

**GOVERNANCE & AUDIT COMMITTEE:  
28 SEPTEMBER 2021**

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**GOVERNANCE AND LEGAL SERVICES, CONTROL ENVIRONMENT  
UPDATE**

**AGENDA ITEM: 4.1**

**REPORT OF THE DIRECTOR, GOVERNANCE AND LEGAL SERVICES**

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**Reason for this Report**

1. This report has been produced in response to the Governance and Audit Committee's request for an update on the Governance and Legal Services control environment.
2. The Governance and Audit Committee has requested this update in respect of its role to:
  - Monitor progress in addressing risk-related issues reported to the committee.
  - Consider reports on the effectiveness of internal controls and monitor the implementation of agreed actions.
  - Consider the Council's framework of assurance and ensure that it adequately addresses the risk and priorities of the Council.
  - Consider the Council's arrangements to secure value for money and review assurances and assessments on the effectiveness of these arrangements.
  - Review the assessment of fraud risks and potential harm to the council from fraud and corruption.
  - Review the governance and assurance arrangements for significant partnerships or collaborations.

**Background**

3. The directorate consists of Democratic Services which has 21.5 FTE staff and Legal Services which has 65.01 FTE staff. The Glamorgan Archives (a shared service funded by six Local Authorities) are a member of the Directorate Management Team and regularly report to the Director they have 15 FTE staff. They are governed by the Glamorgan Archives Joint Committee which meets four times a year and is currently serviced by Cardiff Democratic Services. Please see structure charts for each area **Appendix 1-3**
4. Democratic Services includes the Committee and Members Services and Scrutiny teams, supporting the decision-making processes of the Council and members carrying out their ward work and Electoral Services which carry out the annual electoral registration canvass and publish the electoral register and deliver elections.

5. Democratic Services have 3 Corporate Key Performance Indicators:
- **The total number of webcast hits.** (Full Council, Planning Committee, Scrutiny Committee and Cabinet)
  - **The percentage of canvass responses.** To maintain an accurate register of electors of eligible electors registered to vote in all elections the Service Area is increasing local data matching to improve the percentage of canvass response rates for each canvass route.
  - **The number of wards where the canvass response rate percentage is over 90%**  
To maintain an accurate register of electors of eligible electors registered to vote in all elections canvass communications are sent to all residential properties annually following national and local data matching. This performance indicator is used to measure the number electoral wards where the percentage of canvass response rates (either via automatic verification or direct response) is 90% or above.
6. There are also 5 Electoral Commission KPI's which are monitored by the Electoral Commission, and we have to report back to them on.

#### **Returning Officers**

- **Performance Standard 1 - Voters -** Ensuring that planning for and delivery of the poll enables voters to vote easily and know that their vote will be counted in the way they intended
- **Performance Standard 2 –** Those who want to stand for election - Ensuring that planning for and delivery of the poll enables people who want to stand for election to find out how to get involved, what the rules are, and what they have to do to comply with these rules, and enables them to have confidence in the management of the process and the result
- **Performance Standard 3 -** Co-ordination and management of the poll - Co-ordinating the planning for and delivery of the poll to ensure a consistent high-quality experience for voters and those wanting to stand for election

#### **Electoral Registration Officers**

- **Performance Standard 1 –** Electoral registers are as accurate and complete as possible, ensuring that everyone who is eligible and wants to vote is able to do so
- **Performance Standard 2 –** Absent voting is accessible, ensuring that everyone who is eligible and wants an absent vote is included on the relevant absent vote list
- **Performance Standard 3 –** Stakeholders and electors have confidence in the secure management of the electoral registers

7. Legal Services have 3 teams Community, Litigation and Property & Procurement, each managed by an Operational Manager. The Community and Property and Procurement teams are further sub-divided with an additional Operational Manager to manage the work demands of the teams.
8. The work done by the Legal Services is either statutory work, for example advising on and dealing with children's safeguarding, land charges, education admission appeals, planning matters, licensing matters, defending employment tribunal actions or discretionary work relating to corporate priorities such as enforcement work, debt recovery, prosecutions, road traffic orders, procurement, or regeneration which the Council has an element of discretion over.
9. In addition, the Director fulfils the statutory Monitoring Officer role for Cardiff Council and the City Deal Joint Committee and is the Deputy Returning Officer for elections. The

