

Key Decision	No
Listed on Forward Plan	Yes
Within Policy	Yes
Policy Document	

INVESTIGATIVE ASSURANCE

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1. Purpose

- 1.1. To provide a report to Members on how they can derive the appropriate assurance from the systems of internal control and specifically when investigations and review work highlights potentially serious failings.

2. Recommendations

- 2.1. That the Audit Committee comments on the report.
- 2.2. That the Committee agrees to undertake a thorough review of the Council's internal control processes, identifies any areas of concern and helps officers develop a clear action plan to improve matters.

3. Issues and Choices

- 3.1. The Audit Committee at its meeting on 8th April resolved that :
- With regard to Whistleblowing and assurance provided by Officers, the Committee receive a further report on the matter including scenarios for the Committee to consider.
- 3.2. This resolution arose from consideration of the Gatehouse issues. The Audit Committee expressed concern that Members felt vulnerable having to place reliance solely on officer assurance when considering serious service failings. This was creating a culture that Members felt it necessary to formally procure external qualified persons to review such matters and provide Members with (a) the confidence that all weaknesses had been identified and (b) assurance that those weaknesses had been properly addressed.
- 3.3. MKC has been through a difficult period that has challenged the confidence of Members. Although past experiences eg School Build, Penn Report, Gatehouse etc may increase the anxiety of Members in fact they could be viewed as examples of an effective system

of internal control that should increase public confidence that the Council, when identifying areas of concern, does implement robust corrective action.

- 3.4. It is too simplistic to say that an effective system of control should seek to prevent all serious failings. In practice an effective system of control is designed to manage risk to a reasonable level rather than eliminate / prevent all risks of failure. An effective system of control is one that aims not only to prevent issues arising but also is sufficiently robust to identify and correct such failings should they occur. The greater degree of confidence in the system of control, the less need exists to invoke external assistance in obtaining relevant assurance.
- 3.5. This report seeks to outline some of the key elements of the systems of internal control throughout the Council to provide Members a structure whereby they can analyse, test and place reliance upon the effectiveness of those controls and assurance mechanisms. Annex A seeks to set out a 'scale' of concerns (as requested by the Committee) to provide examples for Members on the application of such controls in practice.
- 3.6. This provides an ideal opportunity for the Committee to undertake a thorough review of the Council's internal control processes, identify any areas of concern and help officers develop a clear action plan to improve matters.
- 3.7. The system of control for a large Council like Milton Keynes is complex and it is not an issue that can be summarised within a single brief report to give Members the necessary assurances. It includes formal policy and procedural guidance (eg Financial Regulations and the Council's Constitution) but also the managerial and Committee structures of the Council, corporate planning and reporting mechanisms etc.
- 3.8. It is essential that external assurance does not substitute for nor undermine the operational and professional responsibilities of senior officers. Inappropriately commissioning external assurances will distract officers from delivering front line services, create a culture of distrust and fail the Governance best practice model that officers and members work together to achieve a common purpose with clearly defined roles and functions. It is not appropriate for Members to seek detailed and operational assurances for every area of concern and proportionality is considered key to addressing the concerns of Members.
- 3.9. The Audit Committee (and indeed Cabinet) have an essential role in ensuring the Council's systems of control operate effectively and thus members can be confident that the information and assurance derived from those processes give the necessary reliable reassurance.
- 3.10. The Committee considered the Council's Annual Governance Statement on 24th June and is to receive updates to every Audit Committee meeting on progress in addressing the agreed actions to improve. Those reports provide the Committee an ongoing opportunity to understand and verify the improvements in controls that should give increased confidence in the system of control and thus confidence that areas of identified weakness are properly and robustly addressed.
- 3.11. The CIPFA / SOLACE guidance "Corporate Governance in Local Authorities" is considered to provide a good basis to construct a systematic review of systems of control throughout the Council. It sets out several areas that could provide a useful template for the Committee to consider the issues to assure itself as to the operation of controls and thus Members obtain the necessary confidence. The 7 areas are :

- 3.11.1. The system of MEASURES to establish and monitor the achievement of Council objectives and the systems of PERFORMANCE MANAGEMENT

Examples of internal control systems include the Council Plan, Risk Register, Service Plans, Financial Planning etc. The operational and professional responsibilities of Directors and some key Assistant Director posts also ensures the required professional standards are in place and operating properly. External scrutiny includes benchmarking performance against relevant Councils.

- 3.11.2. The procedures and controls applicable to effective POLICY and DECISION MAKING

Examples of internal control systems include the Consultation Toolkit, Council Constitution, Committee report template and officer scrutiny processes etc.

- 3.11.3. Systems to ensure COMPLIANCE with policies, procedures, law and regulations

Examples of internal control systems include the Risk Based Internal Audit Plan, Legal Services service plan, Council Plan, Risk Register, Service Plans, Financial Planning etc. External scrutiny includes the Local Government Ombudsman, Office of Surveillance Commissioner, Information Commissioner etc.

