



Internal Audit Services

Confidential

Final Internal Audit Report

Development Management - Enforcement

Prepared by: Jane Collins
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This document has only been distributed to:

Name	Title
Dawn Baxendale	Interim Chief Executive
Paul Nichols	Senior Manager, Planning, Sustainability and Transport
Chris Lyons	Planning and Development Manager

1. Audit objective

1.1. This review has sought to assess the effectiveness of controls in place focusing on those designed to mitigate risk in achieving the following key objectives:

- Policies and procedures are in place for planning enforcement;
- Complaints received are prioritised, investigated, their progress monitored and resolved in a timely manner;
- Enforcement decisions are executed within statutory and legal timeframes; and
- Staff are appropriately trained and qualified.

2. Audit opinion

2.1. The overall opinion of this review based on the audit evidence obtained, is that **limited assurance** can be placed on the effectiveness of the framework of risk management, control and governance designed to support the achievement of management objectives.

3. Executive summary

3.1. The work of the enforcement team is largely generated from complaints from the public regarding planning permission and changes of use. Its aim is to put right unauthorised development.

3.2. The enforcement policy has not been reviewed since it was published in October 2008 and does not reflect the updated National Planning Policy Statement dated March 2012. As part of its adoption there was a recommendation that a simple guidance leaflet should be produced and made available to the public detailing the main elements of the policy. This guidance leaflet has not been produced.

3.3. Enforcement complaints are recorded on the Uniform and Comino systems and initial site visits are made within the best practice timeframes. Key data such as response dates, details of the breach and status of cases are not being entered into the correct areas of Uniform to allow statutory information to be made available to the public on the Get Access Portal and to allow management reports to be run to determine the status of cases, appeals and to monitor progress.

3.4. There is no single document maintained that gives clear visibility to the team, management and the legal team of the status of cases, the length of time to respond to and to resolve a case and key dates by which actions must be taken.

3.5. The legal and enforcement teams used to have regular meetings with Legal Services to discuss the progress of cases where enforcement notices have been served, their status and required actions. These meetings also gave an opportunity to flag potential issues and seek legal advice. These meetings ceased in July 2012.

- 3.6. All notes, correspondence and documents relating to a case are required to be recorded on the data base Comino, including actions agreed with the perpetrator and outcomes communicated to the complainant. A review of 10 cases found that only two case records evidenced that the complainant had been informed of the outcome of their complaint.
- 3.7. Documents relating to cases in some instances are stored in outlook folders and on the services shared drive. The Council's document retention policy for Planning Enforcement; section D1-3, states that there is a statutory requirement under the Town and County Planning Act 1990 for permanent retention of Planning Enforcement documents. Due to inconsistency in filing of documents both in and out of Comino assurance can not be fully given that this policy is being fully adhered to, any requests for documents may not be met as locating them may be difficult as they are not filed in a central location.
- 3.8. The National Planning Policy Statement (March 2012) states that enforcement should be proactive. The team will follow up on some cases to ensure that a recommendation or an enforcement notice continues to be enforced, however their current approach is mainly reactive.

4. Action plan(s)

4.1. The action plan(s) detailed within this report describe:

- key risks internal audit considered were inadequately controlled by the framework in place;
- the actions management propose to undertake to bring the risks within acceptable parameters; and
- internal audit's assessment as to whether management's actions achieve an acceptable level of risk exposure.

