










Internal Audit Final Report 2023/24

Title Standards Complaints – Reference XC23-2

1. Executive Summary

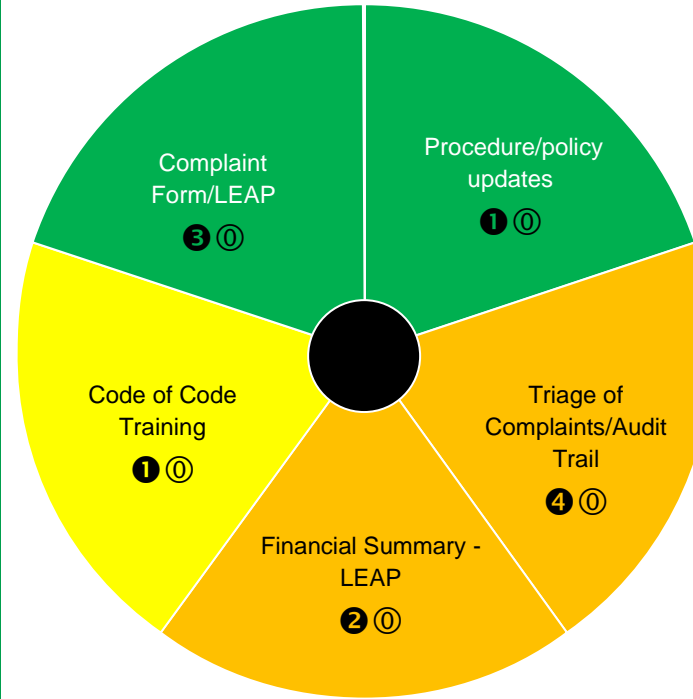
<p>Directorate: Legal Services Audit Owner: Chief Executive Peter Holt Distribution List: Peter Holt Richard Auty Norman Coombe</p>	<p><u>Overall Opinion</u></p> <p>LIMITED ASSURANCE </p>	<p><u>Number of issues relating to Control Design</u></p> <p> Critical  High  Medium  Low</p>	<p><u>Number of issues relating to Controls Operating in Practice</u></p> <p> Critical  High  Medium  Low</p>
<p><u>Scope of the Review/ Limitations:</u></p>	<p>The scope of this review:</p> <ul style="list-style-type: none"> To review how well complaints are triaged before being progressed as appropriate and proportionate e.g., considering prima facie evidence presented by the complainant at an early stage to indicate that a breach has potentially occurred. To review the established criteria for requesting a full independent investigation. To review how well the principles of natural justice are applied at all stages. To review how long complaints take and how much they cost, proportionate to their seriousness, and in light of any disproportionate unintended consequences arising from the process itself. To review the current Considering a Compliant under the Code of Conduct Procedure. Use at least three current/recent complaints as recommended by the Chief Executive (alongside any others that the Internal Audit team selects for itself) as test cases to review the process from receipt to conclusion. <p>•</p> <p>Limitations</p> <ul style="list-style-type: none"> Panel selection procedures for appeal hearings. Appeals against Panel decisions. Comparison with other Local Authorities for number of Code of Conduct complaints received. 		

Overview

Limited Assurance – based on a number of control weaknesses, several of which are high and may put the achievement of key service objectives at risk and result in error in judgement, financial or reputational damage. Internal Audit reached this conclusion because the medium and high risk rated weaknesses identified in this audit were considered to be significant in aggregate to the system of internal control and governance process.

Areas of good practice identified.

Improvements were noted on the LEAP system since the current Locum Deputy Monitoring Officer has been in place particularly with regards to maintaining an effective audit and timescale to triage the complaint.



