbers for formal/informal premature complaints (see above) to get the full total number of premature complaints. They also needed to be added to the 'forwarded to the investigative team (new)' to get the total number of forwarded complaints.*

Forwarded to the investigative team (new): These are the complaints that have been forwarded from the LGO Advice Team to the Investigative Team for further consideration. The figures may include some complaints that the Investigative Team has received but where we have not yet contacted the council.

Table 2. Investigative Team: Decisions

This information records the number of decisions made by the LGO Investigative Team, broken down by outcome, within the period given. **This number will not be the same as the number of complaints forwarded from the LGO Advice Team** because some complaints decided in 2008/09 will already have been in hand at the beginning of the year, and some forwarded to the Investigative Team during 2008/09 will still be in hand at the end of the year. Below we set out a key explaining the outcome categories.

MI reps: where the LGO has concluded an investigation and issued a formal report finding maladministration causing injustice.

LS (local settlements): decisions by letter discontinuing our investigation because action has been agreed by the authority and accepted by the Ombudsman as a satisfactory outcome for the complainant.

M reps: where the LGO has concluded an investigation and issued a formal report finding maladministration but causing no injustice to the complainant.

NM reps: where the LGO has concluded an investigation and issued a formal report finding no maladministration by the council.

No mal: decisions by letter discontinuing an investigation because we have found no, or insufficient, evidence of maladministration.

Omb disc: decisions by letter discontinuing an investigation in which we have exercised the Ombudsman's general discretion not to pursue the complaint. This can be for a variety of reasons, but the most common is that we have found no or insufficient injustice to warrant pursuing the matter further.

Outside jurisdiction: these are cases which were outside the Ombudsman's jurisdiction.

Table 3. Response times

These figures record the average time the council takes to respond to our first enquiries on a complaint. We measure this in calendar days from the date we send our letter/fax/email to the date that we receive a substantive response from the council. The council's figures may differ somewhat, since they are likely to be recorded from the date the council receives our letter until the despatch of its response.

Table 4. Average local authority response times 2008/09

This table gives comparative figures for average response times by authorities in England, by type of authority, within three time bands.

LGO Advice Team

Enquiries and complaints received	Adult care services	Children and family services	Education	Public Finance inc. Local Taxation	Planning and building control	Transport and highways	Other	Total
Formal/informal premature complaints	6	9	2	0	2	5	4	28
Advice given	3	6	6	0	0	4	7	26
Forwarded to investigative team (resubmitted prematures)	0	3	1	0	0	5	3	12
Forwarded to investigative team (new)	4	12	60	1	2	16	3	98
Total	13	30	69	1	4	30	17	164

Investigative Team

Decisions	MI reps	LS	M reps	NM reps	No mal	Omb disc	Outside jurisdiction	Total
01/04/2008 / 31/03/2009	0	35	0	0	43	34	13	125

Average local authority response times 01/04/2008 to 31/03/2009

Response times	FIRST ENQUIRIES	
	No. of First Enquiries	Avg no. of days to respond
1/04/2008 / 31/03/2009	69	38.1
2007 / 2008	78	29.4
2006 / 2007	62	29.5

Types of authority	<= 28 days %	29 - 35 days %	> = 36 days %
District councils	60	20	20
Unitary authorities	56	35	9
Metropolitan authorities	67	19	14
County councils	62	32	6
London boroughs	58	27	15
National park authorities	100	0	0

This page is intentionally left blank