Action Plan 1			
Objective	Policies and procedures are not in place for planning enforcement.		
Observation	<p>Enforcement Policy</p> <p>The enforcement policy has not been reviewed since it was published in October 2008 and does not reflect the updated National Planning Policy Statement dated March 2012.</p> <p>Wording within the document suggests that it remains a draft working copy with some areas still awaiting clarification, for example section 8.4 states:</p> <p>'It may be possible in the future to utilise other officers (e.g. City Patrol) to monitor issues at the weekend, but this is a matter that will need appropriate resourcing, consultation and staff training to achieve, outside the adoption of this policy. If such changes in resourcing the service do occur, the Policy wording here or advice leaflet can always be adjusted later.'</p> <p>Although this document is available to the public through the Southampton City Council's website it is not clear if it is a current and final version.</p> <p>Adoption of the policy was approved by Cabinet on the 28/07/08. As part of the adoption there was a recommendation that a simple guidance leaflet be produced detailing the main elements of the policy. This guidance leaflet has not yet been produced.</p> <p>An up to date and relevant enforcement policy which can be easily understood by users including the public will lead to a better understanding of planning policies and the enforcement system to ensure that legal and statutory requirements are met.</p>		
Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Review and update enforcement policy and place on website	Medium	Chris Lyons, Planning and Development Manager	30th September 2013
Produce simple guidance sheet to the enforcement process	Medium	Chris Lyons, Planning and Development Manager	30th September 2013
Auditor's assessment of management response:			
Management actions will mitigate the risks identified			

Action Plan 2	
Objective	Complaints received are prioritised, investigated, their progress monitored and resolved in a timely manner
Observation	<p>Recording, reporting and monitoring of complaints</p> <p>Enforcement complaints are recorded on the Uniform and Comino systems. Data is mapped from Uniform to the Get Access Portal on the Southampton City Council website to give the public visibility of cases and to allow management reports to be run.</p> <p>Data such as complaint response dates are not being entered into Uniform. Other data such as the details of the breach and status of the cases are not being entered into the correct areas of Uniform to allow key information to be displayed on the Get Access Portal and to allow management reports to be run to determine the status of cases, appeals and monitor progress.</p> <p>Without clear and accurate information, management are unable to determine if the best practice timeframes for responses are being met, how many complaints have been received over a period of time, how long they have taken to resolve, types of enforcement breaches and the number of enforcement notices issued. This information is not only useful as a management tool but may be required in response to freedom of information requests. Additionally the Council is not fully meeting its statutory requirements to make information on enforcement cases available to the public.</p> <p>Document maintenance and Retention</p> <p>All notes, correspondence and documents relating to a case are required to be recorded on the data base Comino, including actions agreed with the perpetrator and outcomes communicated to the complainant. In some instances documents were stored in outlook folders and on the services shared drive and on review of a sample of 10 cases the following was noted:</p> <ul style="list-style-type: none"> • only two case records evidenced that the complainant had been informed of the outcome of their complaint. • two case records sampled contained no documentation or notes. • eight cases were responded to within the good practice guidelines. <p>There is inconsistency in how notes are recorded on Comino. In some instances the notes function is used to record actions, in others a word document is completed which includes a timeline of actions taken.</p>

	<p>The Council's document retention policy for Planning Enforcement; section D1-3, states that there is a statutory requirement under the Town and County Planning Act 1990 for permanent retention of Planning Enforcement documents. Due to inconsistency in filing of documents both in and out of Comino assurance can not be fully given that this policy is being fully adhered to and any requests for documents may not be met as locating them may be difficult due to them not being filed in a central location.</p>		
Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Review processes of recording information and ensure new processes are in place to be able to monitor enforcement data and retain data as required	High	Chris Lyons, Planning and Development Manager	31st July 2013
Ensure process is in place, clear, and understood by team on communicating with complainants	High	Chris Lyons, Planning and Development Manager	31st July 2013
Auditor's assessment of management response:			
Management actions will mitigate the risks identified			