Principal Solicitor Litigation is the Council's Deputy Monitoring Officer. The Monitoring Officer role is responsible for ensuring the Council acts lawfully, and for dealing with ethical and corporate governance matters, such as breaches of the Councillor Code of Conduct and reviewing the constitution. The Director is also the Senior Responsible Officer for ensuring the Council complies with the Regulation of Investigatory Powers Act.

10. The Directorate Management Team, chaired by the Director and consisting of the Operational Managers and the Business Manager, have met weekly since the start of the COVID-19 pandemic. Risk is a regular agenda item as are any matters of specific concern in relation to performance, governance or ongoing projects and the annual Senior Management Assurance Statement is developed and approved by the Management Team before being signed off and submitted by the Director. The Directorate Risk Champion and Performance Lead meets individually with all the Directorate Operational Managers on a quarterly basis to review the risk registers. This is then reviewed by the Director and discussed at the Management Team meeting. Risk, governance, and performance issues are also discussed by the Director at her regular 1:1s with Operational Managers and where relevant to a particular project plan, for example for specific elections, there is a project plan and individual risk register for the project which is also reviewed at regular Project Board team meetings.
11. The directorate is always very busy, and the pandemic has led to significant increased demands on both democratic and legal services staff. Delivery of the Senedd and Police and Crime Commissioner elections in May of this year in a covid compliant way were a particular challenge, as was the need after lockdown commenced at the end of March of last year, to ensure that we quickly adapted to the new legislation allowing remote/multi locational meetings to be held to ensure that the formal business of the Council was able to continue. The first fully remote Council meeting was held at the end of May with 74 out of the 75 councillors online taking part in the meeting, along with officers supporting and webcasting the meeting. Subsequently all other Committees were held in this way, including the Planning and Licensing Committees with public speakers being supported to take part. Democratic Services are now working towards enabling "hybrid" meetings to take place, with some participants present in person and others joining remotely.
12. Legal Services continues to focus on supporting the priorities of the Council and ensuring the Council fulfils its statutory duties. The pandemic has led to an increase in requests for advice and legal support, particularly in relation to children's and adults safeguarding, road traffic measures and procurement and property issues.

## **Issues**

### **(a) Risk Management**

13. The complexity of safeguarding cases being dealt with by Legal Services continues to be an area of concern. During 2017/18 colleagues in Legal Services raised concerns regarding the safeguarding cases, this was discussed with Social Services colleagues and both Directorates agreed a 'joint' risk. This was subsequently escalated and continues to be on the Corporate Risk Register. Managing the capacity and obtaining sufficient funding to deal with these cases is challenging.
14. All the teams in Legal Services have had to increase in numbers to meet growing demand. Turnover of staff in Legal services is steady with some positions proving difficult to fill, this is exacerbated by the fact that Solicitors in Cardiff Council are only required to give one months' notice compared to new Solicitors joining the Authority who usually are required

to give 2/3 months' notice both in private and other public practice. To this end the department now has 4 trainee solicitors in an attempt to "grow its own".

