

Argyll and Bute Council
Internal Audit Report
February 2022
FINAL

Environmental Health

Audit Opinion: Substantial

	High	Medium	Low	VFM
Number of Findings	0	0	3	0

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Contact Details

Internal Auditor: David Sullivan
 Telephone: **01546 604125**
 e-mail: david.sullivan@argyll-bute.gov.uk

1. Executive Summary

Introduction

1. As part of the 2021/22 internal audit plan, approved by the Audit & Scrutiny Committee in March 2021, we have undertaken an audit of Argyll and Bute Council's (the Council) system of internal control and governance in relation to Environmental Health.
2. The audit was conducted in accordance with the Public Sector Internal Audit Standards (PSIAS) with our conclusions based on discussions with council officers and the information available at the time the fieldwork was performed. The findings outlined in this report are only those which have come to our attention during the course of our normal audit work and are not necessarily all the issues which may exist. Appendix 1 to this report includes agreed actions to strengthen internal control however it is the responsibility of management to determine the extent of the internal control system appropriate to the Council.
3. The contents of this report have been agreed with the appropriate council officers to confirm factual accuracy and appreciation is due for the cooperation and assistance received from all officers over the course of the audit.

Background

4. Environmental Health regulates a wide range of issues that affect the quality of everyday life and the aims of the service are to promote or enforce standards that preserve public health, public safety and protect the environment. Regulatory Services comprises of environmental health, licensing standards and animal health and welfare, exercise the Council statutory duties as an enforcing authority for regulation and enforcement across a wide range of statutes. These include environmental protection; public health including Covid controls; food safety; occupational health and safety; environmental health licensing, and private let accommodation.
5. The Health and Safety at Work etc. Act 1974 (the Act) defines two enforcement authorities, namely the Health and Safety Executive and local authorities. Argyll and Bute Council (the Council) act as a statutory "enforcing authority" under the Act and have responsibility for delivering its duty to protect and improve the health, safety and environment of the people of Argyll and Bute. This statutory duty is carried out by the Environmental Health Service.
6. The Environmental Health Service enforce the Health and Safety at Work Act 1974 in workspaces such as shops, warehouses, offices, places used for leisure and consumer services, hotels, restaurants and churches. As an enforcing authority under the Act, the Council has an obligation to enforce the act and ensure that standards are complied with across its area.
7. The purpose and methods of enforcement by the Council include:
 - ensuring that businesses' take action to deal immediately with serious risks
 - promote and achieve sustained compliance with minimum legal standards ensuring that duty holders who breach minimum legal requirements, and directors or managers who fail in their responsibilities, are held to account

8. The methods of enforcement are:

- provision of information and advice, either verbally or in writing
- service of formal enforcement notices including improvement or prohibition notices
- submitting a recommendation of prosecution to the Procurator Fiscal

Scope

9. The scope of the audit was to assess the arrangements in place within the Environmental Health Service to carry out the Councils enforcement responsibilities under the Health and Safety at Work Act 1974 as outlined in the Terms of Reference agreed with the Regulatory Service and Building Standards manager on 2 December 2021.

Risks

10. The risks considered throughout the audit were:

- SRR014: failure to have appropriate arrangements in place to deliver the Councils statutory duties as an enforcing authority under the Health and Safety at Work etc Act 1974
- Audit Risk 1: failure to have policies and procedures in place
- Audit Risk 2: incidents are not investigated as per statutory requirements /procedures
- Audit Risk 3: appropriate reporting arrangements are not in place

Audit Opinion

11. We provide an overall audit opinion for all the audits we conduct. This is based on our judgement on the level of assurance which we can take over the established internal controls, governance and management of risk as evidenced by our audit work. Full details of the five possible categories of audit opinion is provided in Appendix 2 to this report.

12. Our overall audit opinion for this audit is that we can take a substantial level of assurance. This means that internal control, governance and the management of risk is sound. However, there are minor areas of weakness which put some system objectives at risk and specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.

Recommendations

13. We have highlighted three low priority recommendations where we believe there is scope to strengthen the control and governance environment. These are summarised below:

- consider reducing the time period between each procedural review
- reviews undertaken by Environmental Health Officers (EHO) should be recorded
- interested parties should be informed of investigation outcomes

14. Full details of the audit findings, recommendations and management responses can be found in Section 3 of this report and in the action plan at Appendix 1.