Action Plan 3	
Objective	Enforcement decisions are not executed within statutory and legal timeframes
Observation	<p>Enforcement Notices</p> <p>Enforcement notices contain dates for the enforcement notice to be complied with. The enforcement officers enter the compliance dates and agreed action dates into their outlook diaries. This aids with planning visits to ensure that breaches have been resolved, however it does not allow for clear visibility of all cases including their current status and key dates for actions that can be easily accessed by the whole team.</p> <p>Without visibility of the status of cases, management, and enforcement officers can not monitor progress of cases and appeals and verify that key dates and actions have been complied with. Key actions may not be implemented in the absence of a team member which may result in enforcement notices not being issued or statutory timeframes adhered to resulting in reputational damage to the Council.</p> <p>Authorisation to enter land</p> <p>Section 196A of the town and country planning act gives officers, who are authorised in writing by the council, to enter any land. Although the officers carry ID badges with them on visits, such powers are not highlighted on their identity badges or carried in writing.</p> <p>Failure to provide information regarding their power under the town and country planning act could result in challenges from the public and full powers not being executed when required.</p> <p>Liaison with the Legal Team</p> <p>The legal and enforcement teams used to have regular meetings to discuss the progress of cases where enforcement notices had been served, their status and required actions. These meetings also gave an opportunity to flag potential issues and seek legal advice. These meetings ceased in July 2012.</p> <p>Legal maintain a spreadsheet of cases where legal action is required, it includes the nature of the breach, status of proceedings and also tracking of appeals. Until July 2012 the enforcement team had visibility of this spreadsheet and would update it with information regarding the status of the case, they would also have visibility of any updates entered by legal.</p> <p>This spreadsheet is a useful tool to inform each team of the status of cases as the legal team do not have access to Uniform or Comino where enforcement case visit notes are stored and are therefore reliant on information being provided to them by enforcement. Consequently, Legal and Enforcement teams may therefore not be in possession of full and current information regarding a case, resulting in incomplete information to inform decisions.</p>

Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Ensure process is in place where cases are reviewed periodically and action taken when appropriate	Medium	Chris Lyons, Planning and Development Manager	30 th September 2013
Get written authorisation for all enforcement officers to be able to enter land	High	Chris Lyons, Planning and Development Manager	31st July 2013
Reinstate regular liaison meetings with the legal team	High	Chris Lyons Planning and Development Manager	31st July 2013
Auditor's assessment of management response:			
Management actions will mitigate the risks identified			

Action Plan 4			
Objective	Policies and procedures are not in place for planning enforcement.		
Observation	<p>The National Planning Policy Statement (March 2012) states that enforcement should be proactive. The team will follow up on cases to ensure that a recommendation or an enforcement notice continues to be enforced. Compliance checks to ensure that planning conditions are implemented in accordance with the approved plans are only undertaken if a complaint has been received. Although resources do not allow for 100% compliance checks, there is no process in place to make targeted random checks.</p> <p>A proactive approach to enforcement will aid the education and understanding of planning requirements by the public and help to reduce the number of complaints and breaches. It can also enhance the reputation of the service.</p>		
Management Action			
What	Priority (High, Medium, Low)	Responsible Officer	Target Date
Given current resourcing it is unlikely that this will be possible in the foreseeable future	Low	Chris Lyons, Planning and Development Manager	
Auditor's assessment of management response:			
Due to current resourcing levels, management accept the risk highlighted.			

Annex A**Key**

The following is the key to quantify observations identified in the audit:

Assurance levels

Opinion	Framework of governance, risk management and management control.
Substantial assurance	A sound framework in place that is operating effectively.
Adequate assurance	Basically a sound framework in place with possible opportunities to improve controls or some immaterial evidence of inconsistent application.
Limited assurance	Critical weakness (es) identified within the framework and / or significant evidence of inconsistent application.
No assurance	Fundamental weaknesses have been identified or the framework is ineffective or absent.

Priority

Priority rating	Current risk
High	A significant risk of; failure to achieve objectives; fraud or impropriety; system breakdown; loss; or qualification of the accounts by the organisation's external auditors. Such risk could lead to adverse impact on the organisation or expose the organisation to criticism.
Medium	A serious, but not immediate risk of: failure to achieve objectives; system breakdown; or loss.
Low	Areas that individually have no major impact, but where management would benefit from improved risk management and / or have the opportunity to achieve greater efficiency and / or effectiveness.