15. The nature of the work of the Community team on children's and adults safeguarding cases means there has continued to be a need to outsource some legal work. At month 5 the spend on external legal fees is nearly £500,000 an overspend of £37,000 at present but if it should continue at this rate would mean a significant overspend by the end of the financial year. The risk is centred on the unpredictability, which could level off or even increase. External spend will continue to be monitored closely throughout the year.
16. Legal Services continue to be concerned by the lack of capacity in client departments. Increased workloads mean it is difficult for legal services staff to prioritise effectively due to constant requests for urgent advice and legal advice not always being sought early enough. Where this leads to a failure to meet Court deadlines this may impact on the Council's reputation and there may be financial implications as cost orders may be made against the Council. Matters are escalated to the relevant Director as appropriate.
17. COVID-19 created some difficulties for all areas of the Directorate as staff adjusted to working from home. The Management Team moved from monthly to weekly meetings so areas of concern could be monitored. For the Election Team with 2 elections due in May 2021 a separate risk register and issues register was developed and maintained which was used by the Elections Project Team. This identified issues both around holding the elections and the subsequent Counts. The risks were also identified on the Directorate Risk Register and discussed at weekly meetings leading up to the elections. Following the success of both the elections and counts this risk has now been deleted.
18. Legislation requires part of our local land charges function to transfer to the Land Registry. The target date is April 2022. The full effect of this is unknown, but the current proposal is the LLC1 Part of the search is to be carried out by the Land Registry and a fee will be payable to the Land Registry, which will mean we will no longer receive that income, so will lose an estimated £15,084 each year. However, the CON29 part of the search remains with the authority and is chargeable so there will still be some income and a need for staff to process those. The effect on staff work may be negligible since the land registry will not be responsible for the data registered on the land charges register and therefore the Council will still need to coordinate sending the registration of new land charges such as planning or highway agreements to the Land Registry and deal with any resulting requests from solicitors or their clients for copies of agreements, clarification of what is meant and whether obligations under those agreements have been met.

## **(b) Internal Audit Engagement and Response**

19. During the year, there are regular, quarterly meetings with the Relationship Manager from the Audit team to discuss progress against the agreed plan and any emerging risks that might need to be reviewed during the year. Current Internal Audit Draft Reports are discussed at the Directorate Management Team meetings, and actions agreed with relevant managers. We are currently engaging with audit in a Council wide audit review of Pre-contract Assurance for contracts currently in place.

Audit	Report Status	Assurance Rating	Outstanding Actions	Completed Actions	Total Actions	Implementation Status
<b>2019/20</b>						
Ethics and Values - gifts and hospitality	Final	Effective with opportunity for improvement	0	3	3	Completed

Ethics and Values - Disclosure of Business and Personal Interests	Final	Effective with opportunity for improvement	0	2	2	Completed
Audit of Scrutiny Functions	Final	Effective with opportunity for improvement	1	4	5	1 due 31.01.22
Governance & Legal Services - Health and Safety	Final	Effective with opportunity for improvement	0	5	5	Completed
Governance and Legal Services - Asset Management	Final	Effective with opportunity for improvement	0	1	1	Completed
<b>2020/21</b>						
Codes of Conduct	Final	Effective	0	1	1	Completed
Commissioning and Procurement - Governance & Legal	Final	Effective	0	2	2	Completed
Income and Debtors - Governance and Legal Services	Final	Effective	1	2	3	1 Due 30.11.21
<b>2021/22</b>						
Members Remuneration and Allowances	Final	Effective with opportunity for improvement	2	0	2	2 Due 30.09.21

20. There are 4 outstanding audit actions. The following is the progress currently being made on these.

**a. Audit of Scrutiny functions**

The Scrutiny Team have made significant progress in achieving the internal audit recommendations. These have included the development of a single Scrutiny Annual Report which met the requirements of the Local Government and Elections (Wales) Act 2021 and the development and implementation of a "Tracker" to record and monitor the outcomes of Scrutiny. The only outstanding action is to determine if any suitable KPI's can be created from the information and trends identified by the tracker. The target date for this recommendation has been revised from the original date due the need to gather sufficient data the tracker before progressing this recommendation. The revised target date is now realistic and should be achieved without any further delays

**b. Income and Debtors**

The outstanding action from the Income and Debtors - Governance and Legal Services relates to mandatory e-learning required by staff who take card payments. This course was not available until August 2021. Staff who must complete this have been notified that the course is available and are in the process of completing the course. It is expected that we can report back to Audit before the due date that this has been done.