- 3.11.4. Effectiveness of RISK MANAGEMENT throughout the Council

Examples of internal control systems include the scrutiny by Audit Committee, Internal Audit and Audit Commission evaluation within specific service reviews and the specific Internal Audit of the Risk Management service undertaken by an external firm. External scrutiny includes the specific CAA / CPA / Use of Resources evaluation on Risk Management by the Audit Commission.

- 3.11.5. The processes to ensure VALUE FOR MONEY and continuous improvement

Examples of internal control systems include Service Planning, Medium Term Financial Planning as well as specific projects (eg Internal Audit review of School Build VFM) and the procurement of specialist reviews (eg PWC for the PPP VFM review currently underway). External Scrutiny includes the Audit Commissions specific examination of the Council's VFM arrangements.

- 3.11.6. The proper FINANCIAL MANAGEMENT and reporting of the Council's affairs

Examples of internal control systems includes SAP, Financial Regulations, Standing Orders and Budgetary training and management. The Council also maintains Financial Services as part of the PPP partnership and the role of the S151 Officer has personal legal responsibilities regarding Council financial management.

- 3.11.7. The review of EFFECTIVENESS of controls ie Internal Audit, External Audit and Senior Officer structures.

The Council's Internal Audit Service delivers a risk based Audit Plan of Council activities that provides both individual assurance on areas audited and periodic overview including a formal Annual Opinion on the adequacy of the system of

control. The Head of Audit has personal responsibilities to professional best practice in forming that opinion and the 151 Officer has personal responsibility to maintain an adequate and effective Internal Audit service under the Accounts and Audit Regulations. The Audit Committee provides scrutiny on the adequacy of Internal and External Audit as well as Risk Management and the proper Accounting and Financial reporting for the Council.

3.12. The system of internal control is subject to routine external scrutiny through a variety of means including the examples set out above but also the Audit Commission, the Local Government Ombudsman, the Courts etc. Whilst these do not form part of the system of internal control they do provide an existing framework of routine external assurance in many areas.

3.13. The Audit Committee is ideally placed to undertake a thorough review of the Council's internal control processes, identify any areas of concern and help officers develop a clear action plan to improve matters. Undertaking this work will provide the Committee with invaluable information with which to properly discharge its functions for the Council. The work should provide a greater degree of confidence in the system of control reassuring members that the need to invoke external assistance in obtaining relevant assurance is lessened or it will highlight those specific areas of weakness to jointly agree remedial action with officers.

3.14. The combination of systems of internal control and external scrutiny can never provide a guarantee that all failures will be prevented. However they should be sufficient to give Members confidence that most Council activities (often managing multiple, very serious issues on a daily basis) effectively manage, mitigate and prevent service failures. Where such failures arise those systems should give Members confidence that the issues are promptly and robustly tackled with all necessary improvements implemented without the need for costly externally procured external "expertise".

3.15. The Committee's analysis of the above 7 areas would thus provide :

- Members with a mechanism to document and understand the system of control applicable in each area
- An opportunity to test the operation of those controls to Members satisfaction
- An opportunity to identify where improvements are needed to address those concerns arising from past cases.
- Demonstrate to the Audit Commission that the Council has an effective system of internal control that provides the proper assurance to Members and stakeholders.

3.16. The Audit Committee already considers the systems of control regarding several of the 7 areas of internal control highlighted above eg Risk Management. It is therefore proposed that the Committee receive and consider a report:

3.16.1. on the system of internal control for the procedures and controls applicable to effective policy and decision making at the 16th December meeting

3.16.2. on the system of internal control for measures to establish and monitor the achievement of Council objectives and the systems of performance management at the 4th February meeting

3.17. The Committee can highlight the third area of analysis at the meeting on 16th December.

4. Implications

4.1. Policy

4.1.1. None

4.2. Resources & Risk

4.2.1. The current assurance measures are considered to protect the Council's interest. An increase in external investigation is likely to increase financial pressures upon the Council without the added value of enhanced corporate governance. This risk (the failure to understand and review the systems of control operating throughout the Council) thus has a HIGH likelihood of a MEDIUM / HIGH additional financial pressure.

4.2.2. However, Members' increased understanding of the assurance structures (i.e. the systems of corporate governance) provides an opportunity to increase the confidence of both members and the community that serious matters are dealt with properly and robustly when needed. This opportunity (to document, review and test systems of control through the Audit Committee) thus has a HIGH likelihood of bringing a HIGH positive impact on the Council.