2. Objectives and Summary Assessment

15. Exhibit 1 sets out the control objectives identified during the planning phase of the audit and our assessment against each objective.

Exhibit 1 – Summary Assessment of Control Objectives

	Control Objective	Link to Risk	Assessment	Summary Conclusion
CO1	The Council has policies and procedures in place that comply with statutory requirements as an enforcing authority of the Health and Safety at Work etc Act 1974.	SRRO14 Audit Risk 1	High	Environmental Health have policies and procedures in place which are consistent with the requirements of the Health and Safety at Work etc. Act 1974. Policies and procedures have recently been reviewed, however consideration should be given to reducing the time frame between procedural reviews. Roles and responsibilities are clearly identified and training is regularly carried out.
CO2	Incidents are investigated in accordance with policies and procedures.	SRR014 Audit Risk 2	Substantial	All incidents notified by the Health and Safety Executive are recorded on the Council RIDDOR's database and in addition, on the Uniform database within the prescribed time period. The process followed by the Environmental Health Service was found to be consistent with the established policies and procedures. Interested parties should be informed of investigation outcomes.
CO3	There are appropriate arrangements in place for the reporting of incidents which have been investigated.	Audit Risk 3	High	Environmental Health officers prepare appropriate reports for management team meetings to inform them of incidents reported and being investigated.

16. Further details of our conclusions against each control objective can be found in Section 3 of this report.

3. Detailed Findings

The Council has policies and procedures in place that comply with statutory requirements as an enforcing authority under of the Health and Safety at Work etc. Act 1974

17. The Council's approach to the enforcement of the Health and Safety Act at Work etc. Act 1974 is set out within its Occupational Health and Safety Enforcement Policy 2020 which is consistent

with the requirements of the Act. The principles adopted by the Council are consistent with the Scottish Governments Strategic Regulatory Code, and as follows:

- **Proportionality:** enforcement action relates to the risk of Health and Safety
- **Targeting:** the regulatory activities of the Council are directed primarily on those activities that give rise to the most serious risks or where hazards have the weakest controls
- **Consistency:** the Council will take a consistent approach in similar circumstances to achieve reliable information
- **Transparency:** the Council will endeavour to help duty holders to understand what is expected of them and what they should expect from the Council as an enforcing authority
- **Public Transparency:** the Council shall publicise successful enforcement actions such as prosecutions
- **Accountability:** The Council, as an enforcing authority, is accountable to the public for its actions

18. Procedures are in place that provide proportionate, transparent and targeted practices for the incidents for investigation. Procedures are comprehensive and include a flowchart detailing the various steps involved, including:

- how incidents are notified
- checking the Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) database
- the process of selection of incidents for investigation
- investigation of both mandatory and non-mandatory incidents
- discretionary investigations

19. Procedures are in place to ensure the consistent application of the Council's Occupational Health and Safety Enforcement Policy in the making of enforcement decisions arising, in particular, from inspection, incident or complaint investigations. To facilitate a consistent application the Health and Safety Executive (HSE) has in place an enforcement Management Model (EMM) which has been adopted by the Council. The procedure is comprehensive and includes a flow chart setting out the various steps involved covering:

- use of the EMM
- prosecutions
- formal records

20. The Council's policy states that "this policy will be reviewed annually, and more frequently as may be required, by the Regulatory Services and Buildings Manager". We confirmed that the last review was carried out by the Regulatory Service and Building Services Manager in April 2020 and was duly approved.

21. Procedures were last reviewed in February 2020 and that the next review date is not due until 2025.

Action plan 1

22. Roles and responsibilities are clearly set out in the procedures, including details of how to manage potential conflicts of interest.
23. Environmental Health carry out regular training as well as having regular team meetings where issues relevant to incidents are discussed.