**c. Members Remuneration**

The recommendations of this recent Internal Audit identified the need to revise the remuneration claim form and to emphasise the importance for Elected, Independent, and co-opted Members submit timely VAT receipts. The new forms and guidance were circulated in mid-September advising that any subsequent claims would require the use of the new form and that a claim would not be progressed without a valid VAT receipt for each claim.



## The Wider Control Environment

### Performance Management

21. The relevant operational managers manage the performance of their teams and raise any issues with the Director in regular 1;1s and/or management team meetings. For example, the turnaround time of land charges property searches is kept under review and is currently 1-2 days, and a record of the amount of debt which is recovered by the debt recovery team is monitored, please see table below:

Year	Debt Recovered
2019/2020	£1,610,014.76
2020/2021	£458,075.53
April 21-Aug 21	£779,904

During 2020/21 the reduction is because of COVID-19 and a moratorium on debt recovery during the pandemic. Recoveries are now approaching where we were in previous years with £143,756 recovered in August this year. The costs for the Debt Collection team for this financial year are £112,540 which includes £10,000 a year for the case management system and 3 members of staff.

The number of complaints received by the Directorate is low, in 2020/21 we had only 2 complaints, which related to electoral matters.

22. The following are a breakdown and targets of the KPI's within the Directorate

Key Performance Indicators (Outcome based where possible)	2018-19 Result	2019-20 Result	2020- 21 Result	2021-22 Target
The total number of webcast hits – ALL MEETINGS [to include Council, Planning, Scrutiny, Cabinet & Audit]	4,991 [excl Cabinet & Audit]	8,869	15,557	12,500
The percentage of voter registration	89.3%	93.4%	90.2%	90.0
The number of wards where the percentage of voter registration is over 90%		23/29	18/29	20/29

### Senior Management Assurance

23. The Senior Management Assurance Statement is discussed twice a year in the Directorate Management Team Meetings which is also attended by the Risk Champion and Performance Lead weekly and the Budget Accountant monthly. The form is then completed, reviewed and signed on behalf of the Directorate by the Director. Budget Monitoring, Risk Management and Performance is a monthly item on the Directorate Management Team meetings and issues are also raised and discussed as necessary. The Directorate has strong compliance with all corporate policies, rules and regulatory requirements, and with budget management, the internal control environment, and fraud and financial impropriety. The following table is a summary of the final SMAS for 2020/21.

	<b>Not in Place</b>	<b>Limited Application</b>	<b>Mixed Application</b>	<b>Strong Application</b>	<b>Embedded</b>
<b>Risk</b>				✓	
<b>Future Generations Act</b>			✓		
<b>Compliance</b>				✓	
<b>Project Initiation</b>				✓	
<b>Budget</b>				✓	
<b>Planning and Decision Making</b>			✓		
<b>Control</b>				✓	
<b>Fraud</b>				✓	
<b>Performance</b>			✓		

### External Assurance

24. There is a regular inspection carried out by the Investigatory Powers Commissioner's Office. The last inspection took place in February earlier this year. The inspector confirmed that he found the SRO and her team enthusiastic and knowledgeable regarding RIPA management, and very keen to demonstrate a high level of compliance, which he said was a credit to the Council. He stated he was impressed by the content and clarity of the operational and policy guidance provided by Cardiff Council.
25. Legal Services has been awarded, and works hard to retain, the Law Society Quality Accreditation - Lexcel, and as part of this its practices are regularly reviewed by an external reviewer/assessor. The assessor stated the Department is to be commended as no non-compliances were identified during the assessment and twenty-three areas of good practice were identified during the assessment. These evidence either a diligent approach to complying with the requirements or identify areas in which the minimum Lexcel requirement has been exceeded
26. Glamorgan Archives have Archive Service Accreditation, a national scheme managed by The National Archives in conjunction with the Culture and Sport division of Welsh Government, which defines good practice and agreed standards for archive services across the UK, supporting the ongoing development of services against a nationally agreed standard. To meet accreditation standards an organisation must demonstrate an ability to develop, care for, and provide access to its collections, and evidence those areas such as resources and planning which underpin those activities. It is aligned with other relevant quality assurance schemes, improvement tools and data gathering processes. Glamorgan Archives was awarded Accreditation in 2014 for a period of 6 years. The pandemic delayed the process of re-application, but the service is submitting an application to retain Accredited status in September 2021.
27. The Electoral Commission monitors standards for elections and will contact authorities where there are concerns with the performance standards being met. The Electoral Commission has not contacted the authority following elections held in May. The Electoral Services section will continue to provide the Electoral Commission with data, key statistics and local information for either the electoral register or election as requested, thus providing external assurance that the performance standards are being met for both the Returning Officer and Electoral Registration Officer. The Electoral Commission may also select Cardiff Council for further monitoring of performance if the local authority is selected as part of their sample group.