Each of the objectives for this review are shown as segments of the wheel. The key to the colours on the wheel are as follows:

- No / Low priority issues identified
- Medium priority issues identified
- High priority issues identified
- Critical priority issues identified

<p>Auditor:</p> <p>Fieldwork commenced: 24/04/2023 Fieldwork completed: 25/05/2023 Draft report issued: 31/05/2023</p> <p>Management comments:</p> <p>Final report issued:</p> <p>Signed: Debbie Deeks, Audit Services Manager</p>	<p>Risk Register Updates:</p> <p>It is recommended that management consider including the unregistered risks identified below in the service's risk register.</p>						
Issues raised and officers responsible for implementation							
Name	Critical	High	Medium	Low	Total	Agreed	Latest Implementation Date
		6	1	4	11		

Risks Reviewed (as per agreed Terms of Reference)		
Risk Ref	Risk	Risk managed
CR_07	If the council does not have a clear and robust governance framework, then this could lead to ineffective and potentially unlawful decision-making, resulting in financial and reputational loss, maladministration and potential legal challenge.	●

2. Detailed Findings, Recommendations and Action Plan

Ref	Priority
1	<p>Background</p> <p>Uttlesford District Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose. The Constitution is divided into 17 articles which set out the basic rules governing the Council's business and the Member Protocol forms part of the Constitution.</p> <p>Local councils, including Uttlesford District Council and parish councils within its area, must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity. The Code is expected to promote principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.</p> <p>The purpose of this Code of Conduct is to assist a Councillor, in modelling the behaviour that is expected and to provide a personal check and balances, and to set out the type of conduct that could lead to action being taken against a councillor. It is also to protect the councillor, the public, fellow councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and their specific obligations in relation to standards of conduct. All Councillors must sign and agree to the Councils Code of Conduct once elected.</p> <p>There is a statutory required under the Local Government and Housing Act, 1989 for UDC to designate one of its officers as Monitoring Officer who will investigate Code of Conduct complaints on behalf of the Council. Due to the resignation of the Monitoring Officer in February 2023 the Monitoring Officer role was allocated internally and a Locum Deputy Monitoring Officer appointed which has caused some disruption in the processing of Code of Conduct complaints. In addition, the change of Council following the elections in May 2023 has meant that standards complaints panel hearings have been delayed. The Council are currently in the process of recruiting a Head of Legal Service/Monitoring Officer who will take over the role on a full-time basis and then appoint a Deputy Monitoring Officer accordingly.</p>

Ref	Matters Arising	Potential Risk Implications	Recommendations	Priority	Management Response provided by Richard Auty and agreed actions
1	<p>Receipt of Complaint</p> <p>Under the Code of Conduct Complaint Procedure 2017, complaints must be received in writing, and this can include an email version. Within 5 working days of receipt of the complaint in formal form, the Monitoring Officer shall acknowledge the complaint and provide a copy of the Code of Conduct to the complainant and request evidence if this has not already been provided. The Monitoring Officer will then consult with the Independent Member of the Standards Committee (IP) to review the complaint and agree whether there is a case to answer based on the prima facie evidence.</p> <p>Cases can be dealt with in three ways;</p> <ul style="list-style-type: none"> • No further action • Informal resolution • Formal investigation <p>If it is decided that there has been a breach of the code of conduct, the subject of the complaint should be sent a copy of the complaint and be given an opportunity to respond.</p> <p>The LEAP system is used to record all complaints and provide an Audit trail of emails and documentation required to triage the case. The Audit reviewed 20 cases in the last year 2022/23 (4 cases in depth) from the LEAP system and found that in a number of cases the Audit trail consisted of a large number of emails correspondence. In many cases the formal complaint form was not sent out directly together with the Code of Conduct procedure to the complainant and there is no date on the complaint form therefore it was impossible identify exactly when complaints we received and if UDC complied with the 5 working days complaint response. In addition, LEAP appears to be updated on an adhoc basis which gives a false impression of the dates recorded on the system compared to the date the complaint was received.</p>		<p>It is recommended that:</p> <ul style="list-style-type: none"> • The complaint form should be updated to include the date that it was completed/submitted. • All existing cases on LEAP should be reviewed to ensure that they are completed and then closed. • The LEAP system should be updated on a regular basis and individual files created to separately identify the information and correspondence stored in each file e.g. complaint form, evidence, decision notice. 	<ul style="list-style-type: none"> ● ● ● 	<p>Recommendations agreed</p> <p>Responsible Officer: Richard Auty</p> <p>Target Date: July 2023</p> <p>Complaint form has been updated</p> <p>Review of all open cases on LEAP has been concluded</p> <p>Sub folders are now being used within LEAP</p>