Incidents are investigated in accordance with policies and procedures

24. Incidents are reported online to the Council via an online reporting system by the Health and Safety Executive (HSE). These are referred to as RIDDOR reports (Reporting of Injuries, Diseases and Dangerous Occurrences). The Lead Environmental Health Officer (EHO) is responsible for checking the RIDDOR database daily for new reports. In their absence, the Area Environmental Health Managers are responsible for monitoring the database.
25. All incidents are recorded by the Council on an excel RIDDOR database and on the Uniform database by the EHO. During the financial year 2021-2022 there was 33 incidents recorded on the RIDDOR database of which four were investigated by the Council. The database records information such as incident case number, date of incident, case officer, date logged and date of investigation completed. Three of the four incidents chosen by the Council for investigation were reviewed to ensure compliance with policy and procedures. All were found to be compliant.
26. Procedures set out a timescale for the recording of incidents from the time the Council are notified. The timeframes are: one hour from the notification of a fatality, three working days from the notification of a dangerous incident and five working days for all other incidents. All incidents reported by the HSE were recorded within the required timescale.
27. Procedures state that the Lead EHO must review all incidents and decide which to investigate with the reason for the decision being recorded. Incidents investigated complied with the requirement to record the reasons for investigation.
28. Procedures state that all incidents which are designated mandatory are investigated. Internal Audit found that where appropriate all mandatory incidents were investigated.
29. Procedures state that the EHO will review all current investigations on a regular basis and that the first review will take place within 3 weeks of an investigation starting. Whilst discussions on current investigations take place on a regular basis between the investigating officer and the EHO there is no record of this within the case management system.

Action Plan 2

30. Procedures state that all interested parties should be informed of an investigation outcome. Confirmation was not available that all interested parties had been informed.

Action Point 3

There are appropriate arrangements in place for the reporting of incidents which have been investigated

31. The environmental health team meet on a regular basis to discuss occupational health and safety issues. A standard reporting item for RIDDOR incidents is included on the agenda. A review of one of the meetings held included information on the following:
 - the number of RIDDOR incidents reported since previous meeting
 - the number of incidents chosen for investigation
 - an update on incidents currently being investigated
 - the impact of COVID-19 on the service
 - any operational issues

32. Incident documentation is maintained on the CIVICA document management system and is linked to the uniform accident report case record. Access to these records is restricted to appropriate officers via logical access controls.

Appendix 1 – Action Plan

	No	Finding	Risk	Agreed Action	Responsibility / Due Date
Low	1	<p>Review of procedures</p> <p>Consideration should be given to reducing the time period between procedural reviews</p>	Failure to meet required deadlines for the submission of reports	Audit Improvement plan to be developed to include learning from the audit and resolve this action through revision of policies and procedures	Regulatory Services and Building Standards Manager 30 June 2022
Low	2	<p>Recording of Case Reviews</p> <p>Procedure state that all incidents will be reviewed by EH Managers on a regular basis. Evidence of reviews having being undertaken was not available</p>	Failure to comply with policies and procedures	Audit Improvement plan to be developed to include improved recording of case reviews	Regulatory Services and Building Standards Manager 30 June 2022
Low	3	<p>Investigation Outcomes</p> <p>Confirmation that all interested parties had been informed of investigation outcomes was not available</p>	Failure to comply with policies and procedures	Audit Improvement plan to be developed to include templates to communicate outcomes to interested parties and training of authorised officers	Regulatory Services and Building Standards Manager 30 June 2022

In order to assist management in using our reports a system of grading audit findings has been adopted to allow the significance of findings to be ascertained. The definitions of each classification are as follows:

Grading	Definition
High	A major observation on high level controls and other important internal controls or a significant matter relating to the critical success of the objectives of the system. The weakness may therefore give rise to loss or error.
Medium	Observations on less significant internal controls and/or improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system. The weakness is not necessarily substantial however the risk of error would be significantly reduced if corrective action was taken.
Low	Minor recommendations to improve the efficiency and effectiveness of controls or an isolated issue subsequently corrected. The weakness does not appear to significantly affect the ability of the system to meet its objectives.
VFM	An observation which does not highlight an issue relating to internal controls but represents a possible opportunity for the council to achieve better value for money (VFM).

Appendix 2 – Audit Opinion

Level of Assurance	Definition
High	Internal control, governance and the management of risk are at a high standard. Only marginal elements of residual risk have been identified with these either being accepted or dealt with. A sound system of control designed to achieve the system objectives is in place and being applied consistently.
Substantial	Internal control, governance and the management of risk is sound. However, there are minor areas of weakness which put some system objectives at risk and specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
Reasonable	Internal control, governance and the management of risk are broadly reliable. However, whilst not displaying a general trend, there are areas of concern which have been identified where elements of residual risk or weakness may put some of the system objectives at risk.
Limited	Internal control, governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and placing system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal control, governance and the management of risk is poor. Significant residual risk and/or significant non-compliance with basic controls exists leaving the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.