## Value for Money

28. The Directorate is committed to being cost effective and has currently gone to tender for the provision of its electronic legal library to ensure it is cost effective. This has led to a change in provider and a saving of £30,000 a year which will be used to fund a new improved case management system. Legal Services uses an electronic case management system that contains information about all its cases and is used by virtually every member of staff in Legal Services. The current system was last tendered for 16 years ago and is now outdated and so we are currently tendering for a new system. Whilst this is likely to cost more it is envisioned that the new system will operate more efficiently. We are also in discussions with a company to introduce an electronic signing and sealing system. Currently the Council Seal is manually fixed to many legal documents such as contracts. The new system will make the whole process electronic which will save staff time and printing and postage costs.
29. With the implementation of the Local Government and Elections (Wales) Act in 2021, funding was sought from the Welsh Government “Digital Democracy” grant fund to meet the requirements of this legislation. The Directorate received funding of £39,674.88 to develop the “meetings in multiple locations” requirements of the Act and to procure the Zoom software to support the provision of dual language remote meetings. A hybrid meeting solution has been procured from Public-I which is being tested and has been used to inform the procurement of a new conferencing system for the Council.
30. The Directorate was allocated funding for the replacement of the Council's aging Conferencing system which has previously been identified as a corporate risk. The procurement of the new conferencing system is currently in progress, and it is anticipated that the successful bidder will provide a single portable system which can be used in County Hall and City Hall. This new system will negate the need for individual systems in each location. reduce the number of operators required to support the technical requirements of a meeting and optimise the use of common equipment and software.
31. The implementation of the conferencing system is expected to be completed before the end of December 2021 and provide the Council with:
  - a. Wireless/virtual delegate units (microphones) to support dual language capability when linked to Zoom or similar software.
  - b. Enhanced meeting management software to provide electronic voting, speaker queues, speech timers and displays to support the governance requirements of meetings.
  - c. Provide hard of hearing and translation support for attendees at physical meetings to meet the requirement of the Equalities Act and the Council's Welsh language standards.
  - d. Integrate with existing facilities and provide enhancements to support the requirements of the Local Government and Elections (Wales) Act 2021.
  - e. Relevant training in the use of the systems for operators, Elected, Independent and Co-opted Members and officers.
32. The Directorate was recently asked if it could free up any office space to enable County Hall to accommodate staff from Willcox house where the lease was not renewed. Given the majority of directorate staff are now working from home and are likely to continue doing so for at least some of the time in future, one of the legal services team rooms and the old elections office have been vacated.



## **Legal Implications**

33. There are no direct legal implications from this report.

## **Financial Implications**

34. The financial implications (if any) arising from this report have been contained within the body of the report.

## **RECOMMENDATIONS**

35. That the Governance and Audit Committee considers and notes the content of the report.

**Davina Fiore**  
**Director, Governance and Legal Services**

The following is attached:

**Appendix 1:** Democratic Services Organisation Chart  
**Appendix 2:** Legal Services Organisation Chart  
**Appendix 3:** Glamorgan Archives Organisation Chart  
**Appendix 4:** Directorate Risk Register 2021-22  
**Appendix 5:** SMAS Summary  
**Appendix 6:** Presentation Slides