	Capital
	IT

	Revenue
	Medium Term Plan

	Accommodation
	Asset Management

4.3. Legal

4.3.1 None

4.4. Other Implications

4.4.1. None

	Equalities / Diversity
	E-Government

	Sustainability
	Stakeholders

	Human Rights
	Crime & Disorder

Background Papers : None

Requested Scenarios of Assurance

1. Put simply there is a sliding scale applicable for Members to consider the level of assurance required in respect of any concern or failure.
2. Minor Issues
 - 2.1. "Minor" is not a phrase used to describe just small financial frauds or misdemeanour service / disciplinary issues. It relates to matters that are :
 - considered to be self contained within a service area,
 - applicable to a single customer or failing, and
 - where evidence is good that the scope of possible impacts is known to have few or no wider implications.
 - 2.2. An example may be an officers mis-use of the Internet or other disciplinary misconduct. The system of internal control includes the IT Security Policy which allows staff to use internet facilities for personal use. The policy states :

"The Council has adopted a more open and flexible approach to the personal use of the internet. Personal use is now permitted but must be kept to a reasonable minimum" and "limited personal use of the IT systems is permitted as long as it does not incur extra expense for the Council."
 - 2.3. An employee abusing this facility could create a fraudulent theft of time / salary and could expose the Council to risk through reputational damage and / or client safeguarding issues. A formal disciplinary investigation is easily able to review evidence (eg the Council's system of control includes routine storing of internet use for all users and monitoring of sites accessed) and define the quantum of the problem and ensure the appropriate action is taken.
 - 2.4. It is not appropriate nor practical to brief members on such cases.
 - 2.5. However Members can obtain assurance through the systems of internal control such as:
 - 2.5.1. The Council's misconduct / disciplinary policies requiring the involvement of HR, Audit and Senior Officers to ensure the relevant professional and corporate standards are applied.
 - 2.5.2. The Council's Whistleblowing and Anti Fraud policies.
 - 2.5.3. The Council's training of investigative staff and Hearing Chairs.
 - 2.5.4. The Council's IT Security Policy providing guidance and clarity regarding the personal use of Council IT facilities
 - 2.5.5. The IT / Audit Services routine programmed reviews of Internet, Phone and Expenses profiles.

2.5.6. The Head of Audit's and S151 Officer's responsibility to bring any such matter with significant implications to the Council's interests and finances to the attention of senior officers, Cabinet and the Audit Committee.

2.5.7. The Council's Audit Committee that receives a periodic summary of all such cases and can request to consider any individual matter in detail.

2.5.8. External scrutiny is provided through the Audit Commissions review of all such cases involving fraud or irregularity and their oversight of the anti fraud service within the Council. Also any employee subject to disciplinary action can have union representation (who can highlight to senior structures within the council any concerns they maintain regarding processes) and also the right to appeal via external employment tribunals.

3. Routine or Operational issues

3.1. These issues may represent :

- more serious service failures,
- larger financial exposures and possibly :
 - uncertain wider implications and / or service implications
 - or the nature of the issue is more significant than the routine nature of the service involved.

3.2. An example may assist.

The Council recently discovered that an employee (working at a day care centre) could be participating in a benefit fraud. At first this was considered a "minor" issue as it had no wider implications beyond benefit fraud. However Investigations highlighted that her National Insurance number may belong to someone else and that she may be driving an un-insured car. When the Police stopped the car they discovered it was not insured and that the driving license was probably false. A subsequent search of their house by Police (which produced evidence that confirmed the benefit fraud) also identified 3 false passports and 2 illegal immigrants resident. It also transpired that the employee did not have leave to stay or work in the UK.

3.3. The case is being prosecuted by the Police (totalling a £90,000 obtained via deception not including the benefit fraud) but whilst it did not raise significant concerns regarding the safety of Council customers or other staff it did :

- Highlight possible weaknesses in Council recruitment processes including the adequacy of CRB checks.
- Require assurance to be sought from the employee's service manager and senior officers that the wider possible implications of this issue had been considered in relation to access to Council funds, customer care standards etc. Assurance was obtained.

3.4. Thus although the implications widened from evidence obtained this case was not unusual in regard to benefit fraud investigations and its wider implications were quantifiable with known boundaries. The involvement of the Police ensured that the larger non Council issues were handled by the appropriate body. Also the financial sum

(whilst large) did not represent an amount material to the Council's accounts nor significant in comparison to the Benefits processes administered by the Council.

3.5. Members can thus obtain assurance through the systems of internal control such as :

3.5.1. The Council's misconduct / disciplinary policies requiring the involvement of HR, Audit and Senior Officers to ensure the relevant professional and corporate standards are applied. The employment was terminated under legal advice immediately.

3.5.2. The Council's Whistleblowing and Anti Fraud policies that can demonstrate the policies were applied in this case.

3.5.3. The Benefit Fraud service's policies and procedures applicable to referrals and liaison with relevant partners eg Police and DWP.