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2	<p>Triage Process</p> <p>The Audit reviewed 4 complaints cases on the LEAP system in depth and found that there is little evidence of an effective triage process which showed how cases are reviewed and tested against a threshold following the principles of natural justice. In addition, in many cases the subject of the complaint was not offered an opportunity to respond to the complaint or provide conflicting evidence to refute the complaint. In some cases, it was not clear whether the subject had received a copy of the complaint and was not being kept informed during the case review as to how it was progressing or what the next step were in the process.</p> <p>Although prima facie evidence may have been considered in these cases the Audit trail is poor and does not show how the evidence was assessed and how a conclusion was reached. All four cases reviewed by Audit identified as a breach of the Code of Conduct and were referred for independent investigation, however there is no evidence of an established criteria for commissioning an independent investigation or whether there was any consideration given to proportionately, value for money taking into consideration the likely outcome/sanction if the breach was upheld e.g. a breach in declaring a personal interest on the DOI form, but evidence suggests that the Councillor abstained from and committee decision making.</p> <p>In all cases an Independent Person (IP) was consulted, and decision agreed but there was no record of how the conclusion was reached or measured against the seriousness of the case, likely outcome if found to be in breach of the code and the unintended consequences arising from the process itself.</p> <p>In addition, although there was some correspondence from the MO to the complainant, offering advice and potential solutions to how the complaint could be concluded without prejudice, there is limited evidence of whether appropriate steps were taken to mediate the process rather than</p>		<p>It is recommended that:</p> <ul style="list-style-type: none"> • A full triage process/procedure should be put in place which records the evidence reviewed and the threshold it was measured against, likely outcome if the breach were to be established based on the seriousness of the case and appropriate action/sanction by UDC. This should be a document/check list with all the information included following the initial assessment and should be uploaded to the LEAP system. • All subjects under investigation should sent a copy of the complaint form at the triage stage and be offered the opportunity to respond accordingly. The response can then be considered by the MO and IP prior to making a formal decision on how to proceed with the complaint. Once the case has been reviewed by the MO and IP evidence can be provided to the subject of the complaint if requested (unless in the event of a Police investigation where providing evidence may influence the case). 		<p>Responsible Officer: Richard Auty</p> <p>• The existing procedure includes a series of factors used to assess any complaint. A triage form will be created to provide a record of how these assessments were made. Target Date: September 2023</p> <p>• The MO and previous and current DMOs have carefully considered this recommendation and while there are legitimate concerns that this could elongate even further what can already be a lengthy process, it has been concluded that there are occasions where it could be appropriate to do so. Therefore the merit of providing the complaint at this earliest stage will be considered on a case-by-</p>



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	<p>commission a full independent investigation.</p> <p>All 20 complaints cases were still showing on LEAP as in progress, therefore Audit were unable to establish timescales for individual cases, however the average length of time for cases to be concluded appeared to be around 3-4months with the longest currently active being 14 months. During consultation with the Deputy Monitoring Officer it became clear that most of the outstanding cases had actually been concluded, however decision notices were not evidenced and the cases had not been closed on the LEAP system.</p>		<ul style="list-style-type: none"> • Consideration should be given to looking into other ways of effectively processing complaints that draw an appropriate balance between the seriousness of the case and the broader interests of UDC and applying broader lessons to general practice. • A decision notification letter should be sent to the subject of the complaint and a copy retained on file on the LEAP, even if there is no further action. This will ensure a full Audit trail and reference if further complaints are brought to UDC in the future. 	<ul style="list-style-type: none"> • • 	<p>case basis and where the MO considers there is benefit in doing so, it will be provided.</p> <p>The new triage procedure should assist with this. It will be trialled for six months and then reviewed. Target Date: September 2023</p> <p>This is now done as a matter of course. Target Date: September 2023</p>

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3	<p>Financial Summary – Leap LEAP has a facility to include the committed hours and costs of staff, together with invoices for external consultants used for investigations. In 2022/23 UDC expenditure for external investigators for Code of Conduct complaints was £25k.</p>		<p>It is recommended that:</p> <ul style="list-style-type: none"> The LEAP system should be used to record staff costs and external expenditure of Code of Conduct complaints, which would ensure that expenditure is effectively monitored and will provide reconciliation between LEAP and Integra for invoicing and expenditure. Consideration should be given into conducting an appraisal into value for money for external investigators verses in house staff taking into consideration cost, resourcing, and independence. 	<ul style="list-style-type: none"> ● ● 	<p>This has been implemented Target Date: July 2023</p> <p>Each case is assessed on its own facts and sometimes an external investigator is the only option, even if it comes at a cost. Consideration will be given to asking senior managers to take on this role Target Date: September 2023</p>
4	<p>Procedures/Policy Updates The Code of Conduct Procedure was updated in 2017 so is now outdated.</p>		<p>It is recommended that:</p> <ul style="list-style-type: none"> The Code of Conduct Procedure should be reviewed and updated if required on an annual basis. 	<ul style="list-style-type: none"> ● 	<p>Agreed Target Date: September 2023</p>
5	<p>Code of Conduct training for Councillors When Councillors are elected, they are given training on</p>		<p>It is recommended that:</p>		

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	the requirements and standards expected of them when representing the Council as part of the Induction training.		<ul style="list-style-type: none"> Code of Conduct training will be made mandatory for all Councillors whether newly elected or refresher training for existing Councillors. This would include a brief on Declaration of Interests. 	●	<p>There are very few types of training which are legally mandated. Code of Conduct training is not among them. The importance of the training has been impressed on group leaders and attendance will be monitored. We will assess this in six months' time and if necessary, consider other options.</p> <p>Target Date: July 2023</p>