3.5.4. The Head of Audit's and S151 Officer's responsibility to bring any such matter with significant implications to the Council's interests and finances to the attention of senior officers, Cabinet and the Audit Committee.

3.5.5. The service employing the person concerned reviewed the duties and responsibilities of the individual. Their professional standards and the oversight of the relevant senior officers responsible for professional standards in that area provided assurance that possible further risks were not evident and no wider implications for that service arose.

3.5.6. The CRB implications are being considered by the HR service (providing the relevant professional expertise) under both HR best practice considerations and also the contractual responsibilities set out in the PPP contract.

3.5.7. Both wider issues have been communicated to the Risk Service and has also revised the Internal Audit risk assessment of programmed work which is subject to Cabinet Member and Audit Committee scrutiny.

3.5.8. The Council's Audit Committee that receives a periodic summary of all such cases and can request to consider any individual matter in detail. This case was highlighted in the report to 2nd Sept Audit Committee.

3.5.9. External scrutiny is provided via the Audit Commission's evaluation of all frauds and irregularities. Specifically for this case through the involvement of the Police and CPS as well as liaison with the Immigration Service and DWP. The ex-employee can also invoke further external scrutiny through the court process.

4. Significant / Serious cases

4.1. The Council has suffered several serious cases in recent months, eg Gatehouse, School Build investigation. Currently the Internal Audit service has been commissioned to investigate the Radcliffe project.

4.2. These are cases with where :

- the issue itself has such significant implication to the Council and / or community, and /or

- because of the known probable wider implications to the Council, its customers, staff and the public, and / or
 - the extent of unknown implications is reasonably considered to provide significant concern.
- 4.3. In such cases Members must be reassured that the Council has the necessary professionals to identify and investigate such serious concerns. The Council's systems of internal control again should provide the reassurance for all but the most serious cases. However the Council's responsibility to the public and its customers does require the Council to consider whether such internal work provides sufficient reassurance to the public that it has "put its own house in order". In most cases internal investigation / assurance with appropriate external oversight eg Members and Audit Commission should be sufficient.
- 4.4. Within this category there are three possible models to be considered depending on the individual nature of the case:
- (1) Internal investigations with review and follow up that are scrutinised by Members
 - (2) Internal investigations etc externally reviewed and reported to Members
 - (3) External investigations and reviews etc reported to Members
- 4.5. In addition to the reliance that Members can place on the systems of internal control outlined for Minor and Routine / Operational issues the relevant internal professional service expertise must be respected. Examples include Internal Audit for Fraud / Corruption and Senior Social Care Officers for child / adult safeguarding issues exist.
- 4.6. In serious situations the relevant professional officers within the Council have a personal responsibility to demonstrate the Council actions and their personal conduct meets the appropriate professional standards and to ensure that any external regulator is informed as necessary.
- 4.7. The Council is a sufficiently complex and large organisation that internal independence is not only possible but a key and effective part of the Council's system of internal control. For example the Internal Audit service (whilst part of the Finance and Risk Management Directorate and accountable to the Director of Finance) has formal reporting powers and responsibilities direct to the Chief Executive, Leader, Audit Committee and indeed the Audit Commission. Additionally the individual professional areas throughout the Council have the support of corporate and statutory officers (eg Head of Legal, Head of Audit etc) to ensure they are able to properly discharge their functions without bias or undue pressure.
- 4.8. Therefore in most cases the Council is able to independently complete internal investigations into almost all serious matters affecting the Council. Where technical specialism is required those internal services are able to procure such advice and assistance to support their work without the need to procure an entire investigation externally. This provides both a cost effective and high quality resource to deal with very serious matters using internal resources to provide reassurance to Members and the public regarding matters of concern.
- 4.9. Members must respect and indeed support that system of control as they themselves provide an essential scrutiny that should give the public confidence regarding such matters. The fact that the Council is a democratically elected body and its officers have

responsibility to the Council as opposed to any one political party or Councillor is a key part of the system of control that should give members confidence that matters are addressed properly.

- 4.10. Professional officers are subject to member scrutiny and must be empowered and employed to act in a professional capacity. A culture that feels it must seek external assurance undermines this important system of control *and* misunderstands the operation of effective internal control. Professional officers and their work (particularly in relation to investigations into concerns) must be able and prepared to present their methods, evidence and conclusions to support the actions taken / proposed and satisfy the relevant level of scrutiny that the issue has been properly resolved.
- 4.11. Within the Council this is achieved either by the supervision and monitoring by senior officers eg Director, Chief Executive or relevant governance officer eg Head of Legal as well as the Member structures of Committees and responsibilities.
- 4.12. Members must exercise great caution and have sufficient evidence to justify a loss of confidence in professional / technical integrity of such officers. It is not sufficient to place reliance upon the opinion of a professional individual because they are external to the Council above the professional opinion of an MKC officer.