3. Basis of our opinion and assurance statement

Key to Risk Ratings for Individual Findings in Reports	
Critical 	<p>Financial: Severe financial loss; Operational: Cessation of core activities</p> <p>People: Life threatening or multiple serious injuries to staff or service users or prolonged work place stress. Severe impact on morale & service performance. Mass strike actions etc</p> <p>Reputational: Critical impact on the reputation of the Council which could threaten its future viability. Intense political and media scrutiny i.e. front-page headlines, TV.</p> <p>Legal and Regulatory: Possible criminal, or high-profile civil action against the Council, members or officers. Statutory intervention triggered impacting the whole Council. Critical breach in laws and regulations that could result in material fines or consequences</p> <p>Projects: Failure of major Projects and/or politically unacceptable increase on project budget/cost. Elected Members required to intervene.</p>
High 	<p>Financial: Major financial loss. Service budgets exceeded; Operational: Major disruption of core activities. Some services compromised. Management Team action required to overcome medium-term difficulties.</p> <p>People: Serious injuries or stressful experience (for staff member or service user) requiring medical attention/ many workdays lost. Major impact on morale and performance of staff.</p> <p>Reputational: Major impact on the reputation of the Council. Unfavourable media coverage. Noticeable impact on public opinion.</p> <p>Legal and Regulatory: Major breach in laws and regulations resulting in significant fines and consequences. Scrutiny required by external agencies</p> <p>Projects: Key targets missed. Major increase on project budget/cost. Major reduction to project scope or quality.</p>
Medium 	<p>Financial: Moderate financial loss. Handled within the team; Operational: Significant short-term disruption of non-core activities. Standing Orders occasionally not complied with, or services do not fully meet needs. Service Manager action will be required.</p> <p>People: Injuries (to staff member or service user) or stress levels requiring some medical treatment, potentially some work days lost. Some impact on morale and performance or staff.</p> <p>Reputational: Moderate impact on the reputation or brand of the organisation. Limited unfavourable media coverage</p> <p>Legal and Regulatory: Moderate breach in laws and regulations resulting in fines and consequences. Scrutiny required by internal committees or internal audit to prevent escalation.</p> <p>Projects: Delays may impact project scope or quality (or overall project must be re-scheduled). Small increase on project budget/cost. Handled within the project team.</p>
Low 	<p>Financial: Minor financial loss; Operational: Minor errors in systems/operations or processes requiring Service Manager or Team Leader action. Little or no impact on service users.</p> <p>People: Minor injuries or stress with no workdays lost or minimal medical treatment. No impact on staff morale.</p> <p>Reputational: Minor impact on the reputation of the organisation.</p> <p>Legal and Regulatory: Minor breach in laws and regulations with limited consequences.</p> <p>Projects: Minor delay without impact on overall schedule. Minimal effect on project budget/cost or quality.</p>
Key to Assurance Levels	
No 	There are fundamental weaknesses in the control environment which jeopardise the achievement of key service objectives and could lead to significant risk of error, fraud, loss or reputational damage being suffered.
Limited 	There are a number of significant control weaknesses which could put the achievement of key service objectives at risk and result in error, fraud, loss or reputational damage. There are High recommendations indicating significant failings. Any Critical recommendations would need to be mitigated by significant strengths elsewhere.

Moderate 	An adequate control framework is in place but there are weaknesses which may put some service objectives at risk. There are Medium priority recommendations indicating weaknesses, but these do not undermine the system's overall integrity. Any Critical recommendation will prevent this assessment, and any High recommendations would need to be mitigated by significant strengths elsewhere.
Substantial 	There is a sound control environment with risks to key service objectives being reasonably managed. Any deficiencies identified are not cause for major concern. Recommendations will normally only be advice and best practice.

4. Limitations and Responsibilities

Responsibilities of management and internal auditors

It is management's responsibility to develop and maintain sound systems of risk management, internal control and governance and for the prevention and detection of irregularities and fraud. Internal audit work should not be seen as a substitute for management's responsibilities for the design and operation of these systems. Internal Audit shall endeavour to plan its work so that there is a reasonable expectation of detecting significant control weaknesses and, if detected, Internal Audit shall carry out additional work directed towards identification of consequent fraud or other irregularities. However, Internal Audit procedures alone, even when carried out with due professional care, do not guarantee that fraud will be detected. Accordingly, the examinations of Internal Audit should not be relied upon solely to disclose fraud, defalcations or other irregularities which may exist, unless Internal Audit is requested to carry out a special investigation for such activities in a particular area.

Limitations inherent to the internal auditor's work

Internal Audit work has been performed subject to the limitations outlined below:

- **Opinion**

The opinion is based solely on the work undertaken as part of the agreed internal audit plan. There might be weaknesses in the system of internal control that Internal Audit are not aware of because they did not form part of our programme of work, were excluded from the scope of individual internal audit assignments or were not brought to our attention. As a consequence, management and the GAP Committee should be aware that the opinion may have differed if the programme of work or scope for individual reviews was extended or other relevant matters were brought to Internal Audit's attention.

- **Internal control**

Internal control systems, no matter how well designed and operated, are affected by inherent limitations. These include the possibility of poor judgment in decision-making, human error, control processes being deliberately circumvented by employees and others, management overriding controls and the occurrence of unforeseeable circumstances.

- **Future periods**

Historic evaluation of effectiveness may not be relevant to future periods due to the risk that:

- The design of controls may become inadequate because of changes in operating environment, law, regulation or other; or
- The degree of compliance with policies and procedures may